

1 Tuesday, 28 May 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

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

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

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

11 PRESIDING JUDGE SMITH: Thank you.

12 Good morning, everyone. I note that the accused are present in
13 court today with the exception of Mr. Krasniqi, who joins today's
14 hearing by videolink.

15 We will now start hearing the evidence of Prosecution
16 Witness W02144.

17 Madam Court Officer, please bring the witness in.

18 [The witness entered court]

19 PRESIDING JUDGE SMITH: Good morning, Witness.

20 THE WITNESS: Good morning.

21 PRESIDING JUDGE SMITH: The Court Usher will now provide you
22 with the text of a solemn declaration which you are asked to take
23 pursuant to Rule 141 of our rules. Please read it aloud.

24 THE WITNESS: Conscious of the significance of my testimony and
25 my legal responsibilities, I solemnly declare that I will tell the

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1 truth, the whole truth, and nothing but the truth, and that I shall
2 not withhold anything which has come to my knowledge.

3 WITNESS: JAN KICKERT

4 PRESIDING JUDGE SMITH: Thank you. You can be seated now.

5 Witness, today we will start your testimony, which is expected
6 to last approximately eight and a half hours. As you may know, the
7 Prosecution will ask you questions first, and then the Defence has
8 the opportunity to ask questions, and members of the Panel may also
9 have questions for you.

10 The Prosecution's estimate for your examination is one hour.
11 The Defence estimates that it will need seven and a half hours. For
12 each estimate, we hope that counsel will be judicious in their use of
13 their time. And the Panel may allow redirect questions from the
14 Prosecution if conditions for it are met.

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

20 In the event you are asked by the SPO to attest to some
21 corrections made regarding your statements, you are reminded to
22 confirm on the record that the written statements, as corrected by
23 the list of corrections, accurately reflects your declaration.

24 Please also speak into the microphones and wait five seconds
25 before answering a question and speak at a slow pace so that the

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1 interpreters can catch up.

2 During the next days while you are giving evidence in court, you
3 are not allowed to discuss with anyone the content of your testimony
4 outside of the courtroom. If any person asks you questions outside
5 the Court about your testimony, please let us know.

6 Please stop talking if I ask you to do so or if I raise my hand
7 as these indications mean that I need to give you an instruction.

8 If you feel the need to take breaks, please make an indication
9 and we will accommodate you.

10 So you know our schedule, we will meet now until 10.00, take a
11 short break, maybe 15 minutes at that time, and then go on until
12 11.00, at which time we have a morning break of a half hour, then an
13 hour and a half more after that break, and then a lunch break of an
14 hour and a half, and we will finish at 4.30 this afternoon.

15 So we begin first with the Prosecution. They are seated to your
16 left. Please give them your attention.

17 You have the floor.

18 MR. CAPIN: [Microphone not activated].

19 Thank you, Your Honour. Good morning, Your Honours.

20 Examination by Mr. Capin:

21 Q. Good morning, Witness. My name is John Capin, and I am going to
22 be asking you questions today on behalf of the Specialist
23 Prosecutor's Office. Please tell the Court your name?

24 A. My name is Jan Kickert.

25 Q. And please tell the Court what is your date of birth and your

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1 place of birth.

2 A. I'm born on 19 September 1964 in Bangkok, Thailand.

3 Q. What is your nationality, sir?

4 A. Austrian.

5 Q. How are you employed?

6 A. I am employed by the Austrian Ministry for European and
7 International Affairs.

8 Q. In what capacity?

9 A. As a diplomat.

10 Q. Did you give a statement, sir, in January 2020 to the SPO?

11 A. Yes, I did.

12 MR. CAPIN: I'd like to ask Madam Court Officer, please, to pull
13 up 075993-076009, which is English, side by side with its Albanian
14 translation bearing the same numbers.

15 Q. Do you recognise the document on the screen in front of you,
16 sir, the English version being to the right?

17 A. Yes, I do.

18 Q. Is that the first page of a statement you gave to the SPO in
19 January 2020?

20 A. Yes, it is.

21 MR. CAPIN: And if we could go, Madam Court Officer, please, to
22 the last page of the document, which is 076009, and show the witness
23 the signature block.

24 Q. And did you sign that on the date indicated on the document on
25 the screen in front of you, sir?

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1 A. Yes, I did.

2 Q. And did you review the document before you signed it?

3 A. Yes, I did. And there were some changes made, but I still found
4 also after that some little mistakes.

5 Q. Thank you for that. Did you also previously give evidence
6 before the ICTY in the case of Fatmir Limaj and others?

7 A. Yes, I did.

8 MR. CAPIN: Madam Court Officer, would you please pull up
9 IT-03-66 T634 to T666, and the specific portion of that transcript
10 showing this witness's testimony begins at 657.

11 Q. Sir, can you please confirm -- I'm sorry. Can you please
12 confirm that the document, page 657 in front of you, is the --

13 MR. CAPIN: I think, Madam Court Officer, we need to go down a
14 bit until the witness -- there we go.

15 Q. Is this the first page of your testimony in the Limaj case
16 before the ICTY, sir?

17 A. Yes, it is.

18 MR. CAPIN: Madam Court Officer, can you also please bring up
19 IT-03-66 T667 to T767. Now can you scroll down, please, a little bit
20 so that we see where the witness enters, makes his first statement.
21 I think it's maybe the following page. Could we go down one more
22 page, please. There we go.

23 Q. Is this the continuation of your testimony in that same matter,
24 sir?

25 A. Yes, it is.

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1 Q. And did you have an opportunity to review both your SPO
2 statement that we looked at a moment ago and the two volumes of your
3 Limaj case earlier this month?

4 A. Yes, I was made available this transcript, which I haven't seen
5 after I made this -- this witness statement.

6 Q. And do you recall meeting with me and a colleague about ten days
7 ago?

8 A. Yes, indeed.

9 Q. And when we met, were you given an opportunity to provide
10 clarifications and corrections to the various statements we've looked
11 at this morning?

12 A. Yes, I was given this opportunity.

13 Q. And did you, in fact, provide clarifications or changes?

14 A. Yes, I did give some clarifications.

15 Q. And do you recall that these were reduced to a note which I read
16 back to you?

17 A. Yes, you read back to me, but I haven't signed it or reviewed it
18 in this sense.

19 Q. I understand.

20 MR. CAPIN: Your Honour, the preparation note reflecting these
21 changes is ERN 121121-121128 Redacted.

22 Q. Subject to the corrections, sir, that you made to your prior
23 statements, is the information that you provided in those statements
24 accurate and truthful to the best of your knowledge and belief?

25 A. To the best of my knowledge, yes.

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1 Q. And subject to those same corrections, does the information
2 accurately reflect what you would say if you were examined today in
3 this court on the same topics?

4 A. To the best of my knowledge, yes.

5 MR. CAPIN: Mr. President, the SPO moves for admission of the
6 witness's two prior statements and 15 associated exhibits, the
7 relevant ERNs of which are set out in our 22 May 2024 e-mail and
8 Annex 1 to Preparation Note 1, which again I'll repeat for the record
9 is 121121-121128 Revised.

10 I would note, Your Honour, that the associated exhibit listed as
11 number 10 has already been admitted as P00836.

12 And in addition, we would note that for associated exhibit
13 number 1, there is an Albanian version bearing ERN P00480.0 or .0.
14 And we would also tender the note for admission at this time,
15 Your Honour.

16 PRESIDING JUDGE SMITH: Any objection?

17 MR. MISETIC: Subject to the previously articulated Rule 154
18 objections, we have no objection.

19 I just wanted to note for the Court Officer that it's the
20 redacted Prep Note 1 and not the original Prep Note 1. Thank you.

21 PRESIDING JUDGE SMITH: So it would be RED Revised; is that
22 correct?

23 MR. CAPIN: It's RED Revised. Thank you. I think I omitted the
24 RED, and I appreciate the correction.

25 PRESIDING JUDGE SMITH: All right. 075993 to 076009 in the

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1 English and Albanian is admitted.

2 IT-03-66 T634 to T666 beginning at 657 is admitted.

3 IT-03-66-T667 to T767 is admitted.

4 The note bearing ERN 121121 to 121128 RED Rev is admitted except
5 10, which has already been admitted.

6 And the associated exhibits, in the interest of some expediency,
7 we will -- the Court Officer will send around the list of exhibit
8 numbers for all of these documents.

9 You may proceed.

10 MR. CAPIN: Thank you, Your Honour. And, Your Honour, through
11 *inter partes* communication, the parties have agreed to a summary of
12 this witness's now admitted Rule 154 statements, which we provided to
13 the Panel, Defence, and Victims' Counsel on 23 May. With the Court's
14 leave, I'd like to read that summary now.

15 PRESIDING JUDGE SMITH: Yes, go ahead.

16 MR. CAPIN: From late 1997 until March 1999, Jan Kickert served
17 in Belgrade as an Austrian diplomat.

18 Beginning in early 1998, he travelled to Kosovo occasionally to
19 meet with party leaders, internationals, and others. Kickert's trips
20 to Kosovo became more frequent in the latter half of 1998 after he
21 was instructed to establish contact with KLA leadership to engage
22 them in the political process. To that end, he participated in
23 several meetings with General Staff members, including Hashim Thaci,
24 Kadri Veseli, Jakup Krasniqi, and Rexhep Selimi.

25 In July 1998, Kickert met with Hashim Thaci and Kadri Veseli and

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1 separately with Jakup Krasniqi.

2 In January 1999, Kickert attended meetings with Jakup Krasniqi
3 and other KLA members to negotiate the release of Serbian soldiers.

4 Kickert observed negotiations during and after the Rambouillet
5 peace conference, interacting with KLA leadership, including
6 Hashim Thaci. In March 1999, Kickert attended a meeting to discuss
7 the Rambouillet agreement with KLA leaders, including Rexhep Selimi
8 and Jakup Krasniqi.

9 From mid-1999 through the end of that year, in his capacity as
10 political adviser to UNMIK, Kickert drafted and reviewed reports
11 describing the situation in Kosovo, the KLA leadership, and the
12 situation of minorities.

13 And that, Your Honour, is the summary.

14 PRESIDING JUDGE SMITH: You may proceed with your direct.

15 MR. CAPIN: Thank you, Your Honour.

16 Q. Mr. Kickert, in your SPO statements, paragraph 29, you stated
17 that in 1998 and 1999 Mr. Thaci would contact you via satellite
18 phone. Do you recall that?

19 A. It was my assumption that he would contact me with satellite
20 phone. He was reaching me on my cell phone, and I assumed that he
21 would use a satellite phone because the coverage of cell phone in
22 Kosovo was not given throughout.

23 Q. Were you able to tell by what you saw on your cell phone
24 incoming that it was a satellite phone?

25 A. No.

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1 Q. Are you aware of other KLA members during your time in Kosovo
2 using satellite phones?

3 A. Well, we were using satellite phones ourselves as diplomats. It
4 was also a security precaution because the cell phone coverage was
5 not there. There was one instance when we visited Klecke that I used
6 a cell phone -- not a cell phone, a satellite phone to show that I'm
7 okay. And then a KLA soldier asked if he could use it, and I gave
8 him permission to use it.

9 Q. And when he used it, did you observe -- did he have any
10 technical difficulty in using the satellite phone?

11 A. Well, it's not rocket science. Once it's set up, it's using
12 like a normal cell -- a telephone, because I was setting it up.

13 Q. Is it exactly the same as using a cell phone, or is there some
14 difference between using a satellite phone and using a cell phone to
15 place call?

16 A. To place a call, it's like a regular phone. The only difference
17 is that you have to set it up and put the satellite so that you can
18 get a connection.

19 Q. Okay. In your prior statements, including your SPO interview,
20 Mr. Kickert, you described a meeting with Jakup Krasniqi on 30 July
21 1999 in Klecke. I'm going to ask you to look at a document you
22 reviewed when you and I met recently.

23 MR. CAPIN: And, Madam Court Officer, could I please ask you to
24 pull up U015-8743 to U015-8935-ET Revised.

25 MR. ELLIS: Whilst that's being pulled up, I think it's 1998,

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1 not 1999, just for the record.

2 MR. CAPIN: Thank you.

3 Q. I was corrected by Defence counsel, Mr. Kickert, that the
4 meeting in question was, in fact, 30 July 1998, and I misspoke. Is
5 that correct?

6 A. That's absolutely correct. Thank you for the correction.

7 MR. CAPIN: And, Madam Court Officer, the -- I see. Can we
8 please go to page 8842 and, if possible, continue on to 8843,
9 although it may have to be done in two segments. If we could go up
10 two more pages, please. There we are.

11 Q. Do you recall reading a portion of the document in front of you
12 when you and I met about ten days ago, Mr. Kickert? I would direct
13 your attention to orient you, the passage appearing under the caption
14 "The Enemy Offensive and the International Factor" addresses events
15 in July 1998, and you'll see your name on about line 7 along with a
16 David Slinn. Do you see that?

17 A. Yes, I do see it, but you had not given me the cover of which
18 book it came from. Now I understand which book it's from.

19 Q. So you're saying that when you and I met, the only thing I
20 showed you was the passage in front of you and a portion on the next
21 page?

22 A. Correct.

23 Q. And did you, in fact, read the passage beginning on about line 7
24 with:

25 "In order to achieve this, David Slinn and Jan Kickert travelled

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1 to Kosovo on 31 July 1998 ..."

2 Did you read that through the end of the paragraph on the
3 following page?

4 MR. CAPIN: Madam Court Officer, to orient the witness, could we
5 go to page 8843.

6 THE WITNESS: I think I'm seeing it.

7 MR. CAPIN:

8 Q. And did you read what's at the top of that page?

9 A. Yes, I did.

10 Q. And does the passage accurately reflect the meeting you had with
11 Mr. Krasniqi on 30 July 1998?

12 A. Yes, almost -- more or less, I think. But I found out in
13 difference to my own report was the conditions to engage different a
14 bit what was written in that book and what I have written in my
15 report.

16 Q. You're talking about the three conditions set forth beginning on
17 the previous page and ending with "removal of all roadblocks,
18 withdrawal of police and army forces, and that the talks be held in a
19 neutral country"?

20 A. Correct.

21 MR. CAPIN: Your Honour, the SPO would tender U015-8743 to
22 U015-8935, specifically pages U015-8842 to 8843 as a public exhibit.

23 PRESIDING JUDGE SMITH: Any objection?

24 MR. ELLIS: There's no objection to those two pages. I
25 understand that's all that's being tendered at the moment. Is

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1 that --

2 PRESIDING JUDGE SMITH: That's correct.

3 MR. CAPIN: That is correct.

4 MR. MISETIC: No objection.

5 PRESIDING JUDGE SMITH: No other objection heard, U015-8743 to
6 U015-8935, pages 8842 to 8843 is admitted. Please assign an exhibit
7 number.

8 THE COURT OFFICER: Your Honours, that will become
9 Exhibit P1227. And it's classified as public.

10 PRESIDING JUDGE SMITH: You may proceed.

11 MR. CAPIN:

12 Q. Mr. Kickert, in your SPO statement you describe a series of
13 meetings in July 1998 with Hashim Thaci, Kadri Veseli, and
14 Jakup Krasniqi and others. What was your goal in arranging those
15 meetings?

16 A. Our goal was to identify a person in the KLA who would be able
17 to get involved in the political process and speak authoritatively in
18 the name of the KLA.

19 Q. Was it part of your goal to gather information on the KLA's
20 military structure?

21 A. No.

22 Q. Did you have any expertise in military matters at that time?

23 A. Never had any.

24 Q. Before attending the first of those meetings in July 1998, what
25 information did you have on the structure of the KLA, if any?

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1 A. Well, we were -- we were all in the dark about the KLA. At the
2 same time, we understood that we had to engage them to come to a
3 peaceful settlement. So we got any information -- tried to get any
4 information which was possible. We had sources with journalists
5 which -- or public information in the media, and then, of course, my
6 secretary-general, Albert Rohan, took the decision that we should get
7 into direct contact with KLA representatives.

8 Q. And the source of information you described, media members and
9 others, did you know what their basis was for information about the
10 KLA?

11 A. They even went out themselves. There were articles about the
12 KLA in Kosovo Albanian newspapers and then later on even interviews.
13 But it was for me also interesting to talk to them to sort of -- off
14 record to get a bit of their feeling.

15 Q. So my question is did you know what empirical information their
16 feeling was based on?

17 A. Not necessarily. I mean, there were a lot of rumours going
18 around and exchanges. The more you heard the same thing, the more
19 you believed in it.

20 Q. I'm going to move on to January 1999. In your SPO statement at
21 paragraphs 53 and 54, you discuss your involvement in efforts in that
22 month to secure the release of Serbian soldiers who had been taken
23 prisoner by the KLA, and you state that you negotiated with
24 Jakup Krasniqi and other members of the KLA staff.

25 I'd like to show another document which you reviewed when you

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1 and I first met.

2 MR. CAPIN: Madam Court Officer, could you please bring up
3 P1091-ET. And we're going to page -- the page number ending in 1063,
4 please.

5 Q. Sir, I'm going to direct your attention. The page in front of
6 you is, for the record, SPOE00231063. Starting below the number 26
7 in the upper middle of the page, do you remember reviewing a portion
8 of this page? And I'll direct your attention specifically to the
9 sentence beginning.

10 "At the meeting on the international side were the American
11 ambassador ..." et cetera.

12 A. Yeah, that bit I can remember. Yes.

13 Q. And I'm going to ask you, if you need to read it again to
14 yourself, the rest of that page ending with the next paragraph, "...
15 the countries which we represent."

16 A. Yes.

17 Q. Do you recognise that, sir, as a description of a meeting that
18 you attended?

19 A. Yes, I attended it, but I was not negotiating as you -- I was
20 there present. It was the Ambassadors Hill and Petritsch who did the
21 talking.

22 Q. And was the date of that meeting on or about 11 January 1999?

23 A. I believe so, yes.

24 Q. And in addition to Ambassadors Hill and Petritsch and yourself,
25 were there other diplomats present?

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1 A. As it is written here, Tina Kaidanow from the US mission. She
2 was the right-hand woman of Ambassador Hill.

3 Q. And is the excerpt in front of you an accurate description of
4 that meeting?

5 A. Yes.

6 Q. Did the meeting in fact last several hours?

7 A. Yes, it was a lengthy meeting.

8 Q. Do you remember any particular reasons why it lasted -- why it
9 was lengthy?

10 A. Because I don't think that they were able to take the decision
11 on the spot.

12 Q. Were there interruptions during the meeting?

13 A. I believe so.

14 Q. For what purpose?

15 A. Probably to consult.

16 Q. Who is consulting with whom in that sentence?

17 A. The Kosovo Albanian representatives at the meeting consult with
18 others. This was not uncommon. In our whole engagement with the
19 KLA, there was not a personality who could take a decision on its
20 own. It was more, in our feeling, a collective decision-making.

21 Q. During these breaks for consultation, what did you and
22 Ambassador Petritsch do? Did you consult with somebody or contact
23 anybody not in the room?

24 A. We might have been in touch with the Kosovo Verification Mission
25 because the deputy head of the mission, Dominique Keller, was the

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1 contact person to the Serbian side.

2 MR. CAPIN: If I may have one moment, Your Honour.

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

5 MR. CAPIN: Madam Court Officer, can I ask you please to bring
6 up SPOE00224991-SPOE00224991.

7 Q. Sir, do you recognise this photograph?

8 A. You showed it to me ten days ago.

9 Q. And do you recognise the people depicted?

10 A. Most of them, yes.

11 Q. Can you please tell the Court whom you recognise.

12 A. Xhavit Haliti, Skender Hyseni, Ibrahim Rugova, Rame Buja, Brahim
13 Shala, Veton Surroi, Fehmi Agani. That's somebody from the
14 opposition. Then the very left is Jakup Krasniqi, Hydajet Hyseni. I
15 recognise most of them, yeah.

16 Q. Can you tell the Court where you see Ibrahim Rugova?

17 A. That's the scratched-out person.

18 Q. You say that's the scratched-out person? The person's whose
19 face is scratched out?

20 A. Correct.

21 MR. CAPIN: Mr. President, the SPO tenders SPO00224991, the
22 document in front of the witness now.

23 MR. ELLIS: Yes, Your Honour, we object. We object on grounds
24 of relevance and prejudicial effect exceeding probative value.

25 In our submission, this is not a document that's simply being

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1 tendered to identify members of the Rambouillet delegation. There's
2 plenty of material before the Court on that issue. What's happening
3 here is an attempt to create a prejudicial effect by the fact that
4 the photograph of Ibrahim Rugova is scribbled out, but the
5 Prosecution has no evidence to put before you as to who scribbled
6 that out, when it was scribbled out.

7 As I'm sure you're about to hear, this is a document that is
8 said to be found in the search of Mr. Krasniqi's house, but there's
9 no evidence before you as to in what condition the document came into
10 Mr. Krasniqi's house.

11 In those circumstances, the relevance to any issue in this case
12 we say is minimal. And the prejudicial effect of admitting it with
13 no evidence as to who marked the photograph in this way, when it was
14 marked, or in what condition it came into Mr. Krasniqi's house - if
15 it did, because, of course, we preserve our objections to the search
16 - but the prejudicial effect exceeds any very limited probative value
17 that this might possess.

18 PRESIDING JUDGE SMITH: Thank you.

19 Anybody else? No.

20 This meets the qualification of 138 *prima facie* level of
21 importance and it is admitted. It is true that there is no statement
22 as to the scratch out, but we take it as it is and will give it the
23 weight we think it appropriate.

24 Go ahead.

25 MR. CAPIN: Your Honour, before we move on, my colleagues have

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1 suggested that for -- for efficiency, that the exhibit -- that P1227
2 be added to the exhibit already in evidence, which is P00189, instead
3 of being given a new number. That's the portion of the book we
4 looked at a few minutes ago.

5 PRESIDING JUDGE SMITH: No, I think this should have its own
6 number and it will be admitted as such.

7 MR. CAPIN: Thank you, Your Honour.

8 PRESIDING JUDGE SMITH: Please give it an exhibit number.

9 THE COURT OFFICER: Your Honours, SPOE00224991 to SPOE00224991
10 will be admitted as P01228. Current classification is confidential.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 THE COURT OFFICER: Microphone, please.

13 PRESIDING JUDGE SMITH: Judge Mettraux.

14 JUDGE METTRAUX: Thank you, Judge Smith.

15 Just a clarification from the SPO. Are you seeking to rely on
16 the fact that this picture is being scribbled out; and if so, are you
17 attributing that scribbling to anyone relevant in this case?

18 MR. CAPIN: Your Honours, I can tell you what facts I'm aware
19 of, some of which are yet to be in evidence, but this book, as
20 pointed out by Defence counsel, was taken from a photo album seized
21 from Jakup Krasniqi's residence. It's among many photos, none of
22 which are in any way marred or defaced. And I suspect that you will
23 hear at the end of the case the SPO asking for an inference that this
24 individual photo was marred and defaced because it reflects an animus
25 by this defendant or this accused toward the LDK.

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1 JUDGE METTRAUX: So you will be asking us to infer from its
2 origin that Mr. Krasniqi scribbled that picture, if I understand you?

3 MR. CAPIN: Yes, Your Honour.

4 MR. ELLIS: Your Honour, that's exactly the prejudicial effect I
5 was complaining about. What is the basis for that assertion? There
6 is no evidence whatsoever before you as to who marked this document.

7 PRESIDING JUDGE SMITH: It's already --

8 JUDGE METTRAUX: Well, if there's none, Mr. Ellis, I think you
9 know what the answer is.

10 PRESIDING JUDGE SMITH: Go ahead. Go ahead, Mr. Prosecutor.

11 MR. CAPIN: Thank you, Your Honour.

12 Madam Court Officer, can I ask you, please, to bring up
13 P061427-8. It's a video. I'm going to ask you to play the first
14 2 minutes and 8 seconds, please.

15 And I'm mindful of the time constraints, Your Honours. In
16 addition to this portion, we'll be playing another 30 or so seconds,
17 and that's the totality for this video.

18 Q. While the video is being pulled up, Mr. Kickert. You've
19 described in your SPO statement a meeting of 5 March 1999 in which
20 you were negotiating -- I'm sorry, in which you were meeting with
21 certain individuals after the Rambouillet conference and before the
22 next stage of the process. Do you recall that?

23 A. Yes, I do.

24 Q. And we're going to see now the video -- that was just to orient
25 you, the video pulled up in a moment.

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1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 MR. CAPIN: We need not have the sound.

3 PRESIDING JUDGE SMITH: We do not want the sound to be played
4 because it will be broadcast and it is still based -- it's still
5 considered confidential.

6 MR. CAPIN: Thank you, Your Honour, for the clarification.

7 [Video-clip played]

8 MR. CAPIN:

9 Q. I'm going to ask you just to make note of who's entering the
10 room so I can ask you questions about the attendees, Mr. Kickert,
11 when the video is paused in about a minute.

12 MR. CAPIN: And for the record, Your Honours, this video has
13 been entered in evidence as P01221.

14 Can we pause right there for a moment, please.

15 Q. To the far left of the screen, do you see a man with the back of
16 his head to us?

17 A. In the left foreground?

18 Q. Left -- left -- yes.

19 A. Yes.

20 Q. To his left as we move around the room clockwise, can you tell
21 us who is sitting on the couch next to him.

22 A. Yeah, that starts with Axel Dittmann, a German diplomat. Then
23 it's myself. Then it's Ambassador Petritsch, and Ambassador Pauls
24 from the German foreign ministry.

25 Q. I see. So Axel Dittmann is the person whose face we can't see -

Witness: Jan Kickert (Open Session)

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Examination by Mr. Capin

1 and just for the record, we're at timestamp 1 minute, 48 seconds -
2 who has the back of his head to us? That's Axel Dittmann?

3 A. Correct.

4 MR. CAPIN: Can we please continue to minute 02:08, please.

5 [Video-clip played]

6 MR. CAPIN: Thank you.

7 Q. We're paused now at minute 2:08. Mr. Kickert, can you please
8 tell -- to the right of Ambassador Pauls, can you tell the Court who
9 else you see in this photograph.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. CAPIN: Oh, sorry. Thank you, Your Honour.

12 Q. Starting with Ambassador Pauls, who is, I believe -- am I
13 correct that he's the gentleman -- in the lesser part of the screen
14 we see his profile from his right? Starting from there and moving
15 right clock-wise through the photograph, can you tell us whom we see?

16 A. Sylejman Selimi, Jakup Krasniqi, Rame Buja, Fatmir Limaj,
17 Rexhep Selimi, and the journalist Baton Haxhiu.

18 MR. CAPIN: Madam Court Officer, can I ask you to bring up the
19 corresponding transcript, which is -- may have an exhibit number. Do
20 you know? It is P -- I'm sorry, it is 061427-08-TR-ET.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 MR. CAPIN: I'm sorry, Your Honour. My apologies.

23 PRESIDING JUDGE SMITH: [Microphone not activated] ... slower
24 because they're trying to translate.

25 MR. CAPIN: Understood. I'll repeat that. It is P061 -- I'm

Witness: Jan Kickert (Open Session)

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Examination by Mr. Capin

1 sorry, it is 061427-08-ET. And I'm told that it bears the same
2 exhibit number as the video; namely, P01221-ET.

3 Q. Sir, do you see the transcript in front of you? And if so -- do
4 you see the transcript in front of you on the page on the screen?

5 A. Yes, I do.

6 Q. Did you review this transcript when you and I met about ten days
7 ago?

8 A. Yes.

9 MR. CAPIN: Could I ask you, please, to pull up,
10 Madam Court Officer, SPOE00128571 to SPOE0012948-ET, and the
11 corresponding Albanian begins with the same number, 128571, and ends
12 with 128954. And could I ask you to go forward to the page ending in
13 8805.

14 Q. Sir, do you recognise the document in front of you?

15 A. Yeah, I think you have shown it to me, but I didn't know from
16 which book it came.

17 Q. So is it fair to say that when I showed it to you, I showed you
18 only the -- I started with the page in front of you now, which in the
19 middle, for the record, reads: "KLA General Staff Members' Meeting
20 With European Diplomats Headed by Wolfgang Petritsch." Is that what
21 I showed you?

22 A. Yes.

23 Q. And did you read the entirety of that page and the next several
24 pages that follow?

25 A. I believe so.

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Examination by Mr. Capin

1 MR. CAPIN: Can I ask the Court Officer, please, to scroll
2 through each page.

3 Q. And, sir, watch as we go, tell us if we need to pause so you can
4 orient yourself, but I'm going to ask you after we get to the end of
5 this section whether that's what you read when you and I met.

6 MR. CAPIN: And I'll ask you to stop, Madam Court Officer, when
7 we get to -- when we get to the page ending in 8809. So it's one
8 more page. My apologies, Madam Court Officer, could we reach the
9 bottom of that page, please? So could we go to the next page as
10 well, please.

11 So, for the record, I think we've just scrolled through pages
12 SPOE00128805 through the same number ending in 8809.

13 Q. Do you recognise those several pages as the ones that you
14 reviewed, that you read when you and I first met, Mr. Kickert?

15 A. Yes, I do.

16 Q. And is that excerpt of the book that's -- is that portion of
17 this book a fair description of the 5 March 1999 meeting that is
18 depicted in the video that we just saw, which is P01221?

19 A. After being shown the transcript of the meeting, yes, I think
20 it's a fair depiction.

21 MR. CAPIN: Madam Court Officer, could we go, in the same
22 document, down to SPOE00128885. And can we go to the bottom of that
23 page, please, and show the portion depicted.

24 Q. Do you see the two -- I'm sorry, I'm going to wait until the ...

25 Do you see the two photographs shown on the bottom of the page

Witness: Jan Kickert (Open Session)

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1 ending in 8885?

2 A. Yes, I do.

3 Q. Do those two photographs accurately depict moments of the same
4 5 March 1999 meeting?

5 A. Yes, they do.

6 Q. And does the text box below the photos correctly state the date
7 and place of that meeting?

8 A. I believe so. I don't know the exact date anymore, and I
9 haven't seen the report I've written about this meeting. But given
10 the document, I believe it was on 5 March. Yeah.

11 MR. CAPIN: Your Honour, the SPO tenders the pages the witness
12 just identified, which are SPOE00128805 through 8809, and 8885, and
13 we would ask that they be added to what's already in evidence as
14 P01149, another portion of the same book.

15 PRESIDING JUDGE SMITH: Any objection?

16 MR. MISETIC: No objection.

17 PRESIDING JUDGE SMITH: Anybody?

18 MR. ROBERTS: It's not really an objection, Your Honour, but it
19 does appear be to the same transcript or all but the same transcript
20 as we have separately, so I'm not quite sure what the purpose of it
21 is. It doesn't seem to be a separate description, this interview
22 quoting the individuals with access probably to the same transcript
23 or same recording. So I don't see that it has absolutely any
24 independent value whatsoever, but ...

25 PRESIDING JUDGE SMITH: Do you want to address that, Mr. Capin?

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Examination by Mr. Capin

1 MR. CAPIN: Well, the -- what the witness has just done is he's
2 confirmed that the substance of this portion of the book is a
3 faithful and accurate rendition of what happened at that meeting as
4 shown in the transcript. So it tends to show that what is in the
5 book is accurate, and certainly what is in this portion of the book.

6 PRESIDING JUDGE SMITH: Anybody else?

7 MR. MISETIC: I would just respond to that that it only is
8 accurate as to the pages in this book. But as to the other pages, I
9 think we'll explore that later.

10 PRESIDING JUDGE SMITH: SPOE00128571 at pages 8805 to 8809 are
11 admitted. They satisfy the standards of Rule 138.

12 MR. CAPIN: I'm not sure if the Court also mentioned
13 SPOE00128885, which is the final page, the page on the screen now.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 I did say the wrong number. It's SPOE00128885.

16 THE COURT OFFICER: Your Honours, pages SPOE00128805 to
17 SPOE00128809 and the page SPOE00128885 will be added to
18 Exhibit P01149. Current classification is public.

19 MR. CAPIN: Madam Court Officer, I'd like to return to the
20 video, please, which is again 061427-08. And, again, we don't need
21 the audio. I would ask you to play the 38 seconds ...

22 [Video-clip played]

23 MR. CAPIN: I'm going to ask you to fast-forward, if you would,
24 please, to the 38 seconds starting at 47 minutes and 25 seconds. And
25 I'll tell you when to stop, if I may.

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Examination by Mr. Capin

1 [Video-clip played]

2 MR. CAPIN:

3 Q. I'm going to ask you, Witness, while this video plays, to note
4 the -- do you see the notebook that Mr. Selimi is writing in?

5 MR. CAPIN: I think we can stop there. Could I ask you,
6 Madam Court Officer, please, just to rewind to 47 minutes and
7 28 seconds. Maybe two more seconds, if we could, to 28.

8 Q. Do you see --

9 MR. CAPIN: If we could just go forward one frame, please,
10 within that. Maybe one more.

11 Q. Do you see the notebook that Mr. Selimi is writing in,
12 Mr. Kickert?

13 A. Like everybody else.

14 Q. Yes. Thank you. Does that notebook have rings?

15 A. It looks like, yeah.

16 Q. Can you count how many rings it has?

17 A. Is that -- okay, I -- six.

18 Q. Six with a gap between the two sets of three and three?

19 A. Yes.

20 MR. CAPIN: Court Officer, may I ask you please to pull up
21 P00182 in the Albanian only. And we'll just look at the first page
22 of that.

23 Q. And, Mr. Kickert, does the page in front of you, which is
24 exhibit -- the first page of Exhibit P00182, have the same
25 configuration of holes as the six-ring notebook that we saw

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1 Mr. Selimi writing in a moment ago?

2 A. Could be, but this is a different date on it.

3 Q. Okay. Date aside, I'm going to next show you the English
4 translation of this. Is the configuration the same? Does it look
5 like it comes from a notebook of similar characteristics?

6 A. I don't know why you need me as a witness for that, I'm sorry to
7 say.

8 Q. We'll move on then.

9 MR. CAPIN: Can we please go to the same exhibit in English,
10 Madam Court Officer. It's still P00182. And we're going to go to
11 the date in question. If you could show us the SPOE page ending at
12 the bottom at 6420, please.

13 Q. Okay. Do you recall when we met, Mr. Kickert, that I asked you
14 to, in conjunction with reading the transcript of the 5 March 1999
15 meeting, review this translation of certain notes and compare several
16 excerpts of the notes to the transcript?

17 A. Yeah, I've been shown this.

18 Q. And did you do that comparison for several entries in the notes?

19 A. I think so.

20 Q. I'm not going to belabour it, but to demonstrate the comparison
21 for the Court, I'd like to repeat the exercise for just one of the
22 several comparisons you made.

23 I'm going to ask you to look at the portion on the page in front
24 of you which reads "German Ambassador Pauls" and has about six lines
25 of notes translated below that. And I'm going to read you the

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1 portion of the transcript.

2 MR. CAPIN: Starting, for the record, I'm now in the transcript
3 which is still, I believe, P00122 and starting on page 4 of the
4 transcript.

5 Q. And I'm going to read lines 3 through 5, which reads:

6 "Mr. Christian Pauls: I'm a diplomat today. I used to be a
7 lawyer. I was a captain in the German army tanks, and I've come to
8 answer your questions."

9 The same page, lines 19 through the bottom. And I direct your
10 attention to the "my views on Rambouillet" section, Mr. Kickert:

11 "Let me start out with one personal observation I had in
12 Rambouillet. I had the feeling that the Kosovo Albanian part does
13 not or did not understand what it means to have 28,000 western NATO
14 troops in its ... country. This is the strongest guarantee possible
15 for you to have trust in whatever political agreement we will have.
16 Western countries don't commit their troops easily. We think it is
17 necessary here, as we did ..."

18 MR. CAPIN: Continuing, Madam Court Officer, if I -- never mind.

19 Q. I'm now continuing on page 5 of the same transcript, just the
20 first three lines.

21 "... as we did in Bosnia ..."

22 PRESIDING JUDGE SMITH: Mr. Capin, you have to slow down.

23 MR. CAPIN: My apologies.

24 PRESIDING JUDGE SMITH: It's impossible to follow.

25 MR. CAPIN: My apologies. I will back up. For the benefit of

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1 the interpreter, I'll back up to the beginning of the preceding
2 sentence on line 22.

3 Q. "This is the strongest guarantee possible for you to have trust
4 in whatever political agreement we will have. Western countries
5 don't commit their troops easily. We think it is necessary here, as
6 we did in Bosnia, and these troops will stay as long as it is
7 necessary, as in Bosnia. Nobody says that we're here for only three
8 years. If the situation says so, we stay longer."

9 I think I --

10 PRESIDING JUDGE SMITH: We need to take a break at this point.

11 MR. CAPIN: Okay. Thank you, Your Honour.

12 PRESIDING JUDGE SMITH: Witness, we'll give you about a
13 ten-minute break. We'll be back at around 10 after the hour.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 --- Break taken at 10.02 a.m.

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

18 MR. CAPIN: [Microphone not activated].

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MR. CAPIN: I tried and failed to ask -- to express to the Court
21 a concern about the exhibit numbering. The exhibit that's been
22 numbered P001227 is a portion of a book called "The Great Turning
23 Point" by one of the accused. Another portion was already in
24 evidence as P00189. And so what I didn't communicate effectively, I
25 think, is that it may make more sense to have the additional portions

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1 added to P00189 since it's the same document, and then we can just
2 resume with the numbering where we left off.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 All right. Can you combine those two, Madam Court Officer?

5 THE COURT OFFICER: Yes, Your Honour. Pages with ERN U015-8743
6 to U015-8842 and 8843 will be added to the Exhibit P00189. And
7 number P01227 will be vacated for the next exhibit.

8 PRESIDING JUDGE SMITH: Thank you.

9 MR. CAPIN: Thank you, Your Honour.

10 [The witness takes the stand]

11 PRESIDING JUDGE SMITH: All right. Witness, we will continue
12 with the questions from the Prosecutor.

13 Go ahead.

14 MR. CAPIN: Madam Court Officer, can I ask you please to pull up
15 SPOE00203094 to SPOE00203096.

16 Q. And while the Court Officer is doing that. Mr. Kickert, in your
17 SPO statement at paragraph 16, you stated that you joined the UN
18 mission in Kosovo, UNMIK, or UNMIK, in midsummer of 1999; is that
19 correct?

20 A. That is correct.

21 Q. In what month did you start?

22 A. I think it was the beginning of August.

23 Q. And in what capacity did you join UNMIK?

24 A. As a diplomatic adviser to the head of UNMIK, the SRSG, the
25 Special Representative of the Secretary-General Bernard Kouchner.

Witness: Jan Kickert (Open Session)

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1 Q. Did you previously describe yourself in your statement as a
2 political adviser?

3 A. Yes.

4 Q. Is there a difference in the terminology?

5 A. Which terminology they use now?

6 Q. I think you said --

7 A. Diplomatic?

8 Q. Diplomatic.

9 A. No, it is a political adviser.

10 Q. Thank you. And in your SPO statement at paragraph 61 through
11 66, you described several UNMIK memoranda you drafted and were copied
12 on. You pointed out a gentleman named Mr. Dittmann in the video we
13 just watched. Was he an UNMIK employee?

14 A. Yes, he was.

15 Q. What was his job?

16 A. He was a political adviser as well. He was part of the UN
17 advance team to establish UNMIK. And through him, they then hired me
18 to build a team of political advisers.

19 Q. And my apologies, you may have said this, but in what month did
20 you join UNMIK?

21 A. I think it was in August.

22 Q. And was Mr. Dittmann already working there at the time --

23 A. Yes, he was.

24 Q. And --

25 THE INTERPRETER: The interpreters kindly ask the speakers to

Witness: Jan Kickert (Open Session)

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1 make a pause between question and answer because interpretation is
2 not possible. Thank you.

3 MR. CAPIN:

4 Q. We just got an admonition from the interpreters, which I will
5 heed.

6 As I said, you stated in your SPO statement that as an UNMIK
7 political adviser you drafted -- part of your job was drafting
8 memoranda and cables; correct?

9 A. My -- memoranda, yes, because I was reporting directly to the --
10 to the SRSG, to Bernard Kouchner. I was not drafting cables to
11 New York, to headquarters, but at times, the hierarchy in UNMIK would
12 forward our memoranda to headquarters.

13 Q. I see. When you say "our memoranda," you mean both you and
14 Mr. Dittmann would draft memoranda that, in some instances, would be
15 incorporated into a UN cable?

16 A. That is correct. We also had a third diplomatic adviser who was
17 dealing mostly with minority issues.

18 Q. Do you see the document in front of you? It's SPOE00203094 to
19 SPOE00203096.

20 A. Yes, I do.

21 Q. Did you review that when you and I met recently?

22 A. Yes, you showed it to me.

23 Q. Is that a standard UNMIK cable from -- as they appeared in the
24 summer of 1999?

25 A. Yes, it is.

Witness: Jan Kickert (Open Session)
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1 Q. And can you just tell the Court who's it addressed to or who's
2 it from and what is the topic. And when telling us that, tell the
3 Court what role the individuals on the "to" and "from" line, what
4 role they played at UNMIK.

5 A. Okay. Just first a clarification. This was a time where I was
6 not working for UNMIK yet but was still in a bilateral capacity,
7 heading the Austrian office in Prishtine.

8 But, of course, this is standard UN cable. It was addressed to
9 Miyet, who is the head of DPKO, the Department for Peacekeeping
10 Operation, which was the unit at the UN Secretariat in New York,
11 UNMIK, and other peacekeeping missions report to. And in CC, that is
12 Mr. Riza, who was the chief of staff, *chef de cabinet*, of the
13 Secretary-General Kofi Annan. And Prendergast was the head of the
14 Under-Secretary-General for Political Affairs. It was sent in the
15 name of the interim head of UNMIK, Sergio Vieira de Mello. I even
16 recognise the -- who signed it off in person, that was Fabrizio
17 Hochschild.

18 MR. CAPIN: Madam Court Officer, can we please see the next page
19 of this document, which is SPOE00203095. And if you could just focus
20 on the top third or so of that page under --

21 Q. Do you see the portion, sir, and did you read this recently,
22 under where it says "Meeting with Hashim Thaci on 13 July"? Do you
23 see that portion?

24 A. Yes, you showed it to me ten days ago.

25 Q. Okay. I'm going to read to you the first paragraph under "UCK

Witness: Jan Kickert (Private Session)

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1 detention centres." It reads:

2 "The SRSG informed Thaci that KFOR had freed several Serb and
3 Roma who had been held at a house near Pristina. It was very
4 worrying that some UCK members, which had been clearly identified by
5 their KFOR Ids, had arrived at the house shortly thereafter. He
6 strongly urged Thaci to use all his influence to immediately dissolve
7 all UCK detention centres. Thaci promised to do whatever he could
8 and to issue an official statement."

9 Did I read that correctly, Mr. Kickert?

10 A. Yeah.

11 MR. CAPIN: Mr. President, the SPO tenders this document,
12 SPOE00203094 to SPOE00203096.

13 PRESIDING JUDGE SMITH: Any objection?

14 MR. MISETIC: Yes, Mr. President. The witness doesn't know
15 anything about the events here, the passage that was read out to him.
16 He wasn't present for the meeting. And if I can make one additional
17 point in private session, please.

18 PRESIDING JUDGE SMITH: All right. Into private session,
19 please.

20 [Private session]

21 [Private session text removed]

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Witness: Jan Kickert (Private Session)

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Examination by Mr. Capin

1 [Private session text removed]

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1 [Private session text removed]

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18 [Open session]

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

20 PRESIDING JUDGE SMITH: Okay. I'll repeat then that we will

21 mark this for identification and determine it later.

22 Go ahead.

23 MR. CAPIN: Your Honour, I'm going to repeat the same exercise

24 with regard to one more cable.

25 Court Officer, would you please pull up SPOE002 --

Witness: Jan Kickert (Open Session)

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1 PRESIDING JUDGE SMITH: Just a second.

2 We're in public? Okay. All right. Now you can go ahead.

3 MR. CAPIN: Madam Court Officer, may I ask you to pull up
4 SPOE00246088 to 0026093.

5 MR. MISETIC: Mr. President, I apologise for interrupting. The
6 previous exhibit, as far as I can see on the transcript, has not been
7 marked for identification.

8 THE COURT OFFICER: Your Honours, document with ERN SPOE00203094
9 to 00203096, and its Albanian translation, will be marked for
10 identification with number P01227. Classification is confidential.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. CAPIN:

13 Q. Do you see the document in front of you now, Mr. Kickert?

14 A. I do.

15 Q. Did you also look at this document when you and I met about ten
16 days ago?

17 A. You showed it to me.

18 Q. Is this also a standard UNMIK cable of the type you were
19 familiar with seeing in the summer of 1999?

20 A. Yes, it is.

21 Q. And what is the subject of the cable?

22 A. I can read it to you: "First meeting of the Kosovo Transitional
23 Council on 16 June 1999."

24 MR. CAPIN: Can we please go to the top of the next page,
25 Madam Court Officer.

Witness: Jan Kickert (Open Session)

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Examination by Mr. Capin

1 Q. Do you see on the page in front of you, Mr. Kickert, under the
2 caption "First Kosovo Transitional Council meeting on 16 July," whom
3 does the document identify as the Albanians representing the UCK at
4 this meeting?

5 A. Again, I can read to you:

6 "UCK: Hashim Thaci, Xhavit Haliti."

7 MR. CAPIN: Can we please go to the next page. I'm sorry, we're
8 going to the page ending in 6090. My apologies. It may be one page
9 down. If we could please advance to the -- there we go. Could we
10 advance a little farther down the page, please.

11 My apologies, Your Honour. I may be disoriented with the
12 document. I'm going to ask the Court Officer to go to the top of the
13 page again. Can we please scroll to the beginning of the next page.

14 Q. Do you see the paragraph on the screen in front of you beginning
15 with "Most members ...", Mr. Kickert?

16 A. I do.

17 Q. Does the beginning of that paragraph read:

18 "Most members made statements of principle. Artemije stressed
19 that the majority of crimes and acts of violence were committed
20 against Serbs and other non-Albanians. He called on the UCK and in
21 particular on Thaci to put an end to this. Thaci answered that he
22 had already made very strong statements distancing himself from
23 crimes against non-Albanians."

24 Did I read that correctly, sir?

25 A. If I were a teacher, I would say yes.

Witness: Jan Kickert (Open Session)

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Examination by Mr. Capin

1 Q. Thank you.

2 MR. CAPIN: Your Honour, the SPO tenders this document based on
3 the same argument. I would simply point out that it's a -- any
4 questions about authenticity have been resolved and any remaining
5 question -- and relevancy is resolved. Any remaining questions I
6 would suggest go simply to the weight of the document and not to its
7 admissibility under the rules.

8 MR. MISETIC: For this specific document, we have no objection.
9 I'll be relying on the same passage in cross-examination.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 SPOE00246088 to 0026093 is admitted. Please assign a P number
12 to it.

13 THE COURT OFFICER: Your Honours, document with ERN SPOE00246088
14 to 00246093 will be admitted as P01229. Classification is
15 confidential.

16 MR. CAPIN: Nothing further for the SPO at this time,
17 Your Honour.

18 PRESIDING JUDGE SMITH: Thank you.

19 MR. MISETIC: Mr. President, can I just ask if that document
20 needs to be confidential?

21 MR. CAPIN: I think it would be safe to treat it as
22 confidential, Your Honour.

23 MR. MISETIC: I'd ask that it be just considered. I'm not sure
24 that there's any confidential information in there. So unless
25 there's a provider restriction, I would ask that it be public.

Witness: Jan Kickert (Open Session)
Cross-examination by Mr. Misetic

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1 PRESIDING JUDGE SMITH: Are there any restrictions placed on
2 this document?

3 MR. CAPIN: Not that I'm aware, but I was hesitant until I
4 confirmed that that's the case. And after the break, I can confirm
5 one way or the other, with the Court's permission.

6 PRESIDING JUDGE SMITH: Do you need it at this time?

7 MR. MISETIC: No, but after the break.

8 PRESIDING JUDGE SMITH: We'll deal with it after the break,
9 then. Unless there's some restriction placed on it by the supplier,
10 it seems like it ought to be public.

11 MR. CAPIN: And to my knowledge there isn't, Your Honour, but I
12 don't know the answer to that.

13 PRESIDING JUDGE SMITH: All right.

14 Go ahead, Mr. Misetic.

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

16 Cross-examination by Mr. Misetic:

17 Q. Witness, good morning. My name is Luka Misetic. I am counsel
18 for Hashim Thaci. And I have some questions for you this morning and
19 this afternoon.

20 I'd like to begin with your statement to the SPO, which is
21 Exhibit P01210, and ask you who prepared the statement?

22 A. Who prepared the statement? It was somebody from the SPO
23 writing it down.

24 Q. Okay. So they prepared the statement and sent it to you to
25 review and edit?

Witness: Jan Kickert (Open Session)
Cross-examination by Mr. Misetic

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1 A. If that's the statement from 2020, they -- they were coming to
2 New York where I was stationed at the time, and then they sent it,
3 because if I looked at the signature, it's from a different date than
4 the interviews themselves.

5 Q. Okay. But so they prepared the statement?

6 A. Correct.

7 Q. Okay. Did you have access to your prior statements at the ICTY
8 before that statement was prepared?

9 A. I was shown all my reports and everything this was based upon.
10 I did not go through my prior ICTY statements.

11 Q. Okay. All right. We'll get to some issues regarding that in a
12 little while, but I wanted to start with your understanding of the
13 KLA structure in the summer of 1998.

14 And in your SPO statement of 2020, you state that in 1998 -- and
15 please help me with the name here, is it Mr. Rohan?

16 A. Yes.

17 Q. Okay. Mr. Rohan, the then Secretary-General of the Austrian
18 Foreign Ministry, decided to start negotiations with the KLA in order
19 to involve them in the political process; is that correct?

20 A. That's correct.

21 Q. And as part of this process, you were tasked to identify
22 political leaders of the KLA who would be able to speak on behalf of
23 the KLA and act as your interlocutors; is that correct?

24 A. Correct. The first meeting I had was with Mr. Rohan himself,
25 and then I was tasked to do the follow-on.

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Cross-examination by Mr. Misetic

1 Q. And you specifically told the SPO that you were not interested
2 in the military leadership of the KLA?

3 A. That is very correct.

4 Q. So you were not interested in military decision-making; correct?

5 A. That is correct.

6 Q. But did you acquire some information about the KLA structure
7 either way?

8 A. We wanted to get to the person who could speak on behalf of the
9 KLA and be involved in the political process. Of course, there
10 were -- to find somebody who could authoritatively speak in the name
11 of the KLA, you got some information about the KLA or you -- you
12 thought you got some information about the KLA.

13 Q. Okay. But is it fair to say that it was not clear to you what
14 the structure of the KLA was?

15 A. That is correct.

16 Q. And you were not clear on how the KLA operated; correct?

17 A. Correct.

18 Q. Now, before the summer of 1998, is it correct that your
19 information about the KLA was limited to what you heard from other
20 internationals and journalists?

21 A. Internationals and local journalists, correct. And then, sorry,
22 if I may add, from May 1998, we also had a mobile ECMM team working
23 on the ground which also got some information what was going on, but
24 not on the political front so much.

25 Q. Okay. And in your efforts to learn about the KLA structure, you

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1 met with various individuals, including both Kosovars and other
2 diplomats; is that correct?

3 A. Correct.

4 Q. One of the diplomats you met in the summer of 1998 was
5 Ambassador Richard Holbrooke?

6 A. Well, I didn't meet him directly, but I was part of meetings
7 where he was there and I was present as well.

8 Q. And did Ambassador Holbrooke state in those meetings that it was
9 not known whether the KLA had any internal chain of command and that
10 he himself doubted that it was the case?

11 A. I think you're referring to a cable of mine from early summer,
12 probably June 1998. Yes.

13 Q. That's correct then?

14 A. Yes.

15 Q. And you recorded that in that cable?

16 A. Yes.

17 Q. And that is the cable of 7 July 1998; is that correct? I can
18 put it on the screen.

19 MR. MISETIC: Let me make sure I just get the right exhibit
20 number here. P01215. If we could have that on the screen, please.
21 And if we could zoom in on the section under "Holbrooke," please.

22 Q. And is this what you were referring to earlier, the passage that
23 says:

24 "In relation to the UCK: Holbrooke himself says that it is not
25 known whether the UCK has an internal chain of command. He doubts

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1 that there is. He asked the UCK representatives to come forward and
2 identify their leaders, in order to clarify whether they would play
3 any part in the trial/hearing ..."

4 A. Correct.

5 Q. Correct?

6 A. Correct.

7 Q. Did you have an understanding of why or on what basis
8 Mr. Holbrooke said that he did not believe the UCK had an internal
9 chain of command?

10 A. I believe that the Americans had more intelligence as we
11 Europeans. The Americans had a presence also in Prishtine, the US
12 Information Service, which I also visited when I came down to
13 Prishtine. We Europeans didn't have a continuous presence there.
14 And our understanding was this US presence was also an intelligence
15 presence.

16 MR. MISETIC: And if we go to a different document. This is now
17 a cable, P01212, that you refer to in your SPO interview at paragraph
18 59 and is a report from the Austrian embassy in Belgrade to the
19 Austrian Ministry of Foreign Affairs dated 27 June 1998. And if we
20 go to the first section, the last bullet point.

21 Q. And there -- first of all, do you recognise the report?

22 A. Yeah, it's an English translation. Can I look at the top,
23 please?

24 Q. Yes.

25 A. Yeah.

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Cross-examination by Mr. Misetic

1 Q. Do you recall if you prepared this report?

2 A. Yes, I do.

3 Q. And did you?

4 A. I did.

5 Q. Okay. The last bullet point in section 1 says:

6 "The UCK command structure nevertheless remains something of a
7 mystery, according to the US. Although the UCK operates with terms
8 such as 'General Staff', in the US view it is more a matter of
9 diffuse horizontal command and coordination structures. This could
10 be problematical in terms of involving the UCK in the political
11 dialogue."

12 Now, do you recall where that information came from?

13 A. It came from the American side.

14 Q. Do you know who specifically from the American side provided
15 that information?

16 A. I don't know who was present at the meeting. If I could go up
17 to see the title of the report. It was a meeting of the Contact
18 Group Heads of Missions, so it was probably the American ambassador,
19 deputy ambassador who provided this information.

20 Q. Is it possible that it was -- I believe in your SPO interview at
21 paragraph 59, you refer to the US military attaché. Could it have
22 been him?

23 A. It could also be the source of this information. I was in touch
24 with the few Western military attachés who did go down to Kosovo and
25 had some knowledge or tried to get some knowledge about the situation

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1 there.

2 Q. Now, when you were speaking to the ICTY in November 2004, you
3 said something similar. You told the ICTY --

4 MR. MISETIC: And this is U008-5982 to U008-5982, please, if we
5 could have that on the screen.

6 Q. And this is from a preparation session you had with the ICTY.
7 And in paragraph 1, it purports that you said:

8 "... the KLA in summer 1998 lacked a clear central hierarchical
9 structure. Although he had heard of a KLA General Staff, he was not
10 at the time convinced that one existed, and if one did exist he
11 doubted the extent of its control over KLA forces around Kosovo.
12 There seemed to be mostly regions and leaders of those regions,
13 rather than a centralised structure."

14 Now, do you recall saying that to the ICTY in 2004?

15 A. Yes, I do.

16 Q. Does that accurately reflect your impressions in 1998?

17 A. Yes, we were pretty much in the dark, and we were trying to
18 grasp how the KLA was organised and structured. I remember that our
19 observers, the ECMM observers, had different experience in different
20 parts of Kosovo in encountering KLA; some being more aggressive,
21 others being more relaxed about the presence of our observers.

22 Q. Now, can you explain what you meant when you said:

23 "There seemed to be mostly regions and leaders of those regions,
24 rather than a centralised structure."

25 How did you form that impression?

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1 A. At that time, my feeling was that there was a centre in the
2 Drenica region, but that not necessarily the KLA in western Kosovo in
3 Dukagjin area would be under the same structure, centralised
4 structure.

5 MR. MISETIĆ: Mr. President, I tender this exhibit into
6 evidence.

7 PRESIDING JUDGE SMITH: Any objection?

8 MR. CAPIN: No objection.

9 PRESIDING JUDGE SMITH: U008-5982 to U008-5982 is admitted.

10 THE COURT OFFICER: Your Honours, the document and its Albanian
11 translation will be admitted as 1D00137. And the classification the
12 confidential.

13 MR. MISETIĆ: Thank you.

14 Q. Witness, let me just ask one follow-up question to that. Did
15 you have an opportunity at all, if you can recall, to go into a zone
16 under the command of someone named Commander Remi?

17 A. I would not know. I think Remi was in the Llap region. But I
18 don't know when I've gone into his -- his zone of command. I don't
19 know whether it extended to the area where we had discussions in
20 January 1999 on the VJ soldiers. That could be his zone. I don't
21 know.

22 Q. Did you go into the Llap zone in the summer of 1998?

23 A. No.

24 Q. Now, in your Limaj trial testimony, and this is P1209, at page
25 676, beginning at line 13, the question that was asked is:

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1 "This reference to 'breakaway KLA factions,' as it appears in
2 this translation, was that just this particular incident or did you
3 know that to be a problem for the KLA more generally?"

4 And your answer was:

5 "Well, I don't think that -- I think we should be careful. Lum
6 Haxhiu was not somebody who broke away from the KLA. He was talking
7 to the press and I think that was not welcomed. There was a general
8 problem I understood or I assessed at the time that in western Kosovo
9 there were some armed groups who would not -- who would do their own
10 things and not necessarily follow any other command."

11 So you made some reference just a few minutes ago to western
12 Kosovo. What did you mean when you said they would "do their own
13 things and not necessarily follow any other command"?

14 A. The name of Lum Haxhiu, I think that was the KLA combatant who
15 was photographed with Richard Holbrooke when he went to Junik, which
16 is in western Kosovo near the Albanian border. So that was the first
17 time of official meeting of a Western diplomat with UCK. But it was,
18 as far as we understood afterwards, just a random meeting and not
19 somebody who was in any way representing the KLA as such or being
20 able to speak on behalf of the KLA.

21 Q. Okay. But how did you get the impression that they would do
22 their own things and not necessarily follow any other command?

23 A. I don't know. I don't -- simply don't know anymore.

24 Q. Okay.

25 A. But that was the general feeling we had in 1998, that it was

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1 not -- that these were groups operating more autonomously than under
2 a hierarchical command.

3 Q. Okay. And in that same trial testimony, at page 709, beginning
4 at line 3, you said:

5 "Well, my assessment -- I think during 1998 and I don't know
6 when, there was certainly an effort that it would be" --

7 Well, let me restart. I'll put the question and then the answer
8 to give you the context. The question was:

9 "Mr. Kickert, again in your understanding, taking into
10 consideration the fact that you're not a military expert, did you
11 understand that central command or general staff to be regional in
12 scope or to cover all of Kosovo?"

13 And your answer was:

14 "Well, my assessment -- I think during 1998 and I don't know
15 when, there was certainly an effort that it would be all of Kosovo.
16 But my feeling was that the coordination between different regions
17 was very difficult."

18 Do you recall giving that evidence?

19 A. Yes, I think it -- it reflects what I -- what I was thinking. I
20 thought it was more coordination between regional structures than one
21 hierarchical structure.

22 Q. Okay. And do you recall what you observed that led you to that
23 conclusion?

24 A. In general, it was when we wanted to get to commitments, it took
25 always a long time, so we had the feeling that there was a

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1 coordination or a consultation necessary with a -- not that it was
2 one interlocutor where we could get a straight answer from.

3 Q. Okay. We were talking about the summer of 1998, but this issue
4 about coordination and having to discuss with local people. You were
5 shown as -- on direct examination and in your preparation session, a
6 video from a 5 March 1999 meeting between Ambassador Christian Pauls,
7 Wolfgang Petritsch, Sylejman Selimi, Rame Buja, Fatmir Limaj, and
8 Rexhep Selimi, at which the Rambouillet agreement was discussed. Do
9 you recall that?

10 A. Yes.

11 Q. And Ambassador Pauls was the ambassador of Germany; is that
12 correct?

13 A. No, he was in the German Foreign Ministry, the *Auswärtiges Amt*,
14 responsible for the Balkans. He was not the ambassador in Belgrade.

15 Q. Okay. Now you watched the video?

16 A. The portions, yeah.

17 Q. Do you recall that Mr. Pauls stated that the KLA was "not a
18 conventional army"?

19 A. Yes, I read that.

20 Q. You were present when he said that. What was your understanding
21 of what he meant when he said the KLA was not a conventional army?

22 A. It was not an army representing a country.

23 Q. Okay. Did you understand him to be or did he say that it was
24 more a guerilla force than a conventional army?

25 A. No, I wouldn't say that necessarily. I mean, that it was an

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1 insurgency armed force, that was clear to us all.

2 Q. During your preparation session with the SPO you explained that
3 while the KLA tended to portray itself as a well-organised army, the
4 general impression amongst the internationals was that the KLA was
5 exaggerating its size and structure; is that correct?

6 A. That is certainly true for 1998, yes.

7 Q. And did you have an understanding of why they might be
8 exaggerating?

9 A. To push up their status also -- within Kosovo but also for us
10 internationals to take them more seriously. There was a tendency,
11 especially among the American diplomacy, of trying to push aside the
12 KLA in the formation of a political platform of Kosovo-Albanian
13 representatives.

14 We Europeans, or Austrians, we didn't believe that this was
15 possible but this was an ongoing struggle.

16 Q. And -- sorry. Now, in terms of exaggeration, they would
17 exaggerate, as you said in your prep session, their size and
18 structure; is that correct?

19 A. Size, I never discussed any numbers.

20 Q. Okay.

21 A. But structure, yes.

22 Q. Okay. Would they exaggerate their organisation?

23 A. That was my impression, yes.

24 Q. Yeah. Would they exaggerate their ability to be effective on
25 the ground?

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1 A. Well, I believe that the -- in the summer of 1998, they also
2 overestimated themselves, and I think they had a bit of a humbling
3 experience in the events of Rahovec/Orahovac. And when the Serbian
4 side pressed that offensive, I think they had to retreat from all the
5 places we would meet them before.

6 Q. As for your direct experience, you explained in your preparation
7 session with the SPO that you saw KLA checkpoints manned by farmers
8 rather than soldiers; is that correct?

9 A. That was the one experience when we met the first time in
10 Malisheve where we passed, just coming up from the main road, a
11 checkpoint which were clearly not trained militia but -- yeah.

12 Q. Farmers?

13 A. Rag-tag armed people, yes.

14 Q. Turning to a different topic. You met with Mr. Thaci and
15 Mr. Veseli in July 1998; correct?

16 A. Correct.

17 Q. And you were at that point interested in trying to find
18 political rather than military leaders?

19 A. Correct.

20 Q. And you came to view Mr. Thaci as a political rather than a
21 military figure; is that correct?

22 A. That is correct. Because that was what we were looking for, and
23 this was given to me by a local journalist as a potential
24 high-ranking personality who could speak authoritatively in the KLA
25 for the political process we were trying to achieve.

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1 Q. And your recollection in -- is it correct that your
2 recollection -- let me rephrase. You first met with Kadri Veseli; is
3 that correct?

4 A. That is correct.

5 Q. And --

6 A. With Secretary-General Rohan.

7 Q. Yes. And that had been organised by the ECMM?

8 A. That is correct.

9 Q. Okay. Is it fair to say that your recollections, until
10 recently, let's say until 2020, were that it was the next day that
11 you met with Hashim Thaci?

12 A. That is correct.

13 Q. Okay. And so if we look at your 1999 statement.

14 MR. MISETIĆ: And if we can pull that up. Yes. 0081-1091 to
15 0081-1096, please. If we can go to page 3, please. And I believe
16 it's that paragraph that begins:

17 "At about the same time ..."

18 Stop. If we can scroll up just so we can see paragraph above
19 that as well. Yes.

20 Q. You said in May and June 1999:

21 "I returned to Malisevo at the end of July 1998 after the
22 fighting between the KLA and Serb forces in Orahovac took place. A
23 *Koha Ditore* journalist, Dugadjin Gorani, accompanied me during that
24 trip. He was able to put me in touch with Hashim Thaci. I was to
25 meet him again a few times later.

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1 "At about the same time, the EU Troika (then consisting of the
2 UK, Austria and Germany) visited Pristina and elsewhere in Kosovo."

3 And then it goes on and discusses the meeting that ultimately
4 resulted in the meeting with Kadri Veseli; correct?

5 A. Yes. But this was a statement which was rather hastily drawn
6 up. And when I was confronted with an ECMM report, which reported to
7 the meeting with Mr. Rohan with Kadri Veseli, I think we've
8 established now the sequence of meetings, the dates of the meetings.
9 What I had confounded, where I originally thought that I met the day
10 after with Hashim Thaci, it was actually, now thinking back, it was
11 after the failed effort of the EU troika to meet with KLA
12 representatives. We didn't get through checkpoints.

13 The day after, that was when I and my British colleague,
14 David Slinn, went to Klecke where we met Jakup Krasniqi and Rame Buja
15 and Fatmir Limaj. So with the report I think we got the sequence now
16 right and not as it was confounded in my memory.

17 Q. Okay. But it's -- your current timeline is based on a
18 reconstruction; correct?

19 A. Correct.

20 Q. You don't have an independent memory of this timeline; correct?

21 A. Correct.

22 Q. Okay. So if we go to your Limaj trial testimony in 2004, that's
23 where you said -- and this is at page 669 of that testimony,
24 beginning at line 19. That's where you said you met with Mr. Veseli
25 and then the next day you met with Hashim Thaci; correct?

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1 A. That is wrong in retrospect.

2 Q. Right. But --

3 A. But I said it, yes.

4 Q. It's wrong only in the sense that the documents refer to a
5 meeting with someone who represented themselves as Number 3; correct?
6 You have to be sure that Number 3 is Hashim Thaci in order for the
7 new timeline to be accurate.

8 A. Yeah, but I know that Number 3 -- the one -- the person who
9 introduced himself as Number 3 was Hashim Thaci.

10 Q. Okay. But you didn't know who Hashim Thaci was at the time;
11 correct?

12 A. I was told his name.

13 Q. Later.

14 A. Actually the same day.

15 Q. Okay. We'll get to that in a few minutes. It's time for a
16 break. But keep that thought in mind and we'll get to it.

17 A. Okay.

18 Q. Thank you.

19 PRESIDING JUDGE SMITH: All right. Witness, we'll take a
20 half-hour break at this time. You can leave the courtroom with the
21 Court Usher.

22 [The witness stands down]

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

24 --- Recess taken at 11.01 a.m.

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

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

3 Did you have something [Microphone not activated].

4 MR. MISETIC: No. Just, Mr. President, I wanted to alert the
5 Chamber that in this next section I will be going into what the
6 witness observed and reported on in terms of Serbian crimes. It will
7 be relevant directly - and I'll get to it after I finish that - with
8 when he could have met with Mr. Thaci following July.

9 And the second is I wanted to have a discussion with him about
10 the Geneva Conventions, which he says he mentioned to Mr. Thaci, and
11 the KLA's ability to comply with the Geneva Conventions in light of
12 what was happening in August and September 1998.

13 So before we get into objections while the witness is in the
14 box, I wanted to put that on the record first.

15 PRESIDING JUDGE SMITH: Any questions from the Panel about that?
16 No? Okay.

17 [The witness takes the stand]

18 PRESIDING JUDGE SMITH: All right. Witness, we will continue
19 with questions from Mr. Misetic.

20 Go ahead.

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

22 Q. Witness, before the break we left off with a discussion about
23 Number 3, and your evidence is that Mr. Thaci did not give you his
24 name but introduced himself as Number 3; is that correct?

25 A. Correct.

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1 Q. In your time in Kosovo, did you ever hear of anyone else
2 referring to Mr. Thaci as Number 3?

3 A. Not necessarily specifically to him, but I was told before that
4 there is kind of a number system, and that was also -- refreshed my
5 mind that in one of my reports I -- which I described a meeting with
6 Adem Demaci, that he referred to this number system as well, but not
7 connecting Number 3 with the name Hashim Thaci.

8 Q. Okay. So at no time before that meeting nor after that meeting
9 have you heard, read about, read in books, read in the newspaper that
10 Mr. Thaci is, was, or had been ever referred to as Number 3; is that
11 fair?

12 A. I don't recall. It was then at a certain time his name became
13 public knowledge, and the number system was not used anymore.

14 Q. Okay. You obviously have experience in Kosovo. Have you come
15 to learn what Mr. Thaci's *nom de guerre* was during the conflict?

16 A. Yes.

17 Q. And what was that?

18 A. Snake.

19 Q. Right. You have not heard similar information or stories that
20 he was ever known as Number 3; is that fair?

21 A. I was not looking out. I met him, he introduced himself as
22 Number 3, and which was for me --

23 Q. I understand that.

24 A. -- encouraging.

25 Q. No, I understand that part.

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1 A. Yeah.

2 Q. I'm asking you a different question.

3 A. Yeah.

4 Q. So somehow just by being present in Kosovo you learned that he
5 was known as Snake; correct?

6 A. Correct.

7 Q. But just by being in Kosovo you never similarly learned that he
8 was ever known as Number 3?

9 A. I wouldn't recall.

10 Q. Okay. Now, did you have an understanding of why a number system
11 would be used?

12 A. Our guess at the time was that this would be a kind of a
13 hierarchical numbering. So when I met Number 7 and afterwards Number
14 3, I thought, okay, I'm getting up the hierarchy. That was my
15 understanding at the time.

16 Q. Okay. Why wouldn't they just introduce themselves by their real
17 names?

18 A. Because I think --

19 Q. What was your --

20 A. -- that was a --

21 Q. -- understanding?

22 A. -- a security issue, I suppose.

23 Q. Do you think if it's a security issue, is it a security problem,
24 in your assessment, that you identify people -- identify yourself by
25 your position in the hierarchy? Does that not pose a greater

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1 security risk to whoever is at the top of the numbering system?

2 A. I wouldn't see that the same way. I would say your real name is
3 a bigger security threat to yourself and to your family than it is if
4 it's just a number and the number would be used, and you don't tag it
5 to a certain personality.

6 Q. I guess my point would be let's say whoever Number 1 was, if
7 they were continuously representing themselves as Number 1 and the
8 Serbs found out about it and assumed the same thing, you would be
9 making yourself a high-value target, would you not?

10 A. Absolutely. And I think that Hashim Thaci was a high-value
11 target.

12 Q. Okay. And he was a high-value target that he then identified
13 himself as a high-value target by putting himself in the position of
14 Number 3?

15 A. I mean, there was always the big puzzling of us who is Number 2
16 and who is Number 1.

17 Q. Okay. Could it be possible that Number 3 presented themselves
18 as Number 3, as we talked about before the break, in order to create
19 a perception of importance to you?

20 A. I don't think so. I mean, when we met Number 7, and it was a
21 bit of an awkward meeting, I was thinking, okay, did he just invent
22 Number 7 because it was 007, James Bond, or -- but then when I met
23 Number 3, I thought, okay, there might be some value to this
24 numbering system. But then again, I mean, this is not something I
25 would ever establish in certainty.

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1 Q. Okay. And you've told the SPO in your preparation session that
2 your understanding of the numbering system as a sort of hierarchy was
3 based on a widespread assumption; is that correct?

4 A. That is correct.

5 Q. But you have no facts or personal knowledge of a numbering
6 system?

7 A. I have never seen any document. I've never seen anybody from
8 the KLA or -- nobody from the KLA explained it to me.

9 Q. Mr. Thaci, in his meeting with you, did not say what he was
10 responsible for; is that correct?

11 A. That is correct.

12 Q. And --

13 THE INTERPRETER: Interpreter's note: The speakers are kindly
14 reminded to pause between question and answer. Thank you.

15 MR. MISETIC:

16 Q. And when you told him that you were looking for leaders of the
17 KLA, he did not say he was one of the leaders; correct?

18 A. I wouldn't recall.

19 Q. Let me take you to your testimony in the Djordjevic trial.

20 MR. MISETIC: It's IT-05-87.1, T2566. Just one second. Yes,
21 T2566 to T2650 at page 2614, beginning at line 15.

22 Q. So if we start with the question you were asked, and the
23 question is:

24 "Well, now it's much clearer."

25 Oh, I'll wait for the Albanian, sorry. It says -- the question

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1 you're asked is:

2 "Well, now it's much clearer. Mr. Thaqi, or, rather, Mr. Three,
3 did he introduce himself by saying, I'm number three and my powers,
4 my authority, my function is such and such? Did he tell you what he
5 was in charge of, and why is it that he is the one talking to you?"

6 And your answer was:

7 "He introduced himself as number three, but he didn't state what
8 he was responsible for. I said we were looking for high leaders of
9 the KLA to introduce them to the political process, and he said, We
10 are willing to consider that. But he did not say whether he had to
11 ask somebody else or that he would decide on his own."

12 Is that accurate?

13 A. Yes.

14 Q. Okay. And you state in your SPO statement that you did not
15 really know what Mr. Thaci's position in the KLA was, and that's at
16 paragraph 25 of your SPO statement; is that correct?

17 A. Correct.

18 Q. Now, you also told the SPO that during this meeting with
19 Mr. Thaci, you mentioned the Geneva Convention "because there had
20 been allegations, mostly in the Serb press, about the KLA taking
21 prisoners"; is that correct?

22 A. That is correct.

23 Q. If we can turn to the cable that you sent of your meeting with
24 Number 3.

25 MR. MISETIC: And that is P01217, please.

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1 Q. And this is the -- first of all, do you recognise the document?

2 A. Yes, I do.

3 Q. And is this the cable of 24 July that references your meeting
4 with Number 3 and Number 7?

5 A. Yes, it does.

6 Q. Okay. Did you make a notation in the cable that you had
7 referred to the Geneva Conventions?

8 A. I don't know. I didn't have a set agenda for that meeting. I
9 bumped into ICRC personnel in Malisheve before the meeting because
10 they were also looking for an interlocutor in the KLA to make their
11 case, so that's why I think I brought it up.

12 Q. Do you want us to scroll through the document so you can take a
13 look at it?

14 A. Sure.

15 Q. Okay.

16 MR. MISETIĆ: Go ahead.

17 Q. Tell us when to turn the page.

18 A. Yes, you can turn the page. Scroll down, please. Yeah. I
19 don't see a mention.

20 Q. Okay. All right. So there -- just for the record, you don't
21 see a mention of the Geneva Convention in the document; correct?

22 A. Correct.

23 Q. You also told the SPO that you did not raise any specific
24 allegations because you did not have any evidence of any particular
25 crimes and you did not believe Serbian propaganda. And that's at

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1 your SPO statement, paragraph 27. Is that correct?

2 A. There was propaganda from both sides, and it was difficult to
3 manoeuvre through this. My purpose of the meeting was not to bring
4 this up. My purpose was to see, to explore whether KLA structures,
5 higher KLA structures were willing to engage in a political process.

6 Q. Okay. But just so the record is clear, you did not raise any
7 specific allegations of anything in the meeting; correct?

8 A. I would absolutely not have brought that up, no.

9 Q. Okay. In your preparation session, you also said, and this is
10 at unredacted Prep Note 1, paragraph 14, that you raised concerns
11 about compliance with the Geneva Conventions *en passant*; correct?

12 A. Yeah, this is what -- repeats what I just mentioned. It was not
13 the main purpose. I might have -- I brought it up, I believe,
14 because it was also the ICRC people who were there in Malisheve at
15 that time.

16 JUDGE METTRAUX: Mr. Misetic, your French attempt was
17 mistranslated in the transcript as "in Pasan." I believe Mr. Misetic
18 meant "in passing," French for "*en passant*."

19 MR. MISETIC: I thought I sounded perfectly French there, Judge.

20 JUDGE METTRAUX: You sounded very French, Mr. Misetic.

21 MR. MISETIC: Thank you. I appreciate that. Now I'm thrown off
22 now, Judge.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 MR. MISETIC: Thank you. I'll try to collect myself.

25 Q. Witness, you said to the SPO in your statement at paragraph 27

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1 that you do not recall what Mr. Thaci specifically said in response
2 but that he stressed that the KLA would respect the Geneva
3 Convention; is that correct?

4 A. Yes. The point the KLA made is that they are an army and they
5 wanted to stress that they are an organised and structured army, and,
6 therefore, will logically also follow the Geneva Conventions.

7 Q. Okay. So let's discuss compliance with the Geneva Conventions,
8 but first I'd like to establish the context in which the KLA was
9 trying to form a more organised force, as you've just said.

10 Shortly after your meeting on the 23rd with Number 3 and
11 Number 7, a major Serbian offensive began. Do you recall that?

12 A. Yes, I do.

13 Q. And would you agree that that offensive had a devastating effect
14 on the KLA?

15 A. I don't know whether it had a devastating effect on the KLA, but
16 at areas where we used to encounter and meet, it was no longer
17 possible to see them.

18 Q. Okay.

19 A. And it was difficult to get in touch with them.

20 MR. MISETIC: I'm going to show you a UK KDOM document and ask
21 if you agree with its assessment. It's SPOE00117129. Oh, sorry, the
22 complete ERN, I apologise, is SPOE00117127 to 00117132. And it's at
23 SPOE00117129. And if we could scroll down, please, to the section
24 that says "The KLA." Okay.

25 Q. If you start at the second sentence, it says:

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1 "The overall picture [of the KLA] is still of a series of mainly
2 fragmented and disparate units, differing markedly in appearance and
3 training."

4 First of all, would you agree with that assessment?

5 A. Well, these were the observers on the ground, and they were
6 also, most part, military personnel in these observer missions. So
7 we would get their report too, and I would just have to agree with
8 what they say.

9 Q. Okay. Did you receive reports like this at the time?

10 A. Yes, because they were different segments of KDOM, and one of it
11 was the -- the ECMM was also part of KDOM, so the European part of
12 KDOM. There was a US KDOM. There was even a Russian KDOM. But we
13 would get them, as far as I remember, in paper and not electronically
14 in Belgrade. But I would meet with the observers themselves.

15 Q. And it then goes on to say:

16 "Most of the groups are extremely small; the largest encountered
17 by UK KDOM was no more than 40, and some were as small as five or
18 six."

19 In your travels through Kosovo, did you have a similar -- did
20 you have similar observations about the size of KLA groups?

21 A. I never encountered bigger groups, but that was also not the
22 purpose, to have military contacts. I was just wanting to try to
23 meet with some political leaders.

24 Q. It goes on to say:

25 "They varied from well organised sections, with distinct

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1 military and political leaders, and membership drawn largely from the
2 diaspora; to ill clad, poorly equipped, groups of unsophisticated
3 young peasants who were clearly recruited from the immediate
4 vicinity."

5 Now, you mentioned before you saw at a checkpoint --

6 A. Yes.

7 Q. -- a group of what you described as rag-tag or farmers; is that
8 correct?

9 A. That is correct.

10 Q. So this is consistent with your observation?

11 A. Yes, it is.

12 Q. Okay.

13 "Some showed a large measure of political sophistication (albeit
14 in some cases reflecting a rigid totalitarian ideology), while others
15 saw themselves simply struggling against the Serbs for the liberation
16 of Kosovo."

17 MR. MISETIĆ: Now, Mr. President, I tender this exhibit into
18 evidence.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MR. MISETIĆ: Yes.

21 PRESIDING JUDGE SMITH: Any objection?

22 MR. CAPIN: [Microphone not activated].

23 PRESIDING JUDGE SMITH: SPOE00117127 to SPOE00117132 at
24 SPOE00117129 is admitted.

25 THE COURT OFFICER: Your Honours, that page will receive

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1 Exhibit 1D00138. Classification is confidential at the moment.

2 MR. MISETIC: Unless there is a reason that the SPO has, I think
3 it can be public.

4 MR. CAPIN: [Microphone not activated].

5 PRESIDING JUDGE SMITH: You also were going to report back on
6 the other document from earlier today.

7 MR. CAPIN: Yes, and I can report that there is also no reason
8 that cannot be public. It should be public. Thank you, Your Honour.

9 PRESIDING JUDGE SMITH: They are reclassified as public.
10 Go ahead.

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

12 Q. Now, shortly after your meeting on 23 July with Number 3 and
13 Number 7, the Serbian offensive started and the KLA was driven out of
14 Malisheve; is that correct?

15 A. That is correct.

16 Q. And your understanding was they were driven into the surrounding
17 hills?

18 A. Yes, that was my understanding.

19 Q. Was it your observation that Malisheve was emptied of its
20 Albanian population?

21 A. Yes, absolutely.

22 Q. By the end of July or the beginning of August, do you recall
23 receiving a report from your monitors that destruction was going on
24 in Malisheve, with policemen looting shops and setting fire to a
25 house?

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1 A. Yes.

2 MR. MISETIC: If we could have that exhibit on the screen,
3 please. This is IT-05-87 P02655, and the ERN is 00811105 to
4 00811106. And this document is a Contact Group démarche of 4 August
5 1998.

6 Q. Witness, your name is listed on the "from" line. Do you recall
7 preparing these talking points for démarche?

8 A. I see it for the first time after 25 years, yeah, but it's
9 clearly from me.

10 Q. Just to refresh your recollection, this was discussed with you
11 in the Djordjevic trial in 2009.

12 A. Okay.

13 Q. Okay.

14 A. Thank you.

15 MR. MISETIC: If we could turn to page --

16 Q. First of all, do you recall what it is?

17 A. Yeah, it is -- it seems to be drafting notes for démarche and
18 shared with -- with -- not with the Contact Group as such, because
19 Russia is not on the recipients list. So with the Western Contact
20 Group members.

21 MR. MISETIC: And if we can go to the next page, please.

22 Q. Under the section "Major concerns," if we go to the second
23 point, it says:

24 "reports about looting and burning of houses and setting fire to
25 unharvested fields by members of FRY security forces."

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1 MR. MISETIC: If we go back to the first page just for a second
2 to establish the date of this.

3 Q. The date is 4 August 1998. Now, do you recall the reports about
4 looting and burning of houses and setting fire to unharvested fields
5 by members of FRY security forces?

6 A. Yes, I do.

7 Q. Did you observe them or did you just report on them?

8 A. I read reports and I talked to ECMM members who saw it
9 themselves. We witnessed only when we went with the troika at the
10 end of July that when we went one direction and came back the other,
11 that unharvested fields would be on fire, but we didn't see who put
12 them on fire.

13 Q. Okay. And then if we scroll on to the bottom of this page, your
14 talking point was under the:

15 "Therefore we urge the FRY government to ..."

16 And then point two is:

17 "stop FRY forces damaging houses and property; [and to] prevent
18 looting."

19 Correct?

20 A. Correct.

21 Q. And so it's fair to say that at the time, so early August 1998,
22 you were receiving reports that FRY forces were committing crimes
23 against both persons and property; is that correct?

24 A. Yeah, property for sure. Persons, there was no -- I mean, there
25 was a fighting going on, but no concrete that there were some, at

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1 that time yet, atrocities on civilian personnel.

2 MR. MISETIC: Mr. President, I tender this document into
3 evidence. It's two pages.

4 PRESIDING JUDGE SMITH: Any objection?

5 MR. CAPIN: No, Your Honour.

6 PRESIDING JUDGE SMITH: IT-05-87 P02655 at ERN 00811105 to
7 00811106 is admitted.

8 THE COURT OFFICER: Your Honour, the document will receive
9 Exhibit 1D00139, and it's classified as public.

10 PRESIDING JUDGE SMITH: I'm sorry, I couldn't hear the end. Is
11 it public?

12 THE COURT OFFICER: Yes, it's classified as public.

13 PRESIDING JUDGE SMITH: All right. Thank you.

14 MR. MISETIC: Thank you.

15 Q. And then do you recall later in August 1998 travelling and
16 coming into Qirez with Ambassador Petritsch and Emma Bonino and
17 encountering a large concentration of internally displaced persons
18 there?

19 A. Yes, I do remember.

20 Q. And do you recall why there was a large concentration of
21 internally displaced persons in Qirez at the end of August 1998?

22 A. At the moment, there were Serbian and Yugoslav forces advancing.
23 The civilian population was fleeing. From August on, our main job
24 was not so much on the political front anymore, also because we lost
25 touch with our interlocutors in the field, but it was then to --

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1 trying to take care and stabilise the situation for the thousands and
2 thousands of IDPs who were living in the mountains in, at times,
3 appalling situations.

4 Q. Okay. Thank you.

5 MR. MISETIC: If we could turn to the next document, which is
6 DHT03913 to DHT03914-ET in the English. And in the original German,
7 it's DHT03913 to DHT03914.

8 Q. And, Witness, what we're pulling up here is a report from the
9 Embassy of Austria in Belgrade to the Ministry of Foreign Affairs of
10 Austria on 11 September 1998. Do you recall this document?

11 A. Yes, I do.

12 Q. And can you tell us what it is?

13 A. I was reporting on a meeting I had with Ambassador Parak, who
14 was the head of ECMM stationed in Sarajevo, and with the new Austrian
15 military attaché, and we went to western Kosovo.

16 Q. Okay. Does this report record your observations on that trip?

17 A. Yes, it does.

18 Q. If we go to the first bullet point, and it says this is a trip
19 you took on 10 September 1998 to western Kosovo. And it says:

20 "Villages along the main Pristina-Pec road are, with the
21 exception of Serbian villages, no longer inhabited."

22 Is that your observation at the time?

23 A. Yes, it was.

24 Q. And if we scroll down to the last bullet point on this page, you
25 say:

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1 "KLA were not seen throughout the entire trip. ECMM Pec
2 supposes that they withdrew to the mountainous area towards
3 Albania ..."

4 Is that correct?

5 A. Yes, this is --

6 Q. So on the entire trip you did not encounter KLA?

7 A. That's what I wrote, yes.

8 Q. All right.

9 MR. MISETIC: Mr. President, I tender this document into
10 evidence.

11 PRESIDING JUDGE SMITH: Any objection?

12 MR. CAPIN: No, Your Honour.

13 PRESIDING JUDGE SMITH: DHT03913 to DHT03914 is admitted.

14 THE COURT OFFICER: Your Honour, this document will receive
15 Exhibit 1D00140, and it's marked as public.

16 MR. MISETIC: Thank you.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. MISETIC: And if I could just note on the second page, if we
19 could turn to the second page of this document.

20 Q. The first sentence there says:

21 "The Parak convoy did not travel to nearby Krusevac (south of
22 Pec an estimated 25,000 internally displaced persons)."

23 Now, do you recall receiving the report that there were about
24 25,000 IDPs south of Pec?

25 A. It must have come probably from ECMM or some humanitarian

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1 organisation.

2 Q. Okay. Is it possible it came from UNHCR?

3 A. It is possible.

4 Q. Now, Witness, we've been talking about IDPs in Qirez and now
5 south of Pec. And if I could just turn your attention to document
6 P00750, please.

7 And this is a Security Council resolution, Resolution 1199 from
8 23 September 1998. Do you recall if you were familiar with the
9 Security Council resolution either at the time it was issued or at
10 any time thereafter?

11 A. Yeah, I was, of course, not involved in its drafting, but I was
12 aware that it was around, yes.

13 Q. Yes.

14 MR. MISETIC: If we could turn to the bottom of the page there.

15 Q. And it says that the Security Council, second paragraph from the
16 bottom, says it is:

17 "Gravely concerned at the recent intense fighting in Kosovo and
18 in particular the excessive and indiscriminate use of force by
19 Serbian security forces and the Yugoslav Army which have resulted in
20 numerous civilian casualties and, according to the estimate of the
21 Secretary-General, the displacement of over 230,000 persons from
22 their homes ..."

23 Now, Witness, is that assessment of roughly 230.000 IDPs in late
24 September 1998 consistent with your understanding of the humanitarian
25 situation at the time?

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1 A. I could not talk about numbers, but we have seen thousands of
2 IDPs in appalling conditions, in tents, in the open, at that time.

3 Q. Were you familiar with allegations that many of these IDPs were
4 the victims of excessive and indiscriminate use of force by Serbian
5 security forces?

6 A. I would not have any personal knowledge about that.

7 Q. Okay. Let's turn to a different document.

8 MR. MISETIC: And this is IT-05-87 P00557-E, and the same in the
9 German without the E at the end.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MR. MISETIC: Yes. To repeat again, it is IT-05-87 P00557 in
12 the German, and the same number -E for the English.

13 PRESIDING JUDGE SMITH: All right. There's a slight error in
14 the transcript. It is listed as 78 rather than 87.

15 Go ahead.

16 MR. MISETIC: Thank you.

17 Q. Witness, do you recall this document?

18 A. Yes, I do.

19 Q. And do you know who prepared it?

20 A. It has written three authors: My boss, Ambassador Petritsch,
21 myself, and a colleague in the embassy in Belgrade.

22 Q. And if we go to the first section, number 1, "CG démarches,"
23 Contact Group démarches; correct?

24 A. Correct.

25 Q. Is this the result of meetings that you were present at with

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1 President Milosevic?

2 A. No, I was never present at a meeting with President Milosevic,
3 so this must have been the input of Ambassador Petritsch.

4 Q. Okay. It says that President Milosevic was claiming as of
5 28 September, in the last bullet point, that:

6 "The UCK has been defeated; the Serbian side is sympathetic
7 towards persons who allowed themselves to be recruited by the UCK;
8 prospect of an amnesty for certain groups."

9 Do you see that?

10 A. Yes, I do.

11 Q. Do you recall at the time that Serbian authorities believed that
12 the UCK had been defeated by the end of September 1998?

13 A. I think they were pretty confident, but they were also confident
14 before. After they had destroyed the Jashari compound, which is in
15 the spring of 1998, I remember that the prefect, Veljko Odalovic, was
16 telling to the German ambassador the terrorist problem is solved.
17 And I think they were pretty confident that they had grinded the UCK
18 at that stage, which then opened up the opportunity for a bigger
19 international presence, the Kosovo Verification Mission of the OSCE.

20 Q. Yes, and we'll get to that point --

21 A. I know.

22 Q. -- in a second. But if we could just stick with the document
23 now and go to the next page, please. Under the point 2, "IDP camps
24 and possible repatriation," the second paragraph there says:

25 "During the field visit on 29 Sept. an IDP camp near Kisna Reka

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1 (south of Lapusnik and SE of Komorane) was inspected. This camp,
2 which is" --

3 A. "Was visited." "Inspected" is the wrong -- "*besucht*" is the
4 German version, so "visited," yeah.

5 Q. Visited, okay.

6 A. Yeah, it's okay.

7 Q. You appreciate I'm reading in the English. But:

8 "This camp, which is located at the end of a valley in a wooded
9 area, has already existed for some months. Together with two nearby
10 camps, it is said to house 2,500-3,000 persons in total. It is
11 estimated ho. ... that up to 1,000 people were living in the camp
12 visited.

13 "The IDPs, families with small children and elderly people, are
14 living in self-built shacks made of branches and plastic sheeting."

15 I'll stop there.

16 Were you on the visit to the IDP camp?

17 A. Yes, I was.

18 Q. Can you tell us if this accurately describes the conditions?

19 A. Yes, it does. This is the part I have written.

20 Q. Okay. So your estimate was that it was housing almost 3 -- up
21 to 3.000 persons in total, together --

22 A. No.

23 Q. -- with another camp?

24 A. The main camp where we've been, our estimate was about up to
25 1.000 persons. The "ho." means "*hierorts*" [phoen], which means

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1 embassy's estimate.

2 Q. Okay. All right.

3 MR. MISETIC: And then if we go to the last page of the
4 document, please.

5 Q. And the first paragraph there says -- and it's talking about an
6 alleged massacre by security forces. It says:

7 "The field trip also took the [Contact Group] Ambassadors to the
8 village of Golubovac in the southern region of Drenica (north of
9 Kijevo - out of consideration for witnesses, please do not pass on
10 exact details of location). The undersigned was able to speak with a
11 man who had been shot and wounded, who reported a massacre of a group
12 of young men. It was described in the same terms by villagers
13 questioned separately, including fathers, wives and children of the
14 victims. Following an attack by the security forces on the evening
15 of 26 Sept., 15 men were separated from a group of IDPs and taken
16 with their hands on their heads to the other side of the village,
17 where a policeman allegedly executed them with an automatic weapon."

18 Now, my first question to you, Witness, is you were part of the
19 field trip that took the Contact Group Ambassadors there?

20 A. Yes, but this particular instance, it was not the Contact Group.
21 It was Ambassador Petritsch accompanied by me talking to this. I
22 don't think that we would have taken the whole Contact Group convoy
23 there.

24 Q. Okay. And can you tell us does -- to the best of your
25 recollection, does this report accurately reflect the circumstances

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1 of this reported massacre by Serbian security forces?

2 A. Yes.

3 Q. And the date of this was 26 September 1998?

4 A. When that was the -- the same outing, yes.

5 MR. MISETIC: Mr. President, I tender this document into
6 evidence.

7 PRESIDING JUDGE SMITH: Any objection?

8 MR. CAPIN: No, Your Honour.

9 PRESIDING JUDGE SMITH: IT-05-87 P00557 is admitted.

10 THE COURT OFFICER: Your Honours, the document and its English
11 translation will be assigned Exhibit 1D00141, and it's classified as
12 public.

13 PRESIDING JUDGE SMITH: Thank you.

14 MR. MISETIC: Thank you.

15 Q. Now, Witness, as you've mentioned a few minutes ago, at this
16 point in time, or a few weeks after this, is when the
17 Holbrooke-Milosevic agreement was negotiated; correct?

18 A. Correct.

19 Q. Okay. And that would have been around mid-October 1998?

20 A. Sometime, yeah.

21 Q. Would you agree with me that the circumstances that the KLA
22 found itself in, in light of the Serbian offensive, the IDPs, and the
23 actions of the Serbian security forces between late July and
24 mid-October 1998, were quite chaotic?

25 A. I would agree.

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1 Q. Now -- just one second, please. Now, were you aware that after
2 the Milosevic-Holbrooke agreement and after the Geremek-Jovanovic
3 agreement -- you do know what that is; correct?

4 A. Sort of, yeah.

5 Q. The Geremek-Jovanovic agreement was the agreement that --

6 A. Polish OSCE chairman.

7 Q. Yes. That allowed the Kosovo Verification Mission to deploy to
8 the FRY or Kosovo specifically there. Do you recall that?

9 A. Yes, I recall that.

10 Q. Okay. That was also mid-October 1998. Would you agree with me
11 that that provided the KLA with some -- an opportunity, if I can put
12 it this way, an opportunity to breathe because there was now a
13 cease-fire in place?

14 A. Yes, I would agree.

15 Q. Were you aware that following these agreements and the
16 deployment of the Kosovo Verification Mission, that the chief of
17 staff of the Kosovo Liberation Army General Staff ordered the
18 formation of a military court?

19 A. I'm not aware of that.

20 Q. Were you aware at all that there was an existence of a military
21 court in the KLA?

22 A. No. But it was also not my prerogative to look into these
23 matters.

24 Q. Okay. Do you know a person named Sokol Dobruna?

25 A. I wouldn't know anymore.

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1 Q. Okay.

2 A. I mean, if you show me a photo of him, I might recognise him.

3 Q. Well, he would have been someone who would have been the head of
4 the KLA military court. So you don't recall --

5 A. I don't think so.

6 Q. -- that?

7 A. No.

8 Q. Okay. Are you aware that following the Milosevic-Holbrooke
9 agreement and the Geremek-Jovanovic agreement, the ICRC was able to
10 gain access to some detainees held by the KLA?

11 A. No.

12 Q. Were you aware that following the Geremek-Jovanovic agreement
13 and the deployment of the Kosovo Verification Mission, that the OSCE
14 was able to gain access to some detainees held by the KLA?

15 A. No.

16 Q. Let me show you a document of the ICRC.

17 MR. MISETIĆ: And if we could have on the screen, please,
18 DHT03010 to DHT03089, please.

19 Q. Witness, this is a report of the ICRC - and if we can scroll to
20 the bottom, please - that was only issued in April 2023, so I'm going
21 to assume you have not seen this before; correct?

22 A. Correct, I haven't seen that.

23 Q. It's a report on detention by non-state armed groups and their
24 obligations under international humanitarian law.

25 MR. MISETIĆ: And if we could turn to pages 55 -- actually, page

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1 55 at the bottom, which is DHT3064, please.

2 Q. I'm showing this to you only because you mentioned the Geneva
3 Conventions in your statements, and I want to see what your
4 understanding is of obligations under the Geneva Conventions.

5 The bottom that talks about defining grounds and procedures to
6 avoid arbitrary detention. It says:

7 "To avoid people being interned for vague reasons and without
8 effective control, grounds and procedures for internment must be
9 established by the [non-state armed group] leadership in a set of
10 rules that are respected by [non-state armed group] members and
11 enforced by the [non-state armed group's] internal disciplinary
12 system. Thus, [non-state armed groups] must provide grounds and
13 procedures for internment in rules that are considered binding by all
14 members, which could be their laws, rules, code of conduct, general
15 orders, or similar instructions. Having grounds and procedures
16 established in an [non-state armed group] document should also
17 provide transparency and predictability to people subjected to
18 internment, which is particularly important for civilians living in
19 areas in which [non-state armed groups] operate."

20 Now, my first question to you is, in the summer of 1998, were
21 you familiar with international obligations with respect to
22 internment and/or detention?

23 A. No.

24 Q. Do you have any training in legal matters?

25 A. I have a superficial training in international law, else I would

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1 have not entered the foreign ministry. But I am a non-lawyer and
2 very proud of it.

3 Q. As you should be. Thank you.

4 MR. MISETIC: If we go to the next page, please.

5 Q. Now the next paragraph says:

6 "The ICRC understands that in practice such rules might not
7 exist when the first detainees are taken, and that it may take time
8 and resources to define and implement effective review procedures.
9 At the very least, [non-state armed groups] should - if they do not
10 have such grounds and procedures in place - take the necessary steps
11 towards defining and implementing them without delay."

12 Now, based on your last answer, I assume that you're not
13 familiar with, under international law, how much time non-state armed
14 groups have to comply with their obligations; is that correct?

15 A. That's correct.

16 Q. Okay. Since you're not familiar with the fact that the KLA
17 General Staff chief of staff ordered the formation of a military
18 court and appointed someone to that court, you're not familiar with
19 whether it was Mr. Thaci's job to oversee the functioning of the
20 military court, are you?

21 A. No information on that.

22 Q. Okay. Thank you.

23 Witness, I just have some questions on the following. If we
24 could turn to your statement in -- or your testimony -- no, sorry,
25 your statement in the Limaj case.

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1 MR. MISETIC: And this is U008-1323 to U008-1333. And if we
2 could go to page U008-1329 at paragraph 19, please. If we could
3 just --

4 Q. Sorry, that's your witness statement, just so you're -- I just
5 wanted to orient you for a second. It's your witness statement to
6 the ICTY, not your trial testimony. Okay?

7 MR. MISETIC: And if we can go to the relevant page, please.

8 Q. Now, at paragraph 19, you talk about when you learned that
9 Number 3 was Mr. Thaci. And in this statement you say:

10 "At the meetings that are described above and were held during
11 July and early August of 1998 ..."

12 I may have read that wrong, but it's cut off.

13 "After the beginning of August, we started to concentrate on
14 humanitarian issues. I met Hashim Thaqi on several occasions and
15 very often he was accompanied by Commander Celiku. Celiku used to
16 accompany Thaqi to meetings with me and the EU special envoy Wolfgang
17 Petritsch. These meetings were often held in or around Banja, which
18 is Limaj's home village. When I first met Hashim Thaqi in July 1998,
19 the meeting was arranged by one of my journalist acquaintances.
20 Thaqi introduced himself to me as 'Number 3'. I wasn't even
21 interested in his real name, but very soon during the war, he became
22 more of a [public] figure than a military one and one couldn't avoid
23 learning his real name."

24 Do you recall that?

25 A. Yes, I do.

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1 Q. Now, that testimony suggests that you didn't learn his real name
2 until sometime after what you say was 23 July 1999 meeting; correct?

3 A. No, I think that I was told his name before or after the meeting
4 by Dukagjin Gorani who knew Hashim Thaci from university. But I
5 didn't -- it was for me of no importance because, for me, he
6 introduced himself as Number 3. It was not -- his name was not
7 public knowledge. For my report, I just used Number 3. And only
8 when he became -- or his name became public would I be using it too.

9 Q. Okay. But you will agree with me that in this paragraph it
10 suggests that you weren't interested in his real name and very soon
11 during the war when he became more of a political figure, you
12 couldn't avoid learning his real name? That's what you say. You
13 don't mention that Dukagjin Gorani told you his real name?

14 A. I couldn't avoid, no, I -- that is when I started using his name
15 as well. And as I said, after the first meeting, it took a long time
16 until we could have other meetings.

17 Q. Yes, and we'll get to that in a second.

18 MR. MISETIC: Mr. President, I tender this one page from the
19 witness statement. And for the -- just so the Panel can orient
20 itself later, I should be offering the first page so you know what it
21 is and the date of it, and then this one page.

22 PRESIDING JUDGE SMITH: U008 -- I'm sorry, was there an
23 objection?

24 MR. CAPIN: No, Your Honour.

25 PRESIDING JUDGE SMITH: All right. U008-1323 to U008-1333 at

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1 page U008-1329 is admitted.

2 MR. MISETIC: And the first page as well?

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. MISETIC: It is, but I think the cover page also would help
5 you in your --

6 PRESIDING JUDGE SMITH: [Microphone not activated] ... repeat
7 what the cover page is then.

8 MR. MISETIC: Yes.

9 PRESIDING JUDGE SMITH: I don't have it down.

10 MR. MISETIC: It's U008-1323 is the first page.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. MISETIC: Yes, that's the whole range.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. MISETIC: And then I only want the first page, which is
15 23 --

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. MISETIC: -- and then the other page which is the --

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 They will both be admitted under one exhibit number.

20 MR. MISETIC: Thank you.

21 THE COURT OFFICER: Your Honour, those two pages will receive
22 Exhibit 1D00142, and they are marked as confidential.

23 MR. MISETIC: Mr. President, I think the transcript has stopped.

24 [Trial Panel and Court Officer confers]

25 PRESIDING JUDGE SMITH: [Microphone not activated].

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1 I think we're back on. Thank you.

2 Go ahead, Mr. Misetic.

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

4 Q. Witness, now turning to what you just discussed, your meetings
5 with Mr. Thaci that was interrupted. If we could turn your attention
6 to what you said in the Limaj case in the trial.

7 MR. MISETIC: This is IT-03-66 T667 to T767 at page -- sorry,
8 it's already an admitted exhibit, so I'll get the exhibit number.
9 P1239 -- or, sorry, 1209. Perhaps we won't need it.

10 So let me just ask -- actually, we'll put it on the screen.
11 Page 693, please, beginning at line 24.

12 Q. So let's start there. Line 24, you're asked:

13 "Mr. Kickert, did you continue to meet with the KLA after July
14 1998?"

15 MR. MISETIC: Go to the next page, please.

16 Q. And your answer was:

17 "No. These meetings were interrupted as since sort of mid-July
18 1998, the Serbian security forces launched an offensive. So the
19 places where I used to meet them I could not meet them anymore. And
20 then in 1998 -- in August of 1998 we were concentrating our
21 activities more on the IDP crisis. Through the offensive of the
22 Serbian security forces a lot of people left their homes. And so we
23 in August tried to see how we could counter that. And at the same
24 time the US had taken the position to form a negotiation team with
25 LDK representatives only. This decision was endorsed by the contact

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1 group. So the KLA was no longer welcome in this negotiation team.

2 "Q. Nevertheless, did you have occasion to meet with
3 Commander Celiku again during 1998?"

4 Your answer was:

5 "Yeah. Later on in the fall of 1998 when at that time the KVM
6 or the Kosovo Verification Mission of the OSCE was established we did
7 have contact with KLA representatives again. It was Hashim Thaqi
8 mainly."

9 Do you recall that?

10 A. Yes, I do.

11 Q. So as I understand your evidence, you say you met with
12 Hashim Thaci once in July 1998; correct?

13 A. Correct.

14 Q. And then did not meet with him again until after the KVM had
15 been deployed to Kosovo?

16 A. That is my recollection, yes.

17 Q. Okay. So if we know that the KVM was not deployed to Kosovo
18 until the second half of October 1998, that would be the earliest
19 that you could have had a meeting with Hashim Thaci?

20 A. Yeah, most probably.

21 Q. Okay. Just while we're on this excerpt, you mention that "the
22 US had taken the position to form a negotiation team with LDK
23 representatives only." You're referring there to the US taking a
24 position to form a negotiation team that would negotiate on behalf of
25 Kosovo Albanians?

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1 A. Correct.

2 Q. Okay. And the position there was that the KLA would be excluded
3 in August 1998 from being able to participate in international
4 negotiations?

5 A. Yes. I mean, there was a reluctance of certain US diplomats to
6 include the KLA or to make them too strong in a Kosovo negotiation
7 team.

8 Q. And that then became the position of the Contact Group?

9 A. Yes, it was then endorsed by the Contact Group, yeah. And it
10 was, of course, easy because the Russians never wanted the KLA to be
11 involved to begin with.

12 Q. And do you recall if the LDK had taken the position to exclude
13 the KLA from the negotiation team?

14 A. There was a very nice cartoon describing our job in *Koha Ditore*,
15 where we would get one Albanian to the table and the other one tied
16 to his stool was running away. So we tried to get them always
17 together and one faction would then say, "No, not this way," "Not
18 that way." So the big frustration we had was trying to form a
19 platform, a group of Kosovo Albanians representing all factions and
20 political colours to unite in one common platform, and that was
21 actually a cumbersome job, and it went back and forth for the longest
22 time until Rambouillet.

23 Q. So I understand from that answer then that the LDK had taken a
24 position that if the KLA is there, we won't participate; is that
25 correct?

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1 A. The LDK didn't have a friendly attitude towards the KLA at the
2 beginning when they even denied the existence of the KLA. We also
3 had the FARK armed group which was financed by the LDK and their
4 government-in-exile. So there were frictions, political frictions,
5 but I think also frictions on the ground.

6 Q. When you say "the LDK didn't have a friendly attitude towards
7 the KLA," can you explain what you mean by that?

8 A. They were political rivals.

9 Q. And why would the LDK perceive the KLA as a political rival?

10 A. A threat to their political monopoly.

11 Q. To the LDK's political monopoly?

12 A. Yes.

13 Q. Okay. Thank you. Now, again in the Limaj trial, and this is
14 the same document we have on the screen.

15 MR. MISETIC: If we could turn to page 739, please. And if we
16 could go to line 17, please.

17 Q. You're asked there:

18 "Of course" --

19 The question is:

20 "Of course you state that towards the end of 1998 you met [with]
21 Mr. Limaj, together with Mr. Thaqi in," it should say "Banja," I
22 believe; correct?

23 A. Correct.

24 Q. And your answer is:

25 "That's correct. A meeting with Ambassador Petritsch where I

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1 was there as well."

2 A. Yes.

3 Q. "Q. Was that around November 1998?"

4 Your answer:

5 "It could well be. It was winter, that's for sure, and foggy
6 and I think we were late. And we already drove back when we were
7 called on our cellphones to return so that the meeting could take
8 place."

9 Does that refresh your recollection of when the meeting with
10 Mr. Thaci and Mr. Limaj in Banja took place?

11 A. Yes, it does.

12 Q. And that would be November -- or the winter of 1998, as you
13 said?

14 A. Yes.

15 Q. Let me show you a newspaper article from -- and I've already
16 been cautioned about my French, so my German's going to be --

17 A. Even worse.

18 Q. -- questionable. Yes, let's put it that way. But I'll just use
19 my English. *Der Standard*. Right?

20 MR. MISETIC: DHT03915 in the German, and DHT03915-ET in the
21 English. And this is an article that appeared on the 14th/15th
22 November 1998 and reports on a meeting that Mr. Petritsch had with
23 KLA representatives. In the German, if we could scroll up, please.
24 It's a picture, so I hope we can blow that up without losing
25 legibility, bottom right-hand portion of the screen where it says

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1 "Petritsch." There we go.

2 Q. Are you able to read that, Witness?

3 A. Yeah.

4 Q. Okay. It says:

5 "Petritsch met with KLA representatives.

6 "The EU special representative for Kosovo, the Austrian
7 ambassador in Belgrade, Wolfgang Petritsch, met with a delegation
8 from the Kosovo Albanian underground army KLA. The proposal for an
9 interim solution presented by the USA was discussed on Thursday, the
10 news agency Beta (Belgrade) reported on Friday, citing a report in
11 the Albanian-language newspaper Koha Ditore (Pristina). The KLA is
12 of the opinion that a political solution to the Kosovo crisis should
13 be sought between the KLA, the leadership in Belgrade and the
14 international community. Without the participation of the
15 underground army, there could be no lasting political process, said
16 Petritsch."

17 Does the English accurately reflect the German?

18 A. Yes.

19 Q. Does that refresh your recollection about what may have been a
20 meeting with Mr. Thaci in mid-November 1998 and Mr. Petritsch?

21 A. That could well be that meeting, yes.

22 Q. Okay. Well, it's in November, and --

23 A. Yeah.

24 Q. -- you've just said that it was November, in the winter of 1998;
25 correct?

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1 A. Correct.

2 Q. Okay.

3 MR. MISETIC: Mr. President, I tender the newspaper article into
4 evidence.

5 PRESIDING JUDGE SMITH: Any objection?

6 MR. CAPIN: No, Your Honour.

7 PRESIDING JUDGE SMITH: DHT03915 in the German and English is
8 admitted.

9 THE COURT OFFICER: Your Honour, this document will receive
10 Exhibit 1D00143. It's classified as public.

11 MR. MISETIC: Thank you.

12 PRESIDING JUDGE SMITH: Thank you.

13 MR. MISETIC: And I'll show you another newspaper article,
14 Witness. It's DHT03916 in the -- actually, in the Albanian, LDK
15 bulletin. And in the English, it's DHT03916-ET. That's from
16 3 December 1998.

17 Q. Now, I'll read the report. It says:

18 "On December 3 ..."

19 Well, let me read the headline:

20 "A delegation of the KLA Political Directorate met with Wolfgang
21 Petritsch."

22 And it states -- it's a report from 5 December, and it says:

23 "On December 3, 1998, a delegation of the Political Directorate
24 of The Kosovo Liberation Army, consisting of Hashim Thaci and Bardhyl
25 Mahmuti, met with Mr. Wolfgang Petritsch, European Union Commissioner

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1 for Kosovo, and his delegation, as well as Mr. Jan Kickert, secretary
2 of the Austrian Embassy in Belgrade and a delegation from the
3 Ministry of Foreign Affairs of Austria.

4 "The meeting was organised at the invitation of Mr. Petritsch
5 and the Ministry of Foreign Affairs Austria.

6 "The meeting discussed the political situation in the region and
7 the trend of deterioration, as well as the recent provocations of the
8 Serbian forces that seriously provoke our self-restraint. They also
9 talked about the Hill-Petritsch project on the solution of the Kosovo
10 problem for the political process as an insurmountable necessity for
11 the solution of the Kosovo issue. The two parties agreed on the need
12 to organise an international conference for Kosovo, reports the
13 General Headquarters of the KLA."

14 Now, Witness, you're mentioned in the article as having been
15 present for this meeting. Do you recall a meeting where Mr. Thaci
16 and Mr. Mahmuti were present?

17 A. I tried to wrap my head around where this took place.

18 Q. Well, I'm going to suggest to you that it took place in Vienna.

19 A. I think you're right.

20 Q. Okay. So do you recall having a meeting with them in Vienna?

21 A. Yes, I do.

22 Q. Okay.

23 A. Now.

24 Q. Yes.

25 A. Since you refreshed my memory.

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1 Q. Yes, okay. Do you recall whether the content of the discussion
2 is as reflected in this newspaper article?

3 A. Yes, it was always about a document, which was first drafted by
4 the Americans and then it became a joint document, which should have
5 been the solution for the pacification of the conflict.

6 Q. Okay. Thank you, Witness.

7 MR. MISETIĆ: Mr. President, I tender this document into
8 evidence.

9 PRESIDING JUDGE SMITH: Objection?

10 MR. CAPIN: No objection.

11 PRESIDING JUDGE SMITH: DHT03916 in Albanian and English is
12 admitted.

13 THE COURT OFFICER: Your Honours, that will become 1D00144, and
14 classification is public.

15 PRESIDING JUDGE SMITH: Thank you.

16 MR. MISETIĆ: Thank you.

17 Q. Witness, on the issue of your telephone communication with
18 Mr. Thaci, given that you didn't meet with him the second time until
19 mid-November 1998, I'm going to suggest that your telephone
20 communications with him didn't happen before November 1998.

21 A. I would not be able to tell you anymore.

22 Q. Okay. All right. And in light of these conversations that
23 we've seen, the two newspaper articles I've shown you, would you say
24 that Mr. Thaci was a person that was pursuing a military or a
25 political solution to the resolution of the conflict?

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1 A. He was our contact point for a political solution.

2 Q. Turning to Rambouillet. You attended the Rambouillet conference
3 at the beginning of 1999; correct?

4 A. Correct.

5 Q. And your main role was to liaise with the Kosovo delegation and
6 report back on their work to Ambassador Petritsch?

7 A. Correct.

8 Q. You told the SPO in your witness statement at paragraph 57 that
9 it was your impression in Rambouillet that before signing the
10 agreement, Mr. Thaci had to consult several people and he did not
11 dare sign without consulting them; is that correct?

12 A. That is correct.

13 MR. MISETIC: If I could show you another exhibit. It's
14 IT-05-87 P02658 in the original German, and the same number with an E
15 at the end for the English translation.

16 Q. Witness, do you recognise this document?

17 A. Yes, I do.

18 Q. And can you tell us what it is?

19 A. It is a report I have drafted at the end of the Rambouillet
20 talks summarising them.

21 Q. Okay.

22 A. I'd be interested to have it, by the way.

23 Q. I'm sorry?

24 A. I'd be interested to have it. I don't -- I haven't seen it
25 since I drafted it --

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1 Q. Okay.

2 A. -- to my recollection.

3 Q. Okay. Well, we can scroll through it if you wish but --

4 A. No, that's okay.

5 MR. MISETIC: If we could go to --

6 Q. First of all, are you the author of the document?

7 A. Yes.

8 MR. MISETIC: If we could go to page 2, please. And if we could
9 scroll -- there we go.

10 Q. The paragraph on the current screen, the second from the bottom
11 that begins "Thaci," do you see that? Sorry, that's in the English.

12 JUDGE METTRAUX: It's the middle of the page in German,
13 Mr. Misetic.

14 MR. MISETIC: Yeah, it had just the extra word there, but yes.

15 Q. In the middle of the page there. Do you see that? Don't ask me
16 to say it in German.

17 A. No, no, no, it's fine. I'm just trying to find the German part.

18 Q. It starts with: "Delegation ..."

19 A. Okay. "Delegation." Yeah, Thaci. Yeah.

20 Q. Okay. So there it's written:

21 "Thaci, the (KLA), head of the delegation ..."

22 A. Mm-hmm.

23 Q. It should just be -- well, let me stop right there. He was the
24 head of the delegation regardless of --

25 A. Yeah, I wrote in German:

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1 "Head of the delegation Thaci (UCK) was not able to -- to that
2 level of his responsibility which was resting on him."

3 He was not able to cope with it.

4 Q. Yes. Well, first, let's just -- some foundation here. What you
5 wrote in the original German is that Mr. Thaci was the head of the
6 Albanian delegation?

7 A. Yes.

8 Q. And he came from the ranks of the UCK?

9 A. Correct.

10 Q. And then it says in the English translation:

11 "... [he] could not withstand the responsibility placed upon him
12 and the pressure exerted upon him by the international community and
13 the KLA commanders in the field ..."

14 And then you put:

15 "... ('cell phone effect')."

16 A. That's my observation in Rambouillet, that he was constantly on
17 the phone, on his cell phone. And our observation, our assessment
18 was that he was under extreme pressure not to sign on to the
19 Rambouillet agreement.

20 Q. Pressure from whom?

21 A. From KLA. Also Adem Demaci who was at that time still sort of
22 the spokesperson or political representative, if you like, of the
23 KLA. He even arranged that Mr. Thaci met Adem Demaci in Ljubljana in
24 Slovenia. We tried everything to convince him, even bringing in
25 Nobel Prize winners in Albanian literature to convince him. But he

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1 was not in a position to sign off to the agreement.

2 Q. Do you know why the KLA commanders were opposed to signing on?

3 A. I think, which turned out then afterwards, because it involved
4 the dissolution of the KLA.

5 MR. MISETIĆ: If we could -- I tender this report into evidence,
6 Mr. President.

7 MR. CAPIN: [Microphone not activated].

8 PRESIDING JUDGE SMITH: IT-05-87 P02658 in German and English is
9 admitted.

10 THE COURT OFFICER: Your Honours, that will receive
11 Exhibit 1D00145, and the classification is public.

12 PRESIDING JUDGE SMITH: Thank you.

13 MR. MISETIĆ: Thank you.

14 Q. Now, you've said that the commanders in the field were opposed
15 to the dissolution of the KLA, but it's a fact that the international
16 community at Rambouillet was insisting that that was an absolute
17 requirement for the deal to happen; correct?

18 A. Correct.

19 Q. If I can show you another diplomatic correspondence.

20 MR. MISETIĆ: It's IT-05-87 P02660 in the German original, and
21 the same number with an E at the end for the translation.

22 Q. Witness, do you recognise this document?

23 A. Yes, I do.

24 Q. And what is it?

25 A. It is a report I've written in Rambouillet. The way I was able

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1 to communicate, I was communicating to the embassy in Belgrade with a
2 special codification and they then could feed it into the foreign
3 ministry network.

4 MR. MISETIC: If we go to page 2 of this document, please. And
5 the date is 22 February 1999. And at the top of the page in English,
6 it says:

7 "Thaci is said to have spoken in favour of a continuation ..."

8 If we could just check. I'm not sure if -- where it is in the
9 German.

10 THE WITNESS: Probably have to scroll up.

11 MR. MISETIC: Second paragraph. Yeah, there it is. The second
12 paragraph there.

13 THE WITNESS: Yeah.

14 MR. MISETIC: Yes.

15 Q. "Thaci is said to have spoken in favour of a continuation of the
16 KLA's armed struggle. From Tirana, we have learned that the KLA has
17 now, for the first time, appointed a supreme commander,
18 Sylejman Selimi ... who up to now has been commander of the Drenica
19 faction, which is regarded as extremist. In a last-ditch attempt,
20 the Kosovars wanted to take out the wording 'a mechanism for' and
21 replace the words 'the people' with 'its people'."

22 And then the three negotiation objectives are declared:

23 "a referendum after an interim period,

24 "continued existence of the KLA and its transformation into a
25 sort of ... gendarmerie ..., and

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1 "the stationing of NATO troops."

2 And the response from the international community was:

3 "The Kosovar delegation was informed, by Albright among others,
4 that the referendum and the continued existence of the KLA were out
5 of the question. Also stressed in this connection were the grave and
6 irreparable consequences of a Kosovar rejection of the draft
7 agreement."

8 Does that accurately reflect the tensions there in Rambouillet?

9 A. Yes, it does.

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

12 MR. CAPIN: No objection.

13 PRESIDING JUDGE SMITH: IT-05-87 P002660 in German and English
14 is admitted.

15 THE COURT OFFICER: Just a correction, Your Honour. It's
16 IT-05-87 P02660, and it will be admitted as 1D00146. Classification
17 is public.

18 PRESIDING JUDGE SMITH: Thank you.

19 MR. MISETIC: Thank you.

20 Q. Witness, I'd like to show you an interview that Wolfgang
21 Petritsch gave in 2017 and his recollections about Rambouillet and
22 see if it accords with your recollection.

23 MR. MISETIC: It's DHT03918 to DHT03940-ET and the same numbers
24 in the original German without the ET on the end. And if we could go
25 to page DHT03932, which should be page 15 in the document, please.

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1 If we could scroll down to the bottom in the English, please. Yes.

2 Q. So there he's asked:

3 "Hashim Thaci was the youngest member of the Kosovan delegation.
4 He was 29 years old at the time. How would you assess his role at
5 the time?"

6 And Dr. Petritsch says:

7 "Thaci's age and inexperience were two factors that we had to
8 take into account. I remember the first personal conversations with
9 him, when he slowly began to realise that he had perhaps been too
10 rash in seeking this position. After all, it meant taking
11 responsibility for the fate of not just [the] UCK, but the future of
12 Kosovo as a whole. Undoubtedly a heavy burden for an inexperienced
13 negotiator, but he learned quickly.

14 "Towards the end of the negotiations, when the foreign ministers
15 met in Rambouillet to hear from the two heads of the negotiating
16 teams whether they could now agree to the draft in principle, Thaci
17 was visibly drawn and made a point of the impression ..."

18 MR. MISETIC: If we could go to the next page, please.

19 Q. "... of the impression of being extremely overwhelmed."

20 Now, if we stop there. Did you have similar impressions of
21 Mr. Thaci's state of mind at this point of the Rambouillet
22 negotiations?

23 A. Yes, I did.

24 Q. It says, it goes on:

25 "In this situation, just a few minutes before the final meeting

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1 with the foreign ministers, Joschka Fischer and I had a - it is no
2 exaggeration to say - dramatically tense conversation with Thaci,
3 because in his panic he was obviously unwilling to give a clear
4 answer to the decisive question from the assembled Contact Group
5 foreign ministers. To agree and possibly face the deadly revenge of
6 his UCK, or to refuse and thus cause the conference to fail - this
7 briefly and succinctly describes the alternative scenarios facing
8 him.

9 "And then I realised, ok dear friend, you hadn't thought about
10 the consequences of taking over the leadership of the delegation,
11 namely having to sign the dissolution of the UCK. That was also the
12 key point of my very intensive discussion with Thaci. If he agrees
13 to the disarmament of the UCK, then he runs the risk of being seen as
14 a traitor to the UCK, and then he is no longer sure of his life when
15 he returns."

16 Did you have similar -- does that accurately reflect what you
17 understood to be Mr. Thaci's position at the time or the position he
18 was in?

19 A. I wouldn't subscribe to that he was no longer sure of his life,
20 but he was under extreme pressure visibly and not in a position to
21 make any decision. He was, yeah, looking straight and then not even
22 able to listen what was said to him.

23 Q. And the reason for that was what?

24 A. That he was under extreme pressure from all sides.

25 Q. Yes. And he was under extreme pressure not to dissolve the --

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1 A. The UCK.

2 Q. The UCK. Okay. If we go on in the interview, in the next
3 paragraph he says -- Dr. Petritsch says:

4 "It was clear to us that the red line for the Kosovars was the
5 dissolution of the UCK, and the red line for Belgrade was the
6 security guarantee by international troops in Kosovo, i.e.
7 practically foreign troops on Yugoslav territory."

8 Is that correct?

9 A. That is correct.

10 Q. Okay. And if we go to the next paragraph, I just wanted to look
11 at the last sentence in the section that says -- the question was:

12 "Has Hashim Thaci fulfilled the expectations of the
13 international community?"

14 And then the last sentence says:

15 "It was supposed to be a consultation process with the local
16 commanders to persuade them to agree to the deal."

17 You can read the whole paragraph there --

18 A. Please.

19 Q. -- if you wish to get the context.

20 A. Yes.

21 Q. Okay. Did you understand that if a deal was going to get done,
22 there was going to have to be a process where the negotiation wound
23 up going to Kosovo to speak to local commanders to convince them to
24 sign on to the deal?

25 A. It was -- yeah. It was clear that we were not in a position to

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1 get a deal done in Rambouillet, so the idea which was developed is to
2 have a consultation time, and we would reconvene again after this
3 consultation time.

4 Q. And part of that consultation time, as we saw in the
5 Prosecution's questions, involved even Dr. Petritsch and other
6 international diplomats going to meet with local commanders to
7 convince them to sign on to the deal; correct?

8 A. Correct.

9 Q. And is that because you had come to the conclusion that
10 Hashim Thaci could not on his own -- did not have the authority on
11 his own to sign on on behalf of the KLA?

12 A. Correct.

13 MR. MISETIC: Mr. President, I note the time. This might be a
14 good time for a break. Actually, could I tender the interview of
15 Dr. Petritsch?

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. MISETIC: I tender that as well.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 THE COURT OFFICER: [Microphone not activated].

20 MR. MISETIC: No, I think it's --

21 PRESIDING JUDGE SMITH: You only listed one page when you ...

22 MR. MISETIC: I turned the page, though, so let me find the
23 right --

24 PRESIDING JUDGE SMITH: So it would be 33?

25 MR. MISETIC: Yes, exactly. I tender DHT03932 and DHT03933.

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1 PRESIDING JUDGE SMITH: Yes. That will be admitted.

2 THE COURT OFFICER: Your Honours, those two pages will receive
3 Exhibit 1D00147. Classification is confidential.

4 PRESIDING JUDGE SMITH: Thank you.

5 Witness, we'll take a half-hour -- or, actually, an
6 hour-and-a-half break for lunch. You are excused from the courtroom
7 now. Please do not speak to anybody about your testimony. You may
8 join the Court Usher to leave the room.

9 We will reconvene at 2.30.

10 [The witness stands down]

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

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

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

14 PRESIDING JUDGE SMITH: Can you give us a rough estimation of
15 your time remaining?

16 MR. MISETIC: I think I'll be done within an hour and hopefully
17 less.

18 And while I'm on my feet, Mr. President, I had one matter to
19 raise, a housekeeping matter. The last exhibit that was admitted,
20 the interview of Mr. Petritsch, which is 1D147, is currently
21 confidential, and we see no reason why it can't be public. Thank
22 you.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 Unless there's a Prosecution objection.

25 MR. CAPIN: None, Your Honour.

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

2 Madam Court Usher, you can bring the witness in.

3 [The witness takes the stand]

4 PRESIDING JUDGE SMITH: All right. Witness, we will continue
5 with questions from the Thaci Defence.

6 Mr. Misetic, you have the floor.

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

8 Madam Court Officer, if we could please have on the screen
9 Exhibit 1D145, page 2, please.

10 Q. And good afternoon again, Mr. Kickert.

11 A. Good afternoon.

12 Q. I'm just going to put back on the screen a document you've
13 already seen, which was an Austrian embassy diplomatic
14 correspondence. And you recall the document?

15 A. Yes.

16 Q. Okay.

17 MR. MISETIC: If we could go to page 2, please. And if we could
18 go to the bullet point that starts with "Basic agreement ..."

19 Yes, sorry.

20 Q. "Basic agreement ..." right in the middle of the screen in
21 English. Have you found it in German?

22 A. Neither, no.

23 Q. We're having fun today so -- watching me try to speak foreign
24 languages.

25 "*Kosovarischerseits* ..."?

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1 A. Yeah. It wasn't bad.

2 Q. That's the one. Okay. All right. The paragraph starts:

3 "Basic agreement on the Kosovar side for the unilateral
4 'declaration' (which was achieved after a chaotic and dramatic final
5 session in which Hill exclaimed: 'Do you want NATO or not?' and in
6 which Surroi and not Thaci first signed at about 16:20 hours)."

7 First of all, do you recall that scene?

8 A. Yes, I do.

9 Q. And then it says:

10 "The Ministry was notified by fax on 23 February."

11 And then three points:

12 "The delegation could only sign the agreement in fourteen days'
13 time after consultations with the people and the institutions of
14 Kosovo."

15 I think we've discussed that before the lunch break; correct?

16 A. Correct.

17 Q. And then it says:

18 "Kosovo would hold a referendum in three years' time."

19 And that was an independence referendum?

20 A. That was the position of the Kosovo delegation, the Kosovo
21 Albanian delegation.

22 Q. Yes.

23 A. In the agreement itself, there was no reference to the word
24 "referendum." It was describing around the will of the people.

25 Q. Okay. And then the third point says:

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1 "the KLA intended to be transformed in line with the agreement,
2 with 'bilateral support' (i.e. the USA)."

3 Now, before we talked about how the international community was
4 insisting that the KLA be disbanded, and this point is talking about
5 transformation. Did you understand at the time what they wanted to
6 transform into?

7 A. Not necessarily what they were intending, but we were always
8 talking about that there would be a police force. So the KLA/the UCK
9 had an idea that some of their people would go into the police
10 forces. And this was also the example given by Ambassador Petritsch
11 of the Austrian experience, that after the Second World War, we did
12 not have an army but we had a police force, a special police force
13 which eventually grew into our army.

14 Q. Okay. And then it says:

15 "... with 'bilateral support'" --

16 Sorry. First let me start with "in line with the agreement."
17 Did you understand what they meant by that transformation being "in
18 line with the agreement"? Was there a provision in the agreement
19 that would allow that?

20 A. There was no mention of specific transformation of the KLA, but
21 there was sort of -- within the agreement the US saw a chance for
22 this transformation of KLA or part of the KLA.

23 Q. Okay. And then let me turn to what happened next. Again, we
24 mentioned before that you and Mr. Petritsch on 5 March 1999 met with
25 local KLA authorities to try to convince them to agree to the

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1 Rambouillet proposal; is that correct?

2 A. Yeah, I don't think that necessarily they were local KLA. I
3 think they saw themselves as the top of the KLA structure.

4 Q. Fair enough. I meant as opposed to the delegation in France.

5 A. Yeah, locally in Kosovo.

6 Q. Yes. Okay. And as you've seen, there's a video of that
7 discussion, and I'll just take you to the transcript.

8 MR. MISETIC: Which is 061427 -- sorry, that's P01221 is the
9 admitted exhibit number. And if we could go to page 14 of that
10 document. And if we start at line 7.

11 Q. Now this is Mr. Petritsch speaking in the video. You're
12 present; correct?

13 A. I was present, yes.

14 Q. Okay. Now, Mr. Petritsch says to the KLA representatives there:

15 "But to say something else about the KLA, there is going to be
16 the possibility to preserve the political structures of the KLA and,
17 whenever there is whatever develops and whenever there is an
18 independent Kosovo, I'm sure you will be very quick in setting up
19 your army. But let's take the first step first ..."

20 Now, what did you understand Mr. Petritsch to be referring to
21 when he said "there's going to be the possibility to preserve the
22 political structures of the KLA"?

23 A. That they would be part and parcel of any political structure,
24 meaning a governance structure after the war.

25 Q. Okay. That government structure --

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1 A. Or after the agreement, sorry. There was no war at that time.

2 Q. Yeah. Did you understand at the time that "political
3 structures" was referring to representations that were being made
4 that there would be a provisional government of Kosovo following the
5 Rambouillet agreement if it were to be reached?

6 A. There were provisions on a governance structure in the
7 Rambouillet agreement. I don't have it by heart, and I have never
8 looked into it after these 25 years anymore. But there were such
9 provisions given, and it was also an interim agreement. It was not
10 meant to be for the eternity.

11 Q. Yes. Now as we see, and what Mr. Petritsch is doing here, part
12 of the effort to convince the commanders on the ground that they
13 should agree to Rambouillet and agree to disband the KLA was that
14 there would be this other structure set up, the provisional
15 government of Kosovo, where they could continue to exist but in the
16 form of a provisional government, a civilian government, rather than
17 a military.

18 A. As a political force. A transformation into political force as
19 other guerilla forces have transformed themselves as well.

20 Q. Okay. And that was intended, in part, to help convince the KLA
21 commanders on the ground but also to help Mr. Thaci convince them as
22 well.

23 A. Indeed. Because what they would -- were asked to sign up to is
24 to dissolve themselves, dissolve their positions and their status, if
25 you like.

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1 Q. Okay. Let's talk about this provisional -- what had been
2 discussed about the formation of a provisional government of Kosovo.

3 MR. MISETIC: And if I could pull up a US diplomatic cable, and
4 this is DHT01535 to DHT01540, a cable from 12 April 1999.

5 Q. I know you likely have not seen this document before; correct?

6 A. Very, very correct. Yes.

7 Q. You can see that there's a discussion. It's in April. At the
8 bottom of the screen it says participants include the Secretary of
9 State Alexander Vershbow, James Dobbins. Do you know who those
10 people were?

11 A. Well, first I saw it was drafted by Larry Rossin, so I know who
12 he is. He was the US representative on the ground. Vershbow, yes,
13 I've heard of him. I don't think I met him. As it says, he was the
14 PermRep to NATO. Dobbins was the special adviser to the president,
15 yes, on Kosovo. Yeah.

16 MR. MISETIC: Okay. If we turn the page.

17 Q. James Rubin was a participant. Do you know who James Rubin is?

18 A. Very much so. He was in Rambouillet as well. He was the --
19 like the spokesperson of Madeleine Albright.

20 Q. David Scheffer, you've heard of him?

21 A. Yes.

22 Q. And it says there were KLA participants as well, Jakup Krasniqi
23 and Bilal Sherifi. Do you see that?

24 A. Yes, I do.

25 MR. MISETIC: If we go to the next page, please.

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1 Q. And now you see there in paragraph 7 it says Mr. Krasniqi "made
2 three specific requests on behalf of the Kosovar Albanians and the
3 KLA," and the last bullet point there is:

4 "Diplomatic: Recognition of the new 'provisional government' of
5 Kosovo led by Hashim Thaqi."

6 MR. MISETIC: If we could scroll up, please.

7 Q. "That government is built on the foundation and in the spirit of
8 the Rambouillet Accords. It has places reserved for Rugova's
9 Democratic League of Kosova (LDK), which however due possibly to
10 Milosevic and his police pressure had not been able to nominate its
11 members yet. The new government is comprised of young people with
12 fresh ideas, striving for unity, oriented towards the West and US."

13 Now, were you aware of efforts -- well, let me finish the
14 document.

15 MR. MISETIC: If we could go two pages forward, please, to see
16 the Secretary's response. Towards the bottom of the page, please.

17 Q. It says:

18 "Secretary Albright stressed the need for a broad-based Kosovo
19 'provisional government'. It was good places had been reserved for
20 the LDK, and it was important to continue to reach out to Rugova.
21 While we could not recognise the provisional government, we would
22 certainly want to work with it in practice. We were all confused
23 about Rugova's status. He had to be under duress as he made his
24 recent statements of support for a political deal ..."

25 Now, were you aware at the time of the diplomatic efforts that

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1 the Provisional Government of Kosovo would be the new government,
2 provisional government obviously, of Kosovo following the NATO
3 campaign?

4 A. Not that I remember that we were part of that discussion.
5 Ambassador Petritsch and I, we left Belgrade the day the bombing
6 started. We were then based in Vienna. And our contacts were -- we
7 went into Montenegro twice from Croatia to talk to Djukanovic. I was
8 often in Macedonia, what they call now North Macedonia, and I was
9 also in Albania to stay in touch with KLA figures and also to look
10 after our local staff which was able to flee to Macedonia.

11 Q. Okay. But let me ask it a different way. When the NATO
12 campaign started, that was before any discussion of a UN Security
13 Council resolution where UNMIK would be the law in Kosovo; correct?

14 A. That is correct. But we were not involved, to my recollection,
15 in these talks. Because also the Security Council resolution, it was
16 without Ambassador Petritsch. It was then with Mr. Ahtisaari as the
17 new person in charge.

18 Q. Okay. Let me ask this: As of when the KLA agreed in March to
19 Rambouillet, to the Rambouillet agreement, what was your
20 understanding of what was to come in Kosovo in terms what the
21 government structure would be there?

22 A. To be honest, in the moment the war started, I was not thinking
23 of that. It was something which was unimaginable to us, so I would
24 not be able to say. I mean, we had then after the war, which we
25 encountered as UNMIK, was such a provisional government under

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1 Hashim Thaci.

2 Q. Yes.

3 A. And this was in competition, if you so like, with the UN
4 administration UNMIK which was charged with running the country under
5 1244.

6 Q. Okay. But were you familiar with the fact that prior to a
7 discussion about a UN administration of Kosovo, the idea was that
8 there would be a provisional government of Kosovo which would include
9 not only the KLA but also other political --

10 A. That was always this thinking, that there had to be an amalgam
11 of all the Kosovo representatives and not only one faction of the
12 Kosovo political spectrum.

13 Q. Yes. And were you aware that the LDK, as it's reflected in the
14 cable, was not participating in it?

15 A. During the bombing, there were, I think, even two, but at least
16 one, staged meeting of Mr. Rugova with Mr. Milosevic. Mr. Rugova
17 stayed behind in Kosovo and was used as a pawn, I would say, so he
18 was a bit discredited. I also think that the LDK was in disarray.
19 That was also confirmed when I contacted them after the bombing when
20 I returned to Kosovo in June 1999. They were very insecure, and some
21 even didn't want to meet up with me and didn't have -- didn't see a
22 political role at the beginning for themselves. So they were in
23 disarray.

24 Q. So can you explain why you say Mr. Rugova was a pawn and had
25 been discredited?

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1 A. Because if you were taken out of Prishtine to a meeting in
2 Belgrade with Mr. Milosevic, the same person who in an operation
3 which our military intelligence found out before it happened, the
4 Operation Horseshoe, to ethnically cleanse Kosovo from Kosovo
5 Albanians, then you know that this was not something he either wanted
6 to do and just could not avoid it because he was, if you want, a
7 prisoner in Prishtine.

8 Q. So in whose eyes was he discredited by this?

9 A. I think certainly by the KLA but also in the Kosovo public in
10 general.

11 Q. Okay. And Operation Horseshoe, can you explain what the
12 intelligence was?

13 A. The intelligence was that the Yugoslav and Serbian forces would
14 drive out the Kosovo Albanian population into the neighbouring
15 countries, Albania and Macedonia, North Macedonia, in the form of a
16 horseshoe, driving out of the centre to the periphery and then into
17 the neighbouring countries.

18 Q. And was that intelligence relayed on to partner states?

19 A. I suppose so. I got it from my military attaché.

20 Q. Thank you. Let me ask you a few questions about the following.
21 You've stated in your SPO statement that both Mr. Thaci and
22 Mr. Veseli "expressed the resolve of the KLA to cooperate and
23 participate in a government of national unity or a round table"; is
24 that correct?

25 A. That is correct.

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1 Q. And you told the SPO that in your subsequent meeting with
2 Jakup Krasniqi, Rame Buja, and Fatmir Limaj on 30 July, it became
3 apparent to you that the KLA was already discussing a form of
4 government including different factions of Kosovar Albanians; is that
5 correct?

6 A. That is correct.

7 Q. So that was as of the end of July 1998?

8 A. Indeed. If I may elaborate. So the idea was, as I mentioned
9 before, to get a joint Kosovo Albanian platform or group or
10 negotiation team, or they wanted to call it government, whatever, we
11 didn't care as long as it was a united group which could represent
12 them and be able to participate in negotiations with Belgrade.

13 Q. Okay. And now turning to the situation following the NATO
14 campaign. That's when you returned to Kosovo; correct?

15 A. Correct.

16 Q. And you opened the Austrian office in Prishtine; correct?

17 A. The Austrian antenna of the Austrian embassy in Belgrade at the
18 time. We had to be careful how to call it.

19 Q. Okay. And then in August you became the political adviser to
20 the Special Representative of the Secretary-General of UNMIK. That's
21 Mr. Kouchner; correct?

22 A. I became a political adviser.

23 Q. Sure.

24 A. One of the two, three.

25 Q. Okay. And you again in that capacity served as a liaison with

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1 the Albanian side; is that correct?

2 A. That is correct.

3 Q. What were your duties between June and August working for the
4 Austrian antenna?

5 A. We were engaged also before in the area of education. We had
6 Austrian NGOs working on the ground. I was trying to convince UNMIK,
7 for whom I was not working yet, to take over some of the NGO people.
8 We would have financed them, because UNMIK was charged to run a
9 territory without having any idea how to do it.

10 There was one officer in charge of education in the summer of
11 1999, shortly before the school year should begin, with tens and
12 hundreds of thousands of refugees returning. The UN was simply
13 overwhelmed but could not accept secondments as the UN policy was
14 that it was not possible. So I was dealing with that.

15 I was dealing with, of course, trying to liaise with KFOR.
16 Austria had a contingent with KFOR, although being not a NATO member.
17 So I was very often in the area of Suhareke/Suva Reka where the
18 Austrian military was based.

19 Q. Before I continue, I have run afoul of the President's request
20 that I tender documents on time.

21 MR. MISETIC: And I forgot to tender the US State Department
22 cable, which I tender as DHT01535 to DHT01540.

23 PRESIDING JUDGE SMITH: Any objection to that?

24 MR. CAPIN: Yes, Your Honour. I think the witness said he
25 doesn't know the cable, wasn't in Prishtine at the time, and, aside

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1 from generalities, didn't have anything to say about the document.

2 MR. MISETIC: He -- if I may, he did identify the participants
3 in the meeting and what their roles were.

4 PRESIDING JUDGE SMITH: DHT01535 to DHT01540 is admitted and
5 will be assigned an exhibit number.

6 THE COURT OFFICER: Your Honours, the document will be assigned
7 1D00148. And there is no classification indicated in Legal Workflow
8 at the moment for this document.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 Also before you finish with this witness, the MFI 1227 will be
11 admitted under 138 meeting its *prima facie* standard, it's authentic,
12 it's relevant, it has probative value, and it's not outweighed by any
13 prejudicial effect. I say it now so that you have an opportunity to
14 ask questions about that if you wish to.

15 MR. MISETIC: Thank you.

16 THE COURT OFFICER: Your Honours, document with ERN SPOE00203094
17 to 203096, which was previously MFI, will now become Exhibit P01227.
18 Classification is confidential.

19 MR. MISETIC: Thank you.

20 THE COURT OFFICER: And if we could have a clarification
21 regarding the 1D00148, please.

22 MR. MISETIC: That can be public.

23 THE COURT OFFICER: Thank you.

24 MR. MISETIC: Thank you.

25 Q. Witness, with apologies for that interruption. When you got

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1 back to Kosovo, were you following the news?

2 A. Sure.

3 Q. I mean, the news in Kosovo.

4 A. Yes.

5 Q. Okay. Were you monitoring statements made by Albanian leaders?

6 A. Yes.

7 Q. You describe in your SPO statement the situation of minorities
8 in Kosovo in 1999, and you note that the situation of Serbs was
9 rather complicated; correct?

10 A. Yes.

11 Q. You specifically say that there was an exodus of Serbs from
12 Kosovo; correct?

13 A. Correct.

14 Q. And you state in paragraph 61 of your SPO interview:

15 "There were certainly repercussions against Serbs and against
16 Roma, with the Roma accused of being collaborators with the Serbs in
17 general. In response to reports within the Kosovar Albanian
18 community that the Roma were looting Albanian houses, the Albanian
19 community would expel Roma families."

20 Is that correct?

21 A. Correct.

22 Q. What kind of repercussions did Serbs face?

23 A. Evictions, being expelled, and there were also killings.

24 Q. Did you have an understanding that these acts or repercussions
25 were, to a certain extent, revenge for crimes that had been committed

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1 against Albanians?

2 A. This was the assumption, yes.

3 Q. Were you aware at the time, given that you say you were
4 following the statements of Kosovo Albanian leaders, that Mr. Thaci
5 had made repeated statements calling for Serbs to stay in Kosovo and
6 to build a multi-ethnic society?

7 A. I'm sure he did, yeah.

8 Q. Do you recall that you were able to follow those?

9 A. I think that was in line with his policy, so I would not -- I
10 couldn't recall it now specifically.

11 Q. Okay. Let me show you some examples.

12 MR. MISETIĆ: If we could now put up Exhibit P1227, which has
13 just been admitted.

14 Q. The title of the memo is "Deployment of Russian KFOR
15 contingent." And if we could scroll to below the blacked-out
16 portion, it says:

17 "There have also been demonstrations against the deployment of
18 Russians in Orahovac and Malisevo. In Orahovac our acting District
19 Administrator, Mark Baskin, was informed last week by Albanian
20 leaders that 'if the Russians were deployed they would all depart to
21 Albania'. The concern over the deployment of the Russian troops is
22 particularly acute in Orahovac where unconfirmed reports attribute
23 some anti-Albanian crimes in the March/June 1999 period to 'Russian
24 mercenaries' operating alongside Serbian paramilitaries. We have
25 been informed confidentially by General Jackson that negotiations are

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1 still ongoing on exactly where they would deploy."

2 Now, this is dated 14 July 1999. Were you aware of this problem
3 of Russian troops being deployed to areas with significant Albanian
4 populations?

5 A. Yes, I was aware. The Russians made quite a coup that before
6 the NATO troops could enter from Albania and
7 Macedonia/North Macedonia, they transported some of their troops
8 stationed in Bosnia into Kosovo, into Prishtine, and also into the
9 airport of Prishtine. And then there were ongoing negotiations where
10 to station them and pushing them out of the airport to have control
11 of the airport. And this was a lasting issue of where to station
12 them in areas where not only Albanian population was but where there
13 had been some atrocities and some -- a lot of frictions in the 1998,
14 1999 period.

15 Q. Okay. So there was a lot of ethnic Albanian resistance to their
16 deployment; is that correct?

17 A. That's correct.

18 Q. Okay.

19 MR. MISETIC: If we could go to Exhibit P1229, please.

20 Q. And this is a code cable dated 17 July discussing a meeting on
21 16 -- I think it should be 16 July, but it says 16 June 1999. Do you
22 see that?

23 A. Yes, I do.

24 Q. And it discusses a meeting of the Kosovo Transitional Council.
25 Can you explain what the Kosovo Transitional Council was?

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1 A. Yes. I mean, to be on the record, I was not working for UNMIK
2 in July still, but I was dealing with the Kosovo Transitional Council
3 afterwards, also expanding it. The idea of the Kosovo Transitional
4 Council is to bring all stakeholders together - politicians, but also
5 independents, different ethnic communities which were living in
6 Kosovo - and tried this -- this transitional council tried to smooth,
7 in the way, the arrival of UNMIK, stabilise the situation, and then
8 also transform this into -- in the later stage, into something where
9 there could be some kind of co-ownership of the administration of
10 Kosovo.

11 Q. Okay.

12 MR. MISETIĆ: If we could turn to page 4 of this document,
13 please.

14 Q. Can you tell us who Bishop Artemije is?

15 A. He was a Serbian Orthodox bishop which was residing in Kosovo.

16 Q. Okay.

17 A. Gračanica.

18 Q. Okay. The paragraph on the screen, I'll read it out. It says:

19 "Most members made statements of principle. Artemije stressed
20 that the majority of crimes and acts of violence were committed
21 against Serbs and other non-Albanians. He called on the UCK and in
22 particular on Thaci to put an end to this. Thaci answered that he
23 had already made very strong statements distancing himself from
24 crimes against non-Albanians. He had done that while being under a
25 lot of pressure as there were still 6.000-7.000 Albanian political

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1 prisoners in Serbia."

2 And if I stop there. Do you recall that being an issue in the
3 summer of 1999, thousands of Albanian political prisoners being held
4 in Serbia?

5 A. I would not be able to put a number on political prisoners, but
6 there were certainly, including Albin Kurti, who is now the
7 prime minister of Kosovo and whom I have known as a student leader
8 and who was then the assistant of Adem Demaci.

9 Q. Okay. And then if you go to the next bullet point, Mr. Kouchner
10 then thanks all for their statements. And then he goes on:

11 "It was important to agree on concrete actions to improve the
12 security situation. He proposed at Serb and Albanian leaders ..."

13 And then the third bullet point is:

14 "appear, together with the SRSG, on radio and TV to urge for an
15 end to the violence."

16 Do you see that?

17 A. Yes, I do.

18 Q. Okay. I'd like to show you -- so this is a meeting on the 16th.
19 I've shown you now on the 14th there is a problem in Rahovec with the
20 deployment of Russian troops. There is a meeting on the 16th. And
21 then if we could play a video of Mr. Thaci's trip the next day to
22 Rahovec after this discussion.

23 MR. MISETIĆ: It's 1D124. And if we could play it with sound,
24 please.

25 [Video-clip played]

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1 THE INTERPRETER: [Voiceover] "However, we have a time not to
2 think too much about revenge or hatred or divisions. Today is the
3 time of unification, and for this unification each of us has to play
4 a crucial role, from ordinary citizens, politicians, and all the
5 public people without any discrimination, political affiliation,
6 ideology, province, religion, or any other affiliation. We should be
7 the ones who, unlike never before, unite for the independence of
8 Kosovo.

9 "We do not need an ethnic town, but we need to respect all those
10 who want to live in town. But as free citizens, law-abiding
11 citizens, as citizens who do not think about confrontations and as
12 citizens who did not participate in massacres committed against our
13 brothers, sisters, and our parents. We will respect all those worthy
14 of respect, but we'll also not allow anyone to shield criminals in
15 the town of Rahovec.

16 "We're also not going to allow anarchy in town. No anarchy or
17 no spirit of intolerance whatsoever is going to be allowed in Kosovo
18 because, as we have often shown ourselves, we will show ourselves
19 again that we are the ones who have always respected and will always
20 keep respecting the rules of democratic order. As we respected that
21 in the past, we're going to respect that in the future too."

22 MR. MISETIĆ:

23 Q. Now -- I'm just waiting for the interpretation to finish.
24 Witness, a few minutes ago you said that you were aware Mr. Thaci's
25 statements about crimes and that they were consistent with his

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1 policy. Do you recall saying that?

2 A. I do.

3 Q. And is this video consistent with your understanding at the time
4 of what Mr. Thaci's policy was?

5 A. Yes, it was.

6 Q. And it's his policy concerning the rights of non-Albanian
7 ethnicities to live in Kosovo?

8 A. Yes. The problem was that we didn't have a judicial system, so
9 he also mentioned those who did not commit any crimes, so that nobody
10 should be shielded, and that was the big challenge because UNMIK
11 didn't have any structures in place yet to -- of the judiciary to go
12 after accusations of war crimes at the time.

13 Q. Okay. Whose authority was it to investigate and prosecute war
14 crimes?

15 A. It should be structures set up by UNMIK.

16 Q. Is there a reason that UNMIK did not have those structures set
17 up?

18 A. It was totally overwhelmed. The UN has never done an
19 administration of a territory, and it was very slow to get into
20 motion. I mentioned the area of education. The UN was totally
21 unprepared for this mission.

22 MR. MISETIC: If we could look at another document, please.
23 SITF40000042 to 40000043, please. And this is a code cable dated 26
24 July 1999. It's a political report sent from Mr. Kouchner to the UN
25 in New York for the events of 19 to 26 July. And if we could go to

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1 page 2, please. And if we could go to, yeah, the last paragraph.

2 Q. The heading of the subsection is: "... but all Serb-Albanian
3 cooperation is put on hold due to the massacre at Gracko."

4 Are you familiar with that massacre?

5 A. Yeah, I think it was the massacre where Serb farmers who were
6 harvesting were killed, and I think it was a big number. I don't
7 have it in my head, but I guess it was 14 or something like that.

8 Q. Okay. And the paragraph reads:

9 "Other confidence-building measures, in particular joint
10 Serb-Albanian visits to Gnjilane and Mitrovica, as well as the next
11 [Kosovo Transitional Council], scheduled for 26 July, were cancelled
12 by the Serbs after the massacre of fourteen Serbs at Gracko, South of
13 Pristina, on 23 July. The SRSG, together with Bishop Artemije,
14 visited the families of the victims on 24 July. The SRSG promised to
15 be personally involved in the investigations: He underlined that the
16 international community had not liberated Kosovo to provide an
17 umbrella for crimes against innocent civilians. Mr. Thaci and
18 General Ceku from the UCK both distanced themselves from the crime
19 and offered their help in investigations. Gracko could be a big blow
20 to UNMIK's efforts to establish a climate of security and cooperation
21 between the different national communities. It is important to keep
22 the Serbs on board. Otherwise, the extremists of Gracko would have
23 achieved their goal."

24 Now, you joined UNMIK shortly after this incident?

25 A. Yes.

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1 Q. Were you familiar with the impact that the Gracko incident could
2 have on achieving Serb-Albanian cooperation?

3 A. Absolutely.

4 Q. Do you recall whether Mr. Thaci was cooperative in any efforts
5 by the SRSG and UNMIK to alleviate the tension that had been caused
6 by this incident?

7 A. As it is also stated here, yes.

8 MR. MISETIC: Now, if we could scroll -- yes. The paragraph
9 above. We can keep it on the screen.

10 Q. One additional point. That paragraph says:

11 "To improve the security situation and to establish
12 confidence-building measures, the SRSG, together with Mr. Trajkovic
13 and Mr. Thaci [visited] several occupied Serb flats in Pristina on
14 22 July."

15 Now, Mr. Trajkovic, can you explain who he was? Do you recall?

16 A. Yeah, that was Mr. Momcilo Trajkovic. He was a representative
17 of the Kosovo Serbs from Gracanica.

18 Q. Thank you.

19 MR. MISETIC: Mr. President, I tender this document into
20 evidence.

21 PRESIDING JUDGE SMITH: Any objection?

22 MR. CAPIN: No, Your Honour.

23 PRESIDING JUDGE SMITH: SITF4000042 to SITF4000043 is admitted.

24 THE COURT OFFICER: Your Honours, that document will be assigned
25 Exhibit 1D00149. Classification is confidential.

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1 MR. MISETIC: I believe it can be public.

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. MISETIC: I believe it can be public.

4 PRESIDING JUDGE SMITH: I'm sorry?

5 MR. MISETIC: I believe the classification can be public.

6 PRESIDING JUDGE SMITH: Okay.

7 Any objection to that?

8 MR. CAPIN: None.

9 PRESIDING JUDGE SMITH: The document will be reclassified as
10 public.

11 MR. MISETIC: Thank you.

12 Q. Witness, were you aware of the fact that Mr. Thaci had been
13 making efforts to go directly to Serb civilians, visit them, visit
14 their flats, and try to inspire some confidence for them to stay in
15 Kosovo?

16 A. Yeah. In general, yes.

17 Q. I'd like to show you some pictures from those visits.

18 MR. MISETIC: It's DHT00894 to DHT00898, please.

19 Q. And these are pictures of the visit that's referenced in the
20 code cable we just looked at.

21 Can you identify any particular individuals in this picture?

22 A. Yes. At the very front to the right, that is Bernard Kouchner.
23 Then there's Hashim Thaci. The gentleman next to him, I don't know,
24 but he could be Mr. Chevallier. We have to the very left, we have
25 Father Sava of the Decan monastery who was at that time together with

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1 Bishop Artemije residing in Gracanica.

2 MR. MISETIC: Okay. Can we go to the next picture, please.

3 Q. Again, can you identify the individuals in this picture?

4 A. Again, Father Sava, Hashim Thaci, and Bernard Kouchner.

5 Q. Okay. For the record, Mr. Thaci in the picture has a child
6 sitting in his lap; correct?

7 A. Yes.

8 MR. MISETIC: Okay. Next picture, please.

9 Q. This would be Mr. Kouchner and Father Sava?

10 A. Correct.

11 Q. You don't recognise anyone else; correct?

12 A. No, I don't know the lady. No.

13 MR. MISETIC: Okay. And the next picture, please.

14 Q. And, again, if you could identify any individuals you recognise.

15 A. Yeah, this is the same picture, same angle, and it seems that it
16 is Éric Chevallier standing in the background who was the special
17 assistant to Bernard Kouchner, who would be with him almost
18 exclusively all the time.

19 Q. Thank you.

20 MR. MISETIC: Mr. President, I tender these pictures into
21 evidence.

22 PRESIDING JUDGE SMITH: Any objection?

23 MR. CAPIN: No, Your Honour.

24 PRESIDING JUDGE SMITH: DHT00894 to DHT00898 is admitted.

25 THE COURT OFFICER: Your Honours, this document will receive

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1 Exhibit 1D00150. Classification is public.

2 MR. MISETIC: Thank you.

3 Mr. President, I need to move into private session at the
4 request of a provider for the next portion.

5 PRESIDING JUDGE SMITH: Madam Court Officer, please move us into
6 private session.

7 [Private session]

8 [Private session text removed]

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1 [Private session text removed]

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1 [Private session text removed]

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21 [Open session]

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

23 MR. MISETIĆ: Thank you very much.

24 Q. Witness, one final subject with you.

25 MR. MISETIĆ: If we could have on the screen Exhibit P1225,

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1 please.

2 Q. And this is a memo of 25 October 1999 which you drafted. Do you
3 see that?

4 A. Yes, I did.

5 Q. And do you recall this memo?

6 A. Yes, I do.

7 Q. You discuss it in your witness statement at paragraph 66; is
8 that correct?

9 A. Yeah, I discussed it. I don't know if it's on 66.

10 Q. Yes, yes. I'm sure I'll be corrected if I'm wrong, so yes. I'm
11 suggesting to you that that's the paragraph.

12 MR. MISETIC: If we go to page 2 of this document, section 5.

13 Q. And we can read your comments there. It says:

14 "The meeting in Banja/Baje illustrated once again that the
15 traditional social hierarchy of rural Kosovo was toppled since the
16 UCK emerged. The elders today come only second after the former UCK
17 commanders who they respect ('if Celliku comes into the house, I stop
18 talking')."

19 And then you report:

20 "Celliku (in private talks: 'What I say is law around here')
21 clearly calls the shots in the area from Klecka to Banja and Pagarusa
22 (his former commanding zone)."

23 As I say, you discuss this, the meaning of this, in your witness
24 statement at paragraph 66. What did you understand him to mean when
25 he said: I am the law around here?

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1 A. That he was calling the shots in the region, the area. That he
2 was the authority.

3 Q. And did you have an understanding of why he was the authority?

4 A. Because of his nimbus as the probably regional commander of the
5 UCK at the time.

6 Q. And that would have been in the area, as you said in the memo,
7 from Klecke to Banje and Pagarushe; is that correct?

8 A. This was my assessment at the time, yes.

9 MR. MISETIC: Just one moment, Mr. President.

10 Q. Thank you very much, Witness.

11 MR. MISETIC: That concludes my cross-examination,
12 Mr. President. Thank you.

13 PRESIDING JUDGE SMITH: Thank you, Mr. Misetic.

14 We'll take the break now at this time, and then you will be up
15 next, Mr. Emmerson.

16 Please escort the witness out.

17 [The witness stands down]

18 PRESIDING JUDGE SMITH: So we'll take a ten-minute break and
19 then we'll begin with Mr. Emmerson's cross-examination.

20 [Microphone not activated].

21 --- Break taken at 3.32 p.m.

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

23 PRESIDING JUDGE SMITH: Madam Usher, you can bring the witness
24 in.

25 [The witness takes the stand]

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1 PRESIDING JUDGE SMITH: All right. Witness, next Mr. Emmerson,
2 representing the Veseli Defence, will have questions for you.

3 Go ahead, Mr. Emmerson. It's your witness.

4 MR. EMMERSON: Thank you.

5 Cross-examination by Mr. Emmerson:

6 Q. Mr. Kickert, I have very few questions for you directed to what
7 may seem a rather minor point of detail but concerns the dates,
8 respectively, of your meeting with Mr. Kadri Veseli. Your first, as
9 you described it, meeting of contact with the KLA or a representative
10 of the KLA and what you described as the second meeting at which
11 Mr. Veseli was present together with somebody that you identified as
12 Number 3.

13 Can I ask you, first of all, when you compiled your reports to
14 the Ministry of Foreign Affairs from the embassy, would you write
15 them in manuscript or typewritten straight onto the page? Do you
16 remember?

17 A. You mean whether I was typewriting in the meetings?

18 Q. No, no, when you -- I'm sorry. When you were compiling your
19 confidential reports from the embassy to the Ministry of Foreign
20 Affairs -- obviously they came from the ambassador as the signatory
21 with you as the desk officer. My question was how were those reports
22 physically compiled? Are you able to help with that?

23 A. Most of the time, especially in the beginning, I would then go
24 back to Belgrade --

25 Q. Yes.

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1 A. -- to the embassy and write them there. But I also had a
2 laptop. We had actually from the beginning of July rented a house in
3 Prishtine, we as the Austrian embassy, because the Belgrade
4 government did not allow a EU presence. And there I was -- that was
5 also my local headquarters, if you like.

6 So I had a laptop connected to a Nokia phone and a special
7 device to code it.

8 Q. Sure. So you would type it directly into the laptop, then --

9 A. Yes.

10 Q. -- it would be encoded --

11 A. Yes.

12 Q. -- automatically and then decoded?

13 A. Decoded in our embassy in Belgrade, and then channelled into our
14 internal network which we had between our embassies and headquarters.

15 Q. And can I ask you, had you ever experienced any occasion when
16 details had become jumbled in that process or not?

17 A. No.

18 Q. The reason I'm asking you these questions is because in order to
19 reconstruct the dates of those two particular meetings, you have used
20 two documents, I think. One was an ECMM report confirming the date
21 of your first meeting on 10 July with Mr. Veseli, and a separate
22 document, one, I think, compiled by you but signed by the ambassador,
23 so to speak, dated 24 July, Belgrade. Those were the two documents
24 you used --

25 A. Yeah, that's -- the first one, the ECMM report. So I haven't --

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1 apparently, haven't written a report of the 10 or just before 10 July
2 meeting with -- between Ambassador Rohan, Secretary-General Rohan,
3 and Number 7. So they refreshed my memory with the ECMM report, and
4 that's how I was able, I think, to reconstruct the sequences of the
5 meetings.

6 Q. And, in fact, were you aware that the meeting with Mr. Rohan and
7 yourself with Mr. Veseli was recorded as a result of a press
8 statement in *Koha Ditore*? In other words, the date was confirmed by
9 publication in the media? Was that something you were aware of?

10 A. No.

11 Q. Very well. Well, we, perhaps, don't need to look at the media,
12 but it seems clear, at least to you, at this stage, that that is the
13 correct date for the meeting with Mr. Veseli?

14 A. After having seen the ECMM report, I believe so.

15 Q. I think you acknowledged that when you were giving a statement
16 to the ICTY in the Limaj case, you had said that the second meeting
17 was within a day or two of the first and was in the same building and
18 was to that extent a follow-on.

19 A. That same building, this is true, because that I do remember. I
20 got the sequence wrong. This is what I discovered by being presented
21 by the ECMM cable. And as I tried to explain today, this idea of
22 having immediate meeting after a first meeting where Ambassador Rohan
23 was present was then probably the one I had with Jakup Krasniqi and
24 others after the failed attempt to bring Ambassador Rohan and the
25 troika of the EU to meet the KLA.

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1 Q. But, again, and I don't mean this in any sense disrespectfully,
2 that is you trying now to re-remember how your memory could conflict
3 with the documents; is that correct?

4 A. That is correct.

5 Q. And if we look back at your memory, as far as we can understand
6 it, and I appreciate it's 25 years, at one point you were clear that
7 both of those meetings had happened before the outbreak of violence
8 in Rahovec. Do you remember that?

9 A. I don't know whether it was -- it was at least before the
10 conflict in Rahovec/Orahovac became hot. I mean, there were already
11 at the time when I was meeting there were already, I think,
12 skirmishes on the outside, and I remember that I met a UCK fighter
13 who was talking about being in the outskirts and having had some
14 clashes in Rahovec.

15 Q. That was at the time of the first or the second meeting?

16 A. Probably the second meeting.

17 Q. Was the situation, as far as you could tell, in Malisheve, had
18 it reached the stage where 20.000 refugees had fled from Rahovec to
19 Malisheve at the time of these meetings?

20 A. No. At the time of these meetings, this was a flourishing
21 little town with people, peddlers on the street selling things. It
22 was full of people.

23 MR. EMMERSON: Could we call up, please, SPOE00329166 to 329167.
24 This is a report of the EU Observer Mission dated 23 July.

25 Q. The date you now think the second meeting took place two weeks

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1 after the first. Can you see under the words --

2 MR. EMMERSON: If we can just move the page up.

3 Q. Under the word "Security," the first full paragraph:

4 "The Observer Mission ..."

5 This is halfway down:

6 "... reported Serb police check points at 60 [metre] intervals
7 the length the main road that runs through [Orahovac] that also had
8 many damaged houses. Orahovac is deserted after its population of
9 20.000 reportedly fled to Malisevo."

10 Does that accord with your recollection of circumstances in that
11 building and in the town as you've just described them, that there
12 were 20.000-odd refugees flooding into Malisheve at the time of the
13 second meeting?

14 A. I couldn't confirm the number, logically. But it was full of
15 people, yes. Malisheve.

16 Q. Yes, I understand it was full of people, but was it full of
17 refugees with nowhere to live, or was it -- you said it was --

18 A. I could --

19 Q. -- a thriving --

20 A. -- not tell, because I was driving in, I was -- had a prep talk,
21 if you so like, or they checked me out, and then I had a meeting
22 within the building. And the building itself was not full of
23 refugees.

24 Q. And was the position different at the time of the second meeting
25 from the time of the first meeting in that security sense or was it

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1 the same at the time of both meetings as far as you could see?

2 A. No, but Rahovec must have happened because they were mentioning
3 I think -- or it was afterwards.

4 Q. I -- I understand the difficulties. You say Rahovec must have
5 happened before the first meeting or before the second meeting or
6 before both of them?

7 A. No, it was certainly after the first meeting. And then the
8 question is where exactly it happened. But judging by this report,
9 it must have been about this day.

10 Q. I mean, pause with me on a -- what might be said to be a
11 hypothesis, but let me put it to you this way: If the date in your
12 report of the 23rd, as you've recorded, was wrong, if that date was
13 wrong, would your memory be any different than it was in the Limaj
14 case?

15 A. I don't understand your question.

16 Q. Well, my point is, as you told Mr. Misetic, you have no
17 independent recollection of these dates?

18 A. Of course not. Who remembers --

19 Q. Exact --

20 A. -- exact --

21 Q. Exactly.

22 A. -- dates 26 years ago.

23 Q. Exactly. But you were very clear, I think, in your evidence in
24 the Limaj case that there was only a matter of a day or two between
25 the two meetings. And that was something that you said not only in

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1 your witness statement but also in your sworn testimony in Limaj.

2 A. That is true.

3 Q. And if you hadn't been shown the document with the 23rd of July,
4 that is still what you would think; correct?

5 A. Probably, yes.

6 Q. So if there were a misrecording of that date, we would still be
7 in the position we were in in the Limaj case; is that right?

8 A. But we have a document --

9 Q. We have a document.

10 A. -- from [Overlapping speakers] ...

11 Q. And we need to rely, you say, on the accuracy of that date?

12 A. Documents, also my own reports, are more reliable than a memory
13 after 26 years.

14 Q. Well, this is what I wanted to ask you about because you were
15 questioned briefly on this by Mr. Misetic. He took you to one
16 passage of your testimony in Limaj at page 6, line 4, in which you
17 said:

18 "These meetings were interrupted as since sort of mid-July 1998,
19 the Serbian ... forces launched an offensive."

20 So what you were telling the Limaj court then was that both
21 meetings were before the Serbian offensive.

22 A. Seems so.

23 Q. And if I can just take you briefly to what you said at page 669.

24 MR. EMMERSON: I don't need to pull up, but for the note it's
25 P01209, page 669.

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1 Q. I'll just -- you've just been giving evidence about the first
2 meeting, and then you were asked:

3 "Mr. Kickert, when we finished yesterday we were finishing with
4 your first meeting with the KLA, sometime in late July, I think you
5 said, 1998. When was the next time that you met with members of the
6 KLA?

7 "A. I believe it was just the very next day, when I again went
8 to Malisevo and this time on my own without the Secretary-General who
9 left Kosovo already."

10 So your clear recollection then was that you'd gone with the
11 secretary-general to the first meeting, he had then left Kosovo, and
12 that the second meeting was, you thought, just the very next day.

13 Now, obviously, there's a very significant difference between a
14 meeting one day after the other in the same building, following, as
15 you said, up the chain of command, in your understanding of the
16 numbers, and an interval of two weeks or so. But as far as you're
17 concerned now, what does your memory tell you?

18 A. The memory can, obviously, only be based on the documents. And
19 as I tried, the confusion I had is that when the secretary-general
20 came the second time with the EU troika and had left, the day after
21 they had left the second time, the secretary-general, then I did have
22 the second meeting. That was my confusion at the time, and I think,
23 through the documents, I believe that this has now been sorted out.

24 MR. EMMERSON: Could we pull up P01226, please, which is the
25 unredacted portion of the notes that were taken of your corrections

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1 when you met with Mr. Capin on the 17th and 18th May. And if we can
2 look, please, at paragraph 5 of those notes.

3 Q. So that's very recent. The lines I've just read to you were the
4 lines that are there referred to, where you said the meeting -- the
5 second meeting was, you thought, the very next day. And your
6 response or your correction to that was:

7 "the meeting with Hashim Thaci and Kadri Veseli ... took place
8 on or about 9 or 10 July ..."

9 A. No, this is wrong. This was only read to me. So this was the
10 meeting with Kadri Veseli. That was the single meeting with
11 Number 7. The Hashim Thaci and Kadri Veseli, that was later, where I
12 met Number 3.

13 Q. Yes. No, I understand that's what you say now in relation to
14 record that you found or that's been shown to you, but we all know
15 sometimes there are typing or date errors that creep into documents.

16 My question is simply this: Just a very short time ago you were
17 asked to comment on your evidence in Limaj in relation to both the
18 first and the second meeting when you say they were almost a day
19 after the other, and the recorded answer that Mr. Capin read back to
20 you, you said, is that the meeting with the two of them took place on
21 the 9th or the 10th, and not the 22nd.

22 A. No.

23 Q. Was that your recollection at the time you spoke to Mr. Capin?

24 A. No, it was the meeting with Kadri Veseli because the ECMM report
25 was dated 10 July.

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1 Q. Mm-hmm.

2 A. So either the meeting took place before the 9th of July or the
3 10th of July when the cable was dated. For the meeting with Number 3
4 and Number 7, Mr. Thaci and Kadri Veseli, I had my own report which
5 was dated in exactly when this meeting took place, so there is no
6 confusion about that because it's my own report.

7 But if you ask me today which dates I met somebody 26 years ago,
8 of course I would not remember hadn't I gotten the documents.

9 Q. Yes. And so just to be clear, finally, when this was read back
10 to you, this piece of text by Mr. Capin as a correction to your
11 testimony in Limaj which clearly states that both meetings must have
12 happened on or around the 9th or 10th, did you not correct Mr. Capin
13 at that stage [Overlapping speakers] ...

14 A. I must not have gotten it. I must have only heard that the
15 meeting with Kadri Veseli must have taken place around the 9th or
16 10th of July, because that was the big difference to my prior
17 statements as you have read them out in the Limaj case.

18 Q. So would you agree with me that the position that we arrive at,
19 therefore, is that your memory and your records do not coincide?

20 A. Yes.

21 Q. Thank you.

22 MR. EMMERSON: Those are my questions.

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

24 Mr. Roberts.

25 MR. ROBERTS: Thank you, Your Honour. If you just bear with me

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1 for one minute just to get myself ready.

2 PRESIDING JUDGE SMITH: Yes.

3 Cross-examination by Mr. Roberts:

4 Q. Good afternoon, Mr. Kickert. My name is Geoff Roberts. I
5 represent Mr. Rexhep Selimi. I think, with a bit of luck, I should
6 be able to address all my questions in the last half hour of the day.
7 We're due to finish at 4.30. And I know you've been very concise in
8 your answers. Obviously, please wait for a gap after I've finished,
9 but hopefully we should be able to get through them.

10 Now, first of all, the first set of questions just relates to
11 the one meeting on 5 March 1999 that you were shown the video of
12 earlier and the transcript to orientate yourself, and that was with
13 yourself, Mr. Petritsch, Mr. Pauls, and then Sylejman Selimi,
14 Rame Buja, Rexhep Selimi, Jakup Krasniqi, and Fatmir Limaj. You
15 recall all of that, don't you?

16 A. Yes.

17 Q. Now, I can show you the video, but it's easier if you remember.
18 At the beginning, Sylejman Selimi introduces people from the KLA
19 side, does he not, to you?

20 A. I -- yeah.

21 Q. And that was the first time you'd seen Rexhep Selimi, was it
22 not?

23 A. I believe so.

24 Q. He wasn't part of the delegation in Rambouillet?

25 A. He was certainly not part of the official delegation. It could

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1 be that he was around. There were also -- but I don't know with
2 certainty because there were advisers who had, if you like, day
3 passes to go -- come into the castle, but I don't think that he was
4 among them.

5 Q. And you hadn't seen him at any meetings in 1998 or earlier in
6 1999, had you?

7 A. Not that I'm aware of.

8 Q. And we know that the issue that was to be discussed at this
9 meeting was in large part the dissolution of the KLA in the context
10 of the Rambouillet agreement. Now, the meeting was serious but it
11 was friendly, wasn't it?

12 A. Yes, we had built up a trust -- trusted relationship with the
13 KLA.

14 Q. And that meant you could have straight and direct discussions
15 and transparent discussions without there being offence taken or
16 anyone getting upset, if I can use that terminology?

17 A. I think that Ambassador Pauls from Germany was pretty
18 straightforward.

19 Q. He was indeed quite direct in that meeting, yes. And from the
20 side of the KLA, there were obviously some individuals who were at
21 Rambouillet, and I would suggest that was Mr. Krasniqi, I believe,
22 and Mr. Buja. But then there were three others, Mr. Limaj,
23 Sylejman Selimi, and Rexhep Selimi, none of whom were at Rambouillet.
24 And that's consistent with your understanding and recollection, is it
25 not?

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1 A. It is consistent with my recollection.

2 Q. And it's fair, is it not, to say - and I think maybe I can just
3 quote what Mr. Limaj says - that he's actually curious and looking
4 for a bit more information about what's happening at the
5 negotiations, isn't he? I'll just quote a little bit of the
6 transcript to orientate you. So this is page 6 of 061427-08-TR:

7 "Mr. Fatmir Limaj: If I'm allowed by my commander, but I will
8 have once again to express my thanks for your engagement on Kosovo's
9 issue. Our delegation that was in Rambouillet, since the day they
10 have returned up to present days, they worked -- they worked and they
11 tried to tell us about the event -- about how the events unfolded
12 [at] Rambouillet's conference."

13 So they're trying -- his understanding or what he's saying to
14 you is that the members of the delegation are trying to inform them
15 as to what happened, and that he's supportive -- or expressing his
16 thanks, sorry, for your support during that conference. That's
17 consistent with your recollection of events, is it?

18 A. Well, I mean, this is the transcript, what it says. And I don't
19 have any concrete memory of what everybody said.

20 Q. Fair enough, yes. And we do have the advantage, obviously, of
21 the video and the transcript, so there's not -- it's more the context
22 and the feeling as to what exactly was going on at the time.

23 And when Mr. Rexhep Selimi was talking about the dissolution of
24 the KLA or wanting that dissolution not to be part of the agreement,
25 that was a position that was put forward by others as well as him,

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1 wasn't it? It's not just him who was an outlier. That was a
2 relatively consistent position put forward by a variety of KLA
3 members who wanted the KLA to continue after Rambouillet.

4 A. I think yes. But in that meeting, he was the most
5 straightforward.

6 Q. Yes. And that -- but the position wasn't unreasonable in the
7 circumstances, was it?

8 A. I think there -- that was a big concern for the KLA to disband
9 themselves, yes.

10 Q. And I think Ambassador Petritsch had mentioned in the meeting
11 that, obviously, you know, if and when Kosovo would become
12 independent, or if Kosovo would become independent, they'd be
13 entirely entitled to maintain their own army. And it was more a
14 question of, if I can use a term that I don't particularly like, but
15 sequencing, in the sense that that wasn't something they could ask
16 for now because that would threaten to blow up the agreement?

17 A. That was also what Ambassador Pauls said. It's just politically
18 not feasible. And we were in a certain set of constraints into
19 which -- in which we had to work in.

20 Q. Understood. And so you were asking the KLA to be pragmatic at
21 that situation?

22 A. Absolutely.

23 Q. And ultimately that was what happened, wasn't it? Mr. Selimi
24 wasn't against the Rambouillet agreement in general. He was willing
25 and interested in discussing this aspect of it or this aspect of the

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1 negotiations as they'd got to at that stage?

2 A. The effect was that the Kosovo Albanian delegation was able to
3 sign off to the Rambouillet agreement in Paris thereafter.

4 Q. And to your knowledge, there was no opposition and there was
5 support from Mr. Rexhep Selimi in relation to that?

6 A. I suppose so that the KLA was supporting this agreement in the
7 end of the day. So there was a different attitude of the leadership
8 compared to the last days in Rambouillet and the Paris agreement --
9 the Paris meeting.

10 Q. Thank you. And just in the context of him trying to convince
11 you or discuss with you the need for maintaining an army, he, "he"
12 being Mr. Rexhep Selimi, made a couple of comments about the status
13 of the army at the time. I just want to read these to you.

14 MR. ROBERTS: So one is at page 9 of the transcript of the
15 interview. So, for the record -- sorry, transcript of the meeting.
16 For the record, that's 061427-08.

17 Q. Mr. Rexhep Selimi is saying:

18 "... I don't see a Kosovo and its people without army, without
19 an army, because KLA has its units already and it has a hierarchy
20 and, as a very young army, it has achieved very much and being very
21 professional."

22 And then the other page is page 12, and this is where
23 Mr. Rexhep Selimi says, talking about the issue of Palestine, in
24 comparison to Palestine:

25 "If Palestine seeks the independence for 30 years, the process

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1 of the development of KLA cannot be understood as going backwards,
2 and I don't think that this process can go back once again. And
3 also, -its war is not just a guerilla war either, but it's an
4 organised one by an organised army."

5 So Mr. Selimi is trying to demonstrate to you how organised the
6 KLA is at that point. Is that something you agree with?

7 A. Yes. And I'm sure that the KLA at that time was much more
8 organised than it was in the summer or spring of 1998. It was also
9 visible by their equipment, and it was also reported by military
10 attachés and by the observers on the ground.

11 Q. But he also certainly had an interest in convincing you how
12 organised it was even then, didn't he, if he was trying to convince
13 you that they should be allowed to maintain it?

14 A. Yeah, I mean, the -- I think if I now try to put myself into his
15 shoes, they have, from their point of view, come a long way in
16 establishing the KLA as a much more professional military entity, and
17 it was, of course, for them difficult to give it up, but this was the
18 condition which was stipulated in the Rambouillet accords, because
19 there could only be one security force and that will be NATO in the
20 form of KFOR.

21 Q. Yes. And apologies, my question may not have been quite so
22 clear. But the suggestion I'm putting to you is that he would have
23 an interest in exaggerating that level of organisation in order to
24 convince you - and "you" being the international community - of the
25 right or the need to maintain that army. He had an interest in

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1 making those comments and in exaggerating that level of organisation
2 in the same way as I believe you answered to Mr. Misetic earlier in
3 relation to 1998. Is that a proposition you agree with?

4 A. I think the -- there was a -- the circumstances were different
5 in 1998, because in 1998, they were not as organised and not as
6 structured and equipped as they were in 1999. In 1999 when we had
7 that meeting, it was all about disbanding the KLA, and I don't know
8 whether it made sense to exaggerate their organisational structure at
9 that time because what for?

10 In 1998 it was for the purpose of being -- having a bigger stake
11 in a Kosovo negotiation team, and here we were in 1999 where the KLA
12 had the head of delegation at the Rambouillet Kosovo Albanian
13 delegation already.

14 Q. Okay.

15 A. And were the ones which were -- on which the agreement was
16 hinging.

17 Q. But even in this discussion, he's merely asking for - and I
18 think this is page 9 - that the issue of whether the army should be
19 or could be retained should be discussed in more detail. So that's
20 the bottom of page 9. He wasn't making any ultimatums or demands.
21 He merely wanted to have a frank and open discussion with you as to
22 what the situation was.

23 A. And I repeat. I think Mr. Ambassador Pauls was very direct in
24 saying that this is a red line.

25 Q. Understood. And just in terms of the notebook again, very -- I

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1 won't ask you to describe holes or paper clips on the notebook, but
2 everyone had a notebook at that meeting, didn't they?

3 A. Yes, I even saw that I had a notebook, and somewhere in some --
4 some box in some closet I might find it in another 25 years.

5 Q. And you couldn't see what was being written on the notebook in
6 front of Mr. Selimi either in the video or at the time because of
7 where you were sitting, I presume?

8 A. I was focused on taking my own notes.

9 Q. And so, obviously, in your understanding, there's no
10 significance by the fact that he was taking notes. Everybody was
11 taking personal notes to be clear as to what the position was
12 advocated at that meeting?

13 A. I saw now on the video that also Mr. Krasniqi took notes, so --
14 and we were also presented by journalists who were present. They
15 certainly also took notes.

16 Q. Now, there was one issue that you discussed with Mr. Misetic,
17 and that's about UNMIK and their inability or the fact they were
18 overwhelmed, I think was your word, and I won't go back into that.
19 But -- and I know, I think, you arrived at the end of July or
20 beginning of August as one of the political advisers; was that right?

21 A. Yes, I would think it was beginning of August.

22 Q. And at that point, are you aware of whether UNMIK had set up any
23 justice system at that stage in order to assess whether individuals
24 were being properly detained by KFOR or by any other entities within
25 Kosovo?

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1 A. I am pretty certain that there wasn't any judicial system by
2 that time. We were struggling -- we, in this case UNMIK, struggling,
3 first of all, to establish what is the applicable law, and that --
4 the first step to that was the mother of all, if you like, UNMIK laws
5 which had to first state which is the applicable law. And there was
6 a back and forth: Would you reinstate the legal framework of the
7 Federal Republic of Yugoslavia from before the autonomy of Kosovo is
8 abrogated? So this was something the lawyers were dealing with.

9 Q. And this was towards the end of July that this was -- I think
10 UNMIK Regulation number 1 was passed; is that right? And it was only
11 after that that a framework was instituted, to your knowledge, to be
12 able to make any assessments --

13 A. It was slowly --

14 Q. -- of legality?

15 A. -- slowly built up. And that was the crux of it, because the
16 Kosovo Albanians were asking for justice, and we as the international
17 community were not in a position to give it.

18 Q. And were you aware of any issues of people being detained by
19 KFOR up until that point without that specific legal basis then?

20 A. Yes, there were some detentions and the, if you like, absurd
21 situation of UNMIK is that the SRSG, Mr. Kouchner, was both
22 government, both the highest legal authority. So it was -- he was
23 executive, judiciary, and control all in itself.

24 Q. So there was no independent review at all of any -- at that
25 stage of these detentions?

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1 A. Yes. I think I remember that there was a big question how to
2 handle these detainees, on which legal basis they were detained.

3 Q. But, obviously, to your knowledge, while that was being worked
4 out, KFOR continued to detain them?

5 A. Yeah. Again, I'm not -- I was not the liaison to KFOR, and I
6 was not dealing with security issues.

7 Q. Thank you. And just on one final issue, and that's something
8 that came up in your preparation note, your second preparation note.

9 MR. ROBERTS: I'll just read the ERN for the record, which is
10 121129, and paragraph 6.

11 Q. Where you're shown an extract from a book talking about a
12 meeting involving Wolfgang Petritsch. Maybe if we could just put it
13 up on the screen so you can see it it's a bit easier.

14 MR. ROBERTS: So that's Preparation Note 2, paragraph 6, page 2,
15 so the ERN of that would be 121130. So if we just scroll down a
16 little bit to paragraph 6. There we go.

17 Q. Do you remember discussing that with the Prosecution? That
18 might just help you to orientate. I can put the actual extract on
19 the screen as well. To help you, it was when you were shown an
20 extract --

21 A. So I'm Witness 02144?

22 Q. Yes, yes. I hope I'm not violating your own protective measures
23 to tell you that. So that's what you told the SPO when you were
24 shown this extract of a book, and the extract was talking about a
25 meeting involving an individual with Wolfgang Petritsch and the

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1 German ambassador in Belgrade, Wilfried Gruber.

2 A. Yeah. Now --

3 Q. Do you remember being shown that?

4 A. Yes, now I remember being shown that. Yes.

5 Q. And you said in this preparation note that it was unlikely that
6 Ambassador Petritsch went anywhere in Kosovo without you.

7 A. That is true.

8 Q. And so just so I'm --

9 A. But I couldn't specifically remember that situation with
10 Ambassador Gruber and Ambassador Petritsch.

11 Q. That's what I mean, yes. Is it possible that that's, therefore,
12 an error in the book or a mistake? Because if you -- if it's
13 unlikely that -- that Mr. -- sorry, Ambassador Petritsch went
14 anywhere in Kosovo without you, you would logically have remembered
15 that meeting, I presume?

16 A. I don't remember everything which happened 26 years ago.

17 Q. Understood. Understood.

18 MR. ROBERTS: Your Honour, I actually have probably come to the
19 end now. I would prefer, if possible, just to have a quick review of
20 my notes, because we did go slightly quicker on some issues than I
21 hoping. So just to be sure that I don't have anything else for
22 tomorrow morning, I hope I -- I won't make Mr. Krasniqi -- counsel
23 for Mr. Krasniqi start now, but I don't think I have anything more.
24 But if possible, I just wouldn't mind being able to check overnight.

25 MR. ELLIS: I was going to ask for Your Honours' indulgence to

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1 start in the morning in any event.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 You only get ten minutes. No, just -- yes, we'll start tomorrow
4 morning with you. That will give Mr. Roberts an opportunity to look
5 at his notes, and you can start and have a straight-through time
6 period.

7 Are you one and a half hours did you say, or one hour?

8 MR. ELLIS: I think two.

9 PRESIDING JUDGE SMITH: Two. Okay.

10 MR. ROBERTS: Thank you, Your Honour.

11 Q. And thank you, Witness.

12 PRESIDING JUDGE SMITH: Witness, as you can hear, you're going
13 to have to come back tomorrow, but we will no doubt finish with you
14 tomorrow. Thank you for being with us. You are excused from the
15 courtroom now.

16 Please don't discuss this matter with anyone outside of the
17 courtroom. If someone approaches you, please let us know. Thank you
18 again.

19 [The witness stands down]

20 PRESIDING JUDGE SMITH: All right. Unless anybody has something
21 to bring up, we are finished for the day.

22 Oh, yes.

23 MS. O'REILLY: I'm sorry. I was just wondering if we could find
24 out if the last witness for this week will be available for tomorrow,
25 as it looks like we're going to complete this witness.

1 PRESIDING JUDGE SMITH: [Microphone not activated].

2 That was my next question too. Do we have a witness for
3 tomorrow?

4 MR. CAPIN: [Microphone not activated].

5 PRESIDING JUDGE SMITH: Is there any backup for --

6 MR. CAPIN: Yes.

7 PRESIDING JUDGE SMITH: -- beyond that.

8 MR. CAPIN: No.

9 PRESIDING JUDGE SMITH: Okay. Because we're going to be wasting
10 a day again. Okay. We'll deal with that later.

11 So thank you for bringing that up, Ms. O'Reilly.

12 We are adjourned until 9.00 a.m. tomorrow.

13 --- Whereupon the hearing adjourned at 4.23 p.m.

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