

1 Wednesday, 29 May 2024

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

5 --- Upon commencing at 9.02 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 Today we will continue with the testimony of Witness W02144. We  
13 expect to start the testimony of W01336 this afternoon.

14 I note that Mr. Krasniqi has waived his right to be present in  
15 the courtroom and is following the hearing from the detention centre.  
16 Mr. Thaci, Mr. Veseli, and Mr. Selimi are all present in court today.

17 Did you have something before we began, Mr. Ellis?

18 MR. ELLIS: No. Just standing to be ready for cross. And I've  
19 covered my chair with papers, I'm afraid.

20 PRESIDING JUDGE SMITH: No problem. I just didn't want to  
21 ignore you.

22 Madam Court Usher, please bring the witness in.

23 [The witness takes the stand]

24 PRESIDING JUDGE SMITH: Good morning, Mr. Kickert.

25 THE WITNESS: Good morning, Your Honour.

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1           PRESIDING JUDGE SMITH: Mr. Kickert, today we will continue with  
2 your testimony. I remind you to please try to answer the questions  
3 clearly with short sentences. If you don't understand a question,  
4 feel free to ask counsel to repeat the question or tell them you  
5 don't understand and they will clarify.

6           Also please try to remember to indicate the basis of your  
7 knowledge of the facts and circumstances upon which you will be  
8 questioned.

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

11           Please also remember to speak into the microphones, to wait five  
12 seconds before answering a question, and then speak at a slow pace to  
13 allow the interpreters to catch up.

14           If you feel the need to take breaks, please make an indication  
15 and an accommodation will be made.

16           We begin now with the Krasniqi Defence. Mr. Ellis is to your  
17 right. Please give him your attention.

18           Mr. Ellis --

19           MR. ELLIS: Thank you, Your Honour.

20           PRESIDING JUDGE SMITH: -- you have the floor.

21                           WITNESS: JAN KICKERT [Resumed]

22                           Cross-examination by Mr. Ellis:

23           Q. Good morning. My name is Aidan Ellis. I represent  
24 Mr. Jakup Krasniqi.

25           I want to start in the summer of 1998 with your efforts to

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1 contact a representative of the KLA at that time. And it's right,  
2 isn't it, that there was an attempt in those days to form a unified  
3 Kosovo Albanian platform to be involved in negotiations?

4 A. That's correct.

5 MR. ELLIS: And if we could turn to P01210, please, page 3. I  
6 apologise. That's not the right number. The ERN was IT-03-66 P59A,  
7 and it's the memo of 31 July 1998. Thank you.

8 Q. Now, this is from a document which I think you wrote and was  
9 discussed yesterday. It's the memo or cable from 31 July 1998. And  
10 what it's referring to, I think, at this point is a discussion with  
11 Veton Surroi and Blerim Shala about the composition of this unified  
12 platform; is that right?

13 A. That's right.

14 Q. And the proposal at that time was for Mehmet Hajrizi of the  
15 United Democratic Party, the LBD, to lead that platform?

16 A. Yes, that is correct.

17 Q. And members of the LDK and other parties had been identified on  
18 a list of potential members already, hadn't they?

19 A. Yes, they have.

20 Q. But there was a space being left for KLA representatives because  
21 they hadn't been identified at that point in time; is that right?

22 A. No, they haven't named their representatives.

23 Q. And that's -- amongst the things you were looking for was to  
24 find the representatives who could be part of that platform; yes?

25 A. That was also one of the issues we brought up in the meeting the

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1 day before.

2 Q. And you've confirmed, I think, in your witness statement at  
3 paragraph 6, it was very difficult at the time to identify  
4 representatives of the KLA that you could engage with. That's right,  
5 isn't it?

6 A. That is correct.

7 Q. And one of the difficulties was that at the time the LDK was  
8 denying that the KLA even existed. That's right, isn't it?

9 A. Some of the LDK denied the existence of the KLA. That is true.

10 Q. We heard a witness recently recalling that Rugova was quoted in  
11 the media as saying that the KLA was a Serbian game. Do you recall  
12 seeing that sort of story in the summer of 1998?

13 A. No, that one I can't remember.

14 Q. But there were statements coming from the LDK -- from certain  
15 members of the LDK saying that the KLA didn't exist or part of the  
16 arm of Serbia, perhaps?

17 A. That it didn't exist, that I can recall. As I tried to explain  
18 yesterday, it was a bit also a political jockeying, if you so like,  
19 who is the -- who will -- he is the representative of the Kosovo  
20 Albanian population and a bit of a fear of losing that political  
21 monopoly, which the LDK had.

22 Q. Yes. And in the summer of 1998, there was also an incident  
23 where Holbrooke had been photographed with an individual from the KLA  
24 who turned out not to be an official representative. That's right,  
25 isn't it?

1 A. Yes, my understanding, and also what Holbrooke told the Contact  
2 Group, was that it was a chance encounter --

3 Q. Yes.

4 A. -- with this person when he went to Junik in western Kosovo.

5 Q. Yeah.

6 A. But it still was very symbolic and it was not taken by chance,  
7 this photo. It was the Americans sending a signal they are willing  
8 also to talk to the KLA, which they have done also before with the  
9 spokesperson in Geneva, Bardhyl Mahmuti.

10 Q. Now, you were aware that Jakup Krasniqi had been announced as  
11 the spokesperson of the KLA?

12 A. Yes, sometime in mid-1998, so a few weeks before I met him.

13 MR. ELLIS: Well, if I could show you Political Declaration 3,  
14 which is P00270-ET.15. Yeah, that's right in the English. Yes.

15 Q. Is that a document you would have seen at the time, sir?

16 A. As you see in the left, it seems to be from a newspaper and in  
17 Albanian. I do not speak Albanian. I don't know whether I would  
18 have seen a translation as you have put now to me on the right.

19 Q. Very well. You mentioned, I think, yesterday that there was  
20 perhaps at times an exaggeration of the strength or the organisation  
21 of the KLA in order to appear or in order to present a good front to  
22 internationals like yourself. That's right, isn't it?

23 A. I think it was also part of this political jockeying I just  
24 mentioned.

25 Q. Yeah.

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1 A. To put their foot on the ground and say, "Okay, we are a force  
2 to reckon with, and you cannot just ignore us."

3 Q. And so where this declaration begins:

4 "Those offering armed resistance in Kosovo are not unorganised  
5 citizens who defend themselves and their thresholds, but rather  
6 people organised in the Kosovo Liberation Army ranks ..."

7 That's typical of the sort of thing that was being said at the  
8 time to portray this image of organisation and structure.

9 A. I would assume so.

10 MR. ELLIS: And could we go down towards the bottom of that  
11 declaration.

12 Q. It was in that summer of 1998, and this is 11 June 1998. That's  
13 consistent with when you were aware that Mr. Krasniqi was appointed  
14 as the spokesperson, isn't it?

15 A. Yeah, some weeks before we met -- then again, it was not  
16 necessarily the person we were looking for because he was just a  
17 spokesperson, and that doesn't mean necessarily the political  
18 interlocutor we were looking for.

19 Q. Quite. Now --

20 A. And it wasn't until Rohan made the decision, my  
21 secretary-general, much later that we were allowed or we should meet  
22 the KLA to engage. That decision was taken later.

23 Q. Yes. And that explains why your meetings were -- began later  
24 than this date; correct?

25 A. Correct.

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1 Q. Prior to the appointment of Mr. Krasniqi, there had been no  
2 clearly identified spokesperson for the KLA?

3 A. There was Bardhyl Mahmuti, a spokesperson residing in Geneva,  
4 but that was out of our range. But as I just said, I believe the  
5 Americans did meet him. That's, I think, what they also reported in  
6 the Contact Group setting.

7 Q. Yes. Now, this document gives Mr. Krasniqi's own name,  
8 "Professor Jakup Krasniqi." It gives his date of birth, and it  
9 identifies his village, Negroc in Drenica. That was unusual for the  
10 KLA at the time, wasn't it?

11 A. It was.

12 Q. I think you said in answer to Mr. Misetic yesterday that your  
13 real name is a bigger security threat to yourself and to your family.  
14 Do you recall giving that answer yesterday?

15 A. Yes, I found it remarkable that he gave his full name.

16 Q. Because by doing so, he put himself and his family in danger,  
17 didn't he?

18 A. Absolutely. And also having photos taken, this was highly  
19 unusual.

20 Q. Now, I want to ask you about your meeting with --

21 MR. ELLIS: That document can come down. Thank you.

22 Q. I want to ask you about your meeting with Mr. Krasniqi on 30  
23 July 1998 in Klecke. Let's deal first with the people at the  
24 meeting. You were with David Slinn, who I think was your counterpart  
25 at the British embassy; is that right?

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1 A. That is correct.

2 Q. And from the KLA side, Mr. Rame Buja and Mr. Fatmir Limaj were  
3 there also.

4 A. Yes.

5 Q. And you knew that Rame Buja was a former LDK official, didn't  
6 you?

7 A. Yes. So was also Jakup Krasniqi, I believe.

8 Q. That's right, yes. We'll come to that also as well in a moment.  
9 At the meeting, Jakup Krasniqi introduced himself by name, didn't he?

10 A. I suppose so. I have also put it in my report. I didn't know  
11 the name of Rame Buja because that was not -- at least not on my  
12 public knowledge yet and neither Fatmir Limaj.

13 Q. No. Fatmir Limaj was using the name Celiku --

14 A. Celiku.

15 Q. -- at the time, yes. But Mr. Krasniqi didn't use a code number  
16 to refer to himself ever, did he?

17 A. No, he didn't. I was speculating or we were speculating which  
18 number he could be.

19 Q. And what basis did you have for that speculation? I think we've  
20 seen or we'll see in due course you have some documents mentioning  
21 him as Number 11 or Number 12?

22 A. I think that's what I put in my report, but if it comes from  
23 some other source, it would be my talks with Kosovo journalists.

24 Q. I see. Now, a journalist, Baton Haxhiu, had helped set up the  
25 meeting, hadn't he?



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1 A. Correct, he arranged it.

2 Q. And you knew that he spoke some English, didn't he?

3 A. He spoke some English, yes.

4 Q. You didn't have your own interpreter for the meeting, so you  
5 made do with Mr. Haxhiu interpreting for you?

6 A. Yes. I believe we didn't have our interpreter, the one you saw  
7 in this video excerpt of the March meeting with the General Staff.

8 Q. Yes.

9 A. [Indiscernible] Balaj, she was normally with us. She was  
10 interpreting both for the British and the Austrian embassies.

11 Q. Yes. But for whatever reason, at this meeting she wasn't there  
12 and you made do with who was available.

13 A. Correct.

14 Q. That's right, isn't it? And he was a journalist. He wasn't a  
15 professional interpreter, was he?

16 A. You can say that.

17 Q. Am I perhaps being a little kind in saying that?

18 A. No, I mean, he was a journalist.

19 Q. I understand. And I think you've already confirmed that  
20 certainly in July 1998 you were not a speaker of Albanian?

21 A. Neither am I today.

22 Q. Yes. But the result is that if there were errors in the  
23 translation, it wouldn't have been immediately obvious to you at the  
24 time, would it?

25 A. That -- I think that's a fair assumption.

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1 Q. And the meeting wasn't audio recorded, was it?

2 A. Not to my knowledge.

3 Q. So for the contents of the meeting, what we have to rely on is  
4 your own notes because, understandably, after 26 years, it's  
5 difficult to confirm every word that was uttered at the meeting.

6 A. Thank you for this understanding.

7 Q. Now, in general terms, then, the discussion was at a political  
8 level, wasn't it?

9 A. That was the main purpose.

10 Q. And it's part of those efforts that we mentioned to try to form  
11 a unified platform in the summer of 1998, isn't it?

12 THE INTERPRETER: Interpreter's note: The speakers are kindly  
13 requested to make a pause of about two minutes so that we can catch  
14 up and, from then onwards, pause between question and answer. Thank  
15 you.

16 MR. ELLIS:

17 Q. I apologise, Witness. That's my fault. Because we're speaking  
18 in English, it's very easy for me to just follow on immediately --

19 PRESIDING JUDGE SMITH: Mr. Ellis, he wants you to stop for two  
20 minutes first.

21 MR. ELLIS: May I proceed, Your Honour?

22 PRESIDING JUDGE SMITH: Are the interpreters ready to go?

23 THE INTERPRETER: We're ready, Your Honours.

24 PRESIDING JUDGE SMITH: Thank you.

25 Go ahead.

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1 MR. ELLIS: Thank you.

2 Q. So I think the last question was that this meeting on 31 July  
3 was part of the attempt to form a unified Albanian platform, wasn't  
4 it?

5 A. I guess it was 30 July.

6 Q. I'm sorry, 30 July. That's right.

7 A. And the answer is yes.

8 Q. And the KLA representatives that you spoke to were willing to  
9 take part in that unified platform, weren't they?

10 A. Yes, we were -- we got that confirmation they were willing, but  
11 they hadn't made up their mind yet. They had to do still some  
12 consultations.

13 Q. And that's why your memo concluded:

14 "... the overall impression remained that the KLA had not yet  
15 completed its internal opinion-forming process."

16 That's effectively what you just said, isn't it?

17 A. It is.

18 Q. And in general terms, it's your evidence that the KLA took a  
19 long time to make decisions on these sorts of issues, didn't it?

20 A. Yes. Our feeling which developed was that it was more of a  
21 consensual decision-making process, which involved a bigger group to  
22 consult and coordinate.

23 Q. Yes. You're not saying that Mr. Krasniqi, the spokesman, could  
24 make decisions there and then at the meeting?

25 A. No, I don't believe he could have.

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1 Q. Now can I show you another document, please.

2 MR. ELLIS: U008-1323-U008-1333. Can I have page 1333, please.

3 Sorry, I think perhaps it's the earlier page. Sorry, the next page.

4 Q. Now, this I think you have described as an agenda that you  
5 prepared in advance of the meeting. That's right, isn't it?

6 A. These are the messages I prepared together with David Slinn from  
7 the UK embassy.

8 Q. And at the very bottom of that page, we can see in handwriting:

9 "Prisoners of war, Geneva Convention - no civilians access to  
10 the ICRC."

11 That was something you and Mr. Slinn had discussed in advance of  
12 the meeting; correct?

13 A. Correct.

14 Q. Now, you were asked about this agenda item in your evidence at  
15 the ICTY in the Limaj case on, I think, two occasions. I'm just  
16 going to read them both back to you. The first was in your witness  
17 statement.

18 MR. ELLIS: And the reference for those following is page 1327  
19 of the same document.

20 Q. And you said -- you said in 2004:

21 "This has to do with the fact that there had been allegations in  
22 Serb press that KLA had taken prisoners. I don't recall whether this  
23 was discussed during the meeting and how the question was answered."

24 Do you recall saying that in your statement in 2004?

25 A. Yes, I do.

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1 Q. And you then were taken back to the matter in your oral evidence  
2 in the Limaj case.

3 MR. ELLIS: And for those following, it's P1209, transcript page  
4 682, beginning at line 25 and carrying on over the page.

5 Q. You were asked the question:

6 "Do you recall whether the issue was in fact discussed at the  
7 meeting?"

8 And your answer then was:

9 "No. I have no recollection."

10 Do you recall that exchange at the ICTY?

11 A. Yes, since I re-read it.

12 Q. Now, since you didn't recall whether the issue was discussed in  
13 2004, I imagine it's unrealistic another 20 years later to ask for  
14 your specific recollection, sir?

15 A. You bet.

16 MR. ELLIS: Could we go please to U008-1332, which I think is  
17 the previous page.

18 Q. These are -- with an apology for the quality of the copying, but  
19 this is all that we have. Are these your handwritten notes, Witness?

20 A. Yes, they are.

21 Q. And were at least some of them written during the meeting itself  
22 on 30 July 1998?

23 A. Absolutely.

24 Q. Now, you've been asked, I think, in your statement to the  
25 Prosecution about the top entry on that page. Is it right that it

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1 says:

2 "Never accept list if Milazim Krasniqi platform, list to be  
3 discussed."

4 Is that what we're seeing there, sir?

5 A. Yes, the KLA through my interlocutors were denying the chance  
6 that Milazim Krasniqi could be heading this Kosovo platform because  
7 he was regarded as too close to Rugova.

8 Q. Well, let me follow up on this because firstly you'll note it  
9 doesn't identify exactly who was speaking at any point, does it?

10 A. No, but to my recollection Jakup Krasniqi did the talking.

11 Q. He was the spokesperson, so he was --

12 A. He was the spokes -- yeah.

13 Q. -- doing the --

14 A. He was --

15 Q. -- talking?

16 A. He did the talking.

17 Q. But not exclusively. The others spoke as well?

18 A. Yeah, I couldn't give you percentages of who talked. But for  
19 me, Jakup Krasniqi was the main interlocutor at that meeting.

20 Q. And your note doesn't say why there was an objection to Milazim  
21 Krasniqi, does it?

22 A. That's the nature of notes, that you cannot write down  
23 everything, and that's why you try to write your report as soon as  
24 possible based on your notes and your recollection of a few hours  
25 afterwards.

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1 Q. I see. But there's nothing in the note itself to say that the  
2 issue was that Milazim Krasniqi was a close ally of Rugova? It's not  
3 there in the note, is it?

4 A. As we can see, no.

5 Q. In fact, Mr. Krasniqi, as you know, was an LDK member and he  
6 knew the LDK leadership figures, didn't he?

7 A. I think he was a former LDK member by that time.

8 Q. Yes, that's right.

9 A. Yes, of course, he knew the LDK personalities.

10 Q. Could it be that if there was an objection to Milazim Krasniqi,  
11 it was simply because he wasn't the best individual from the LDK to  
12 be the leader of that delegation?

13 A. I don't know Milazim Krasniqi enough to be able to answer that  
14 question.

15 Q. I see.

16 MR. ELLIS: Can I go then to your cable, which is P01220. And  
17 hopefully I've got the exhibit number correct now. Could we go  
18 please to page 4.

19 Q. Now, the English and the original is not -- sorry, the English  
20 is not exactly aligned with the translation, but this says -- I'm  
21 sure you can read it in the English:

22 "In an initial reaction KLA representatives completely rejected  
23 Nekiba Kelmendi of the LDK and demanded participation from the  
24 LPK ..."

25 So this memo is something that you wrote the next day, I think,

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1 on 31 July; correct?

2 A. Correct.

3 Q. And it doesn't mention any issue with Milazim Krasniqi at all.  
4 It mentions Nekibe Kelmendi, who is an entirely different LDK  
5 personality; correct?

6 A. He is an entirely different LDK personality, correct.

7 PRESIDING JUDGE SMITH: Mr. Ellis, are you intending to tender  
8 some of these documents or not?

9 MR. ELLIS: I believe what I'm going through at the moment has  
10 been tendered already.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. ELLIS: I see Judge --

13 JUDGE METTRAUX: I stand to be corrected, Mr. Ellis, but I don't  
14 think the two pages of the annexes that you've used, U008-1332 and  
15 U008-1333, have been tendered yet so that's our questions. But it's  
16 for you to decide whether to tender them.

17 MR. ELLIS: I'm grateful, Your Honour. Those are the  
18 handwritten notes in advance of the meeting and the handwritten notes  
19 during the meeting.

20 JUDGE METTRAUX: Correct.

21 PRESIDING JUDGE SMITH: Yes.

22 MR. ELLIS: I appreciate the reminder. I tender both. Those  
23 were U008-1332 and 1323 -- 1333.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. CAPIN: No, Your Honour.



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1           PRESIDING JUDGE SMITH: No objection shown. U008-1332 to  
2 U008-1333 at pages 1333 and 1332 are admitted.

3           THE COURT OFFICER: Your Honours, yesterday certain pages from  
4 this document were already admitted as 1D00142, so my proposal is to  
5 add these pages to that exhibit.

6           PRESIDING JUDGE SMITH: Unless there's an objection, that will  
7 be what we do.

8           MR. ELLIS: No objection.

9           PRESIDING JUDGE SMITH: All right. Thank you,  
10 Madam Court Officer.

11           THE COURT OFFICER: Your Honours, these two pages will be now  
12 added to Exhibit 1D00142, and they are classified as confidential.

13           PRESIDING JUDGE SMITH: Thank you.

14           MR. ELLIS:

15 Q. So we've just seen there's a difference between your handwritten  
16 note and your typed note in that one refers to Milazim Krasniqi and  
17 one to Nekibe Kelmendi; correct?

18 A. Can I look to the entire document?

19 Q. Of course. Which one? The --

20 A. Yes, the previous page to see the --

21 Q. Yes. In fact, that's where I was going next so we could --

22 A. Okay.

23 Q. The previous page. And let us know when you're ready to scroll  
24 down.

25 A. Okay. We can scroll down, please. Yeah, but what I'm referring

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1 to here is a list which, in this detail, I have not discussed with --  
2 at the 30 July meeting. But this is probably a list I got from  
3 Blerim Shala, another journalist who was working with the Americans  
4 on a concrete list of names.

5 Q. And we see that there are other LDK names on the list. For  
6 example, Fadil Hysa and Kol Berisha; correct?

7 A. Correct.

8 Q. And you haven't recorded any issue being taken by anyone from  
9 the KLA with those names; correct?

10 A. That is correct. But it says also that there was an issue with  
11 Fehmi Agani because he made negative statements about the KLA, so  
12 they didn't even put him on the list because of the expected  
13 repercussions of the KLA.

14 Q. Well, I'm going to come on to Fehmi Agani a little later in the  
15 discussion because I think he's somebody that you know as part of the  
16 Rambouillet delegation from the LDK; correct?

17 A. Yes, indeed.

18 Q. Yeah. But his name wasn't discussed certainly with Mr. Krasniqi  
19 on 30 July 1998 because he wasn't on any list that you had seen;  
20 correct?

21 A. Correct.

22 Q. And this information about Fehmi Agani is coming to you from  
23 Blerim Shala who was a journalist, not a part of the KLA?

24 A. Correct, a journalist, but was also used as an adviser to  
25 international factors.

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1 MR. ELLIS: Now, could I show you please U015-8743, which has  
2 been admitted as P00189. And I'm interested in beginning on page  
3 U015-8842. If it assists, we think it might be page 100 of the PDF.  
4 Yeah.

5 Q. Now, I think this is a document you were shown by the  
6 Prosecution first last week and then again at the start of your  
7 evidence yesterday --

8 A. Yeah.

9 Q. -- which is an account from a book about that meeting. And your  
10 evidence yesterday was that it was largely consistent with your  
11 recollection of the meeting. You recall that, sir?

12 A. Yes, I do.

13 Q. We can see on that first page that it identifies the date of the  
14 meeting as 31 July 1998. That's not right, is it? I mean, in fact,  
15 it was a day earlier, on the 30th.

16 A. Yes, that is according to my report.

17 MR. ELLIS: And if we could go to the next page, please. Top of  
18 the page, please.

19 Q. What is there recorded is that:

20 "... we demanded that in addition to the legal entities, the LPK  
21 ... and LKCK ... also take part in the talks because they, too, were  
22 participants in the war effort."

23 That's dealing with the same issue that we're talking about, the  
24 identification of participants in the platform; yes?

25 A. Yes. I mean, this was a demand from the KLA. These are, if you

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1 want, leftist nationalist parties. And I think in the meeting,  
2 during my notes, he was explaining that the LPK has two wings, one  
3 internal and one external. I always believed that they were more  
4 external outside Kosovo with the diaspora.

5 Q. And the reference to the legal entities is to the political  
6 parties that were recognised at the time, LDK, LBD, isn't it?

7 A. I wouldn't know whether the LBD was recognised as a legal  
8 entity. I mean, these anti-LDK political parties were forming,  
9 reforming, regrouping, constantly in the month we were dealing with  
10 them.

11 Q. I understand. But certainly the LDK was a legal entity at that  
12 time.

13 A. To be honest, I wouldn't know if it was registered in the -- as  
14 a political party in Serbia or wherever.

15 Q. I see. But what's being recorded here is a request that the LPK  
16 participate in addition to the legal entities; yes?

17 A. And the LKCK.

18 Q. Yes, I apologise. The LPK and LKCK --

19 A. LKCK.

20 Q. -- participate in addition to the legal entities; yes?

21 A. Yes.

22 MR. ELLIS: Could I have on screen, please, a different  
23 document, DJK00789.

24 Q. Witness, this is an article by Milazim Krasniqi reflecting on  
25 the arrest of Mr. Krasniqi in -- of Jakup Krasniqi in 2020. And the

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1 point I wanted to direct you to is that Milazim Krasniqi stated that  
2 he did work with Jakup Krasniqi in the Kosovo Democratic League where  
3 he was an activist before he joined the war.

4 Were you aware that Milazim Krasniqi and Jakup Krasniqi had  
5 worked together in the LDK?

6 A. No.

7 Q. And there's nothing in this document that suggests that Milazim  
8 Krasniqi had any difficulties working with Jakup Krasniqi, is there?

9 A. I'm seeing this document for the first time.

10 Q. I see. Well, I'm come back to Milazim at the end of my  
11 cross-examination.

12 MR. ELLIS: Can I show you one other document, please, which is  
13 DJK00787.

14 Your Honour, I'm reminded that I should tender the article  
15 DJK00789.

16 PRESIDING JUDGE SMITH: Any objections?

17 MR. CAPIN: No objection, Your Honour.

18 PRESIDING JUDGE SMITH: DJK00789 is admitted.

19 THE COURT OFFICER: Your Honours, the document and its English  
20 translation will be admitted as Exhibit 4D00051. Classification is  
21 public.

22 PRESIDING JUDGE SMITH: Thank you.

23 Thank you, Mr. Ellis.

24 MR. ELLIS: Thank you, Your Honour.

25 Q. Have you had a moment to read this document on the screen,

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1 Witness?

2 A. Yes, I have.

3 Q. It is -- it appears -- is it a document you'd seen before?

4 A. No, no.

5 Q. But on its face, it is a condolence telegram written by  
6 Dr. Jakup Krasniqi upon the death of Mrs. Nekibe Kelmendi in 2015.  
7 That's what it appears to be, isn't it?

8 A. Yes, it appears to be.

9 Q. And it expresses that Mrs. Kelmendi -- Mrs. Kelmendi's death was  
10 "a great loss for you, dear family, for friends and for the Assembly  
11 of Kosovo.

12 "Mrs. Kelmendi contributed to the protection of the rights of  
13 our citizens in the most savage time of the Serbian occupation,  
14 promoted it everywhere in the democratic world and took an active  
15 part in the construction and development of our state institutions.

16 "Her work will always be remembered with special respect."

17 And certainly no trace in that document of any personal  
18 animosity between Mr. Krasniqi --

19 MR. CAPIN: Objection, Your Honour.

20 MR. ELLIS:

21 Q. -- and Mrs. Kelmendi?

22 MR. CAPIN: Objection. The witness has not seen the document  
23 and I don't think there is any basis for this question.

24 PRESIDING JUDGE SMITH: Overruled.

25 Go ahead.

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1 THE WITNESS: This is from 2015 and not from 1998. Mrs. Nekibe  
2 Kelmendi, if I'm not mistaken, lost her husband and her two sons  
3 during the war. And we worked with her after the war as a very  
4 strong personality working for reconciliation. She was in, I think,  
5 also part of the Kosovo Transitional Council. And somebody who has  
6 lost her family to reach out for reconciliation was a very strong  
7 ally of ours, and I think she -- she does need or she deserves  
8 getting the respect shown by Mr. Jakup Krasniqi in this 2015  
9 condolence telegram.

10 MR. ELLIS:

11 Q. All right. And her partner Bajram Kelmendi was murdered by the  
12 Serbs, wasn't he?

13 A. Yes.

14 MR. ELLIS: I tender the document, Your Honours.

15 MR. CAPIN: No objection.

16 PRESIDING JUDGE SMITH: DJK00787 is admitted.

17 THE COURT OFFICER: That will be assigned Exhibit 4D00052.  
18 There is no current classification indicated in Legal Workflow.

19 MR. ELLIS: It can be public.

20 THE COURT OFFICER: Thank you.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 Reclassified as public, please.

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

24 Q. Now, going back to the meeting on 31st of -- 30th of July, I  
25 correct myself, you've recorded that the KLA mentioned that Serbia

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1 had used chemical weapons. Again, after 26 years, you wouldn't  
2 recall specifically the context in which that came up in the  
3 discussions; correct?

4 A. That was a general accusation and came to our total surprise. I  
5 think it's the first time we had heard about it, and I don't think I  
6 heard that allegation afterwards either.

7 Q. Could it have been a reference to past events such as poisonings  
8 in schools in the 1990s?

9 MR. CAPIN: [Microphone not activated].

10 PRESIDING JUDGE SMITH: Sustained.

11 MR. ELLIS:

12 Q. Could it be that there are issues on the translation on that  
13 aspect of the note?

14 A. I think this is a word which -- which sounds in Albanian pretty  
15 similar to English, "chemical."

16 Q. Now, your note also confirms that the KLA was -- or said it was  
17 moving away from frontal war at that time. Do you recall that, sir?

18 A. Yes, I do.

19 Q. At that time the KLA was in retreat, wasn't it?

20 A. Yes, it was.

21 Q. You were shown a document by Mr. Emmerson yesterday, which is a  
22 document, I think, from the Veseli presentation queue, which was  
23 SPOE00329166, and it recorded that a -- a daily report from the  
24 Kosovo EU Observer Mission, 23 July 1998, recording that:

25 "Orahovac is deserted after its population of 20,000 reportedly



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1 fled to Malisevo."

2 Do you recall that discussion yesterday about that document?

3 A. Yes. My memory lasts that long, yes.

4 MR. ELLIS: Your Honours, I don't think I need to call the  
5 document up on screen, but it wasn't tendered yesterday and I do  
6 tender it.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MR. ELLIS: SPOE00329166 to 00329167.

9 PRESIDING JUDGE SMITH: Any objection to that?

10 MR. CAPIN: I'm sorry. I'm trying to figure out which document  
11 that is, Your Honour.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 Which document is it?

14 MR. ELLIS: It's a --

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MR. ELLIS: It's headed "Daily report from Kosovo EU Observer  
17 Mission (No. 77) 23 July." It's a two-page document.

18 MR. CAPIN: No objection, Your Honour.

19 PRESIDING JUDGE SMITH: Can I see it on the screen, please,  
20 Madam Court Officer.

21 While they're doing that, I just want to correct the record,  
22 too, that when the objection was entered by Mr. Capin, which I  
23 sustained, his microphone was not activated. He indicated he  
24 objected to the relevance of the document.

25 MR. CAPIN: Thank you, Your Honour.

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1 MR. ELLIS: Yes, that's the correct document.

2 PRESIDING JUDGE SMITH: There is no objection made. The  
3 document will be entered.

4 THE COURT OFFICER: Your Honours, document with ERN SPOE00329166  
5 to 00329167 will be admitted as Exhibit 4D00053. Classification is  
6 confidential.

7 MR. ELLIS: Thank you. We think it can be public.

8 PRESIDING JUDGE SMITH: Is there any restriction on this  
9 document?

10 MR. CAPIN: Not that I'm aware, Your Honour.

11 PRESIDING JUDGE SMITH: The document will be public.

12 MR. ELLIS: Thank you, Your Honour.

13 Q. So, Witness, that was to set the scene that at the point of your  
14 conversation with Mr. Krasniqi on 30 July, the Serbian offensive had  
15 already begun, and the KLA was retreating into the mountainous  
16 villages. That's right, isn't it?

17 A. That is right.

18 Q. And in the course of your conversation, Mr. Krasniqi and the KLA  
19 wanted to stay relevant to the political negotiations, didn't they?

20 A. Yes, of course. But we were not denying that at that time.

21 Q. Of course. Of course. I'm not saying that you were. But in  
22 speaking to you, they wanted to seem as strong as -- or stronger than  
23 they were in the circumstances at the time. That's right, isn't it?

24 A. During my talks, I think they took a blow. Maybe they have been  
25 a bit too self-confident having controlled Malisheve. And, I mean,

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1 it says -- lists Rahovec -- confirms Rahovec in Serb hands. I never  
2 thought that Rahovec was ever in KLA hands. There were attacks at  
3 the outskirts and skirmishes but then came the counteroffensive which  
4 then moved them even out, the KLA, out of Malisheve.

5 Q. Exactly. And by the time of your conversation on 30 July, the  
6 KLA was already out of Malisheve?

7 A. I couldn't pinpoint the exact date.

8 Q. I see. But their ambition was to liberate all of Kosovo, not to  
9 stay in the mountain villages; correct?

10 A. Absolutely.

11 Q. And to your knowledge, there wasn't actually a KLA attack on  
12 Prishtine, say, at that time or ever?

13 A. There was in the outskirts, I think in Belacevac, an action, and  
14 then that was, having re-read the documents, where the first time it  
15 was acknowledged that the VJ, the Yugoslav Army, was deployed to  
16 liberate that, liberate --

17 Q. All right.

18 MR. ELLIS: Now can I go back to your memo, which was P1220. On  
19 the second page. Sorry, could we go down, please.

20 Q. Now, the final paragraph there where it says:

21 "The desk officer suggested ..."

22 Would that be your suggestion or David Slinn?

23 A. Yes, I mean, it was -- I wrote it that it was my suggestion, but  
24 we were a joint démarche, if you so like, so it was the two of us.

25 Yeah.

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1 Q. So the joint démarche was that:

2 "... the KLA make an urgent decision, since the Kosovars had  
3 already lost so much time."

4 A. Yeah, I was trying to explain to you that there was a constant  
5 back and forth. And once we thought that we had one Kosovar  
6 political actor on board, the others were running away from what we  
7 thought was a common platform. So this was a constant back and forth  
8 for us.

9 Q. But at this meeting on 30 July, Mr. Krasniqi had indicated  
10 willingness to be involved in the platform; yes?

11 A. Yes. But still announcing that they would put forward names so  
12 that it was not -- nothing concrete yet.

13 Q. And that's why you proposed a further visit by Austrian, UK  
14 embassies for the 3rd or 4th August; is that right?

15 A. That is right.

16 Q. And that meeting did not happen, did it?

17 A. Correct.

18 Q. And the reason it didn't happen is that the Serbian offensives  
19 intervened and you lost contact with your interlocutors for a time?

20 A. This is also correct.

21 MR. ELLIS: Can I show you some reports about that time, please.  
22 The first is SPOE00304399. If we scroll down a little.

23 Q. So you've been shown a number of similar documents, but  
24 certainly by July 1998, the ECMM had monitors on the ground in  
25 Kosovo. That's right, isn't it?

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1 A. It is. We started, I think, in May 1998 with one mobile team,  
2 which we brought, I think, in from Montenegro. And then we built up  
3 ECMM. And since we had the EU Presidency, the Council of the Europe  
4 Union, from 1 July there were many Austrian armed service members  
5 part of this civilian observer mission, ECMM.

6 Q. Yes. And they were preparing weekly summaries at that time. Is  
7 that --

8 A. Daily and weekly, yes.

9 Q. And would you have received those documents at the time?

10 A. Yes, in -- in print.

11 Q. Yes.

12 A. So with a delay.

13 Q. And so as at 30 July 1998, so the day of your meeting, what this  
14 is identifying in paragraph 1 is a pre-planned Serbian offensive to  
15 take back control over UCK territory connecting Drenica to Malisheve;  
16 correct?

17 A. This is what it states, yes.

18 MR. ELLIS: And if we could scroll down to the second paragraph,  
19 please.

20 Q. It records that:

21 "The strategy seems clear; divide the territory by dominating  
22 all routes, inhibit UCK mobility and prepare positions from which a  
23 more systematic approach to closing with the UCK can be achieved."

24 Is that consistent with the reporting you remember reviewing at  
25 the time?

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1 A. Yes. You can see also that these are military people who wrote  
2 this report and not a modest diplomat.

3 Q. Yes. And what the military -- military persons are describing  
4 is a strategy, effectively, to divide up the territory to isolate and  
5 divide the KLA; is that fair?

6 A. It was also the wish of controlling the big communication routes  
7 which were blocked prior to this offensive.

8 Q. But after the offensive, the main communication routes were  
9 controlled by the Serbian forces; correct?

10 A. Yes.

11 MR. ELLIS: Your Honour, I tender this document.

12 PRESIDING JUDGE SMITH: Objection?

13 MR. CAPIN: No objection.

14 PRESIDING JUDGE SMITH: SPOE00304399 is admitted.

15 THE COURT OFFICER: Just a clarification, Your Honours. The  
16 entire document or just one page?

17 MR. ELLIS: I think it's only two pages and we referred, I  
18 think, to both, so those two pages.

19 PRESIDING JUDGE SMITH: [Microphone not activated] ... numbers  
20 for those two pages, or do you have them, Madam Court Officer?

21 MR. ELLIS: SPOE00304399 to 304 -- oh, I'm sorry, it's all from  
22 the first page, so we can just have the first page.

23 PRESIDING JUDGE SMITH: So you just need 399?

24 MR. ELLIS: Correct, Your Honour, yes.

25 PRESIDING JUDGE SMITH: All right. 399 will be admitted.

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1 MR. ELLIS: Thank you.

2 THE COURT OFFICER: Your Honours, the document will receive  
3 Exhibit 4D00054. It's classified as confidential.

4 PRESIDING JUDGE SMITH: Do you have a reason to keep this  
5 confidential?

6 MR. CAPIN: No, Your Honour.

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

8 THE COURT OFFICER: Thank you.

9 MR. ELLIS: Thank you, Your Honours.

10 I see the time. Do Your Honours wish to break at 10.00?

11 PRESIDING JUDGE SMITH: Yeah, we'll give you a ten-minute break,  
12 Witness, as we did yesterday. We'll be back at ten after 10.00. You  
13 may leave the courtroom with the Court Usher now.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: We're adjourned until 10.10.

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

17 --- On resuming at 10.12 a.m.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 [The witness takes the stand]

20 PRESIDING JUDGE SMITH: All right. Mr. Ellis, you can continue.

21 MR. ELLIS: Thank you, Your Honour.

22 Could we have on the screen, please, a further ECMM document,  
23 SPOE00304334 to 339.

24 Q. Witness, we're moving a little forwards in time to 14 August  
25 1998, so some two weeks after your meeting in Klecke; yes? And I

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1 think you've confirmed that by this time your attentions, the  
2 Austrian attentions, were switching to humanitarian concerns related  
3 to the displaced persons.

4 A. That is correct.

5 Q. And if I could show you the first paragraph of this ECMM  
6 document. It's referring to the human catastrophe.

7 "Whole areas are now laid waste ... up to 200,000 people have  
8 been driven from their homes. Many have been displaced into other  
9 areas of Kosovo thus creating a situation where up to 80,000 people  
10 are in dire need of food and medical facilities."

11 That's consistent with what you were aware of at the time, isn't  
12 it?

13 A. It is.

14 MR. ELLIS: Can I take you then please to page 304338.

15 Q. The assessment there being made is that:

16 "The UCK, many estimate, are now facing defeat in the field.  
17 Their command structure is beginning to seriously fragment."

18 Is that a message that you were receiving from the ECMM monitors  
19 at the time, sir?

20 A. No, I wouldn't recall that and I wouldn't subscribe to that.

21 MR. ELLIS: I tender the document, Your Honours.

22 MR. CAPIN: No objection. But I'm told that we're checking with  
23 the provider with regard to this one and the two prior tenders. I  
24 may be, depending on what we learn, seeking to have those revert to  
25 confidential. But this should remain confidential, Your Honour.



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1           PRESIDING JUDGE SMITH: Are you entering only that page?

2           MR. ELLIS: The two pages that I referred to, but I quite agree  
3 they should remain confidential whilst it's being checked.

4           PRESIDING JUDGE SMITH: [Microphone not activated].

5           So 338 and what?

6           MR. ELLIS: 334.

7           PRESIDING JUDGE SMITH: SPOE00304334 and SPOE00304338 are  
8 admitted.

9           THE COURT OFFICER: Your Honours, those two pages will receive  
10 Exhibit 4D00055, and classification is confidential.

11          MR. ELLIS:

12          Q. Were you aware, Witness, that Klecke itself had been captured by  
13 Serbian forces in August 1998?

14          A. Yes, I was, because there came then allegations that there in a  
15 lime pit or something were human remains.

16          Q. I'll come back to that if I may in a moment. But the picture  
17 then is that your previous meeting places that you'd used in both  
18 Malisheve and Klecke had been overrun by Serbian forces; yes?

19          A. Yes.

20          Q. And the KLA was scattered and moving from place to place;  
21 correct?

22          A. Correct. We would not have a possibility to contact them nor  
23 were they in a position to contact us.

24          Q. Quite. And I imagine the situation was particularly dangerous  
25 for those like Jakup Krasniqi whose name was publicly known; yes?

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1 A. I suppose so.

2 Q. And the result is, the effect is that you weren't able to meet  
3 Mr. Krasniqi again for quite some time; correct?

4 A. That is correct.

5 Q. So if I can just sum up this section, there was an attempt in  
6 July 1998 to create a unified platform. Mr. Krasniqi and others had  
7 said the KLA was willing to participate, but then came the Serbian  
8 offensive and you were unable to contact them to firm up the details;  
9 correct?

10 A. That is correct. There was no follow-up possible.

11 Q. And then the decision was made, I think you said yesterday, by  
12 the US and the LDK to move forwards with an LDK negotiating team.

13 A. Without the KLA. That was against our objection because we  
14 thought there could be no sustainable resolution to the conflict  
15 without involvement of the KLA.

16 Q. Quite. Now, you mentioned a moment ago the allegations about  
17 Klecke and the -- I'm just looking for your words, but perhaps it  
18 doesn't matter. And I think you said yesterday already that you were  
19 aware that there was propaganda from both sides during the conflict;  
20 correct?

21 A. Correct. And one of the ideas to counter it and establish facts  
22 was to get forensic experts in.

23 Q. Let's not just describe it as one of the ideas. It was an idea  
24 from the Austrian side, wasn't it, at the time?

25 A. Well, we had proposed a team of Finnish forensic experts, but we

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1 didn't see it fly until Belgrade saw this as a chance to avoid the  
2 involvement of the ICTY.

3 Q. And --

4 A. So they took what in their view was the lesser evil, some  
5 Finnish experts proposed by Austria.

6 Q. But the idea behind your proposal was that the Finnish experts  
7 were neutral individuals capable of providing an expert opinion; yes?

8 A. Correct.

9 Q. And that was necessary at the time because you were receiving  
10 propaganda which you didn't trust?

11 A. Correct.

12 Q. And I think you've given the example previously that you  
13 declined to take part in a visit arranged by the Serb authorities to  
14 Prekaz because you were concerned that you would be used as part of a  
15 Serb propaganda campaign if you went.

16 A. That is correct.

17 Q. And part of the Serbian propaganda was blaming the KLA for  
18 crimes, for atrocities, which in fact the KLA didn't commit. That's  
19 right, isn't it?

20 A. There were allegations from both sides into crimes. So the only  
21 way to go forward was to try to establish facts with independent  
22 experts.

23 Q. Quite.

24 MR. ELLIS: Could I have on the screen, please, K036-0808 at  
25 page K036-0961.

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1 Q. And whilst that's being found, I think you mentioned Fehmi Agani  
2 earlier this morning. He was a professor and a leading member of the  
3 LDK; correct?

4 A. Correct.

5 Q. Part of the Rambouillet delegation for the LDK?

6 A. Yes.

7 Q. I think you mentioned to the Prosecution last week that he was  
8 murdered by the Serbian forces, wasn't he?

9 A. That is true. He was trying to flee with his family to  
10 Macedonia, turned away, and on the way back taken out of the train  
11 and murdered.

12 MR. ELLIS: And can I take you please in this document to the  
13 page ending 963. Can we scroll down, please.

14 Q. Were you aware that the Serbian side had put out a statement  
15 from the Serbian police in May 1999 saying that:

16 "It is assumed that the terrorists of the so-called KLA kept  
17 Agani isolated in order to prevent his engagement in  
18 negotiations ..."

19 MR. CAPIN: Objection on relevancy grounds, Your Honour.

20 PRESIDING JUDGE SMITH: Yes. Could you explain what the  
21 relevance of this is?

22 MR. ELLIS: Yes. The relevance is it's a concrete example of  
23 Serbian propaganda blaming the KLA for crimes which the Serbian side  
24 had, in fact, committed.

25 PRESIDING JUDGE SMITH: That's very close to not being relevant.

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1 [Microphone not activated]. You may ask the question.

2 MR. ELLIS: I'll move over it swiftly, Your Honours.

3 Q. Witness, you probably heard what I just said. But isn't this an  
4 example of exactly what you're describing, that the Serbian side is  
5 trying to blame the KLA for things that they themselves did?

6 A. I was not aware of this allegation.

7 Q. But generally you were aware that the Serbians --

8 PRESIDING JUDGE SMITH: He answered the question. He was not  
9 aware.

10 MR. ELLIS: I agree, Your Honour. I just want to ask one more  
11 general follow-up and then ...

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. ELLIS: I'm grateful.

14 Q. I appreciate you weren't aware of this allegation. But more  
15 generally, you were aware that the Serbian side was making  
16 allegations about the KLA which, on inspection, turned out not to be  
17 true?

18 A. I was aware of the Serbian side making allegations that the KLA  
19 committed crimes. And then with the Finnish forensic experts, we  
20 made a list of allegations and counter-allegations, and we then chose  
21 three from, if you want, each side, three places where alleged crimes  
22 committed by the KLA were committed and three where alleged crimes of  
23 the Serbian side were committed.

24 Q. One of those being Klecke, if I recall --

25 A. One of those --

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1 Q. -- correctly?

2 A. -- being Klecke.

3 Q. And, again, I think this is a topic you were questioned at the  
4 ICTY in the Limaj case, but the allegation from the Serbian side was  
5 that hundreds of civilians had been killed at Klecke; is that right?

6 A. No, I can't recall it was hundreds. I think there were maybe a  
7 dozen or something bodies or body parts, bones being found there.

8 Q. Yeah. And the Finnish investigations did not verify the Serbian  
9 allegation, did they?

10 A. I don't know whether they had access.

11 Q. All right.

12 A. The problem was to getting access. We tried to support them  
13 with ECMM. The Serbian authorities tried to make the life difficult.  
14 One mission which was prepared, which I was part of, had to stop  
15 because the Serbian side, including an investigating judge plus  
16 police, was trailing our convoy. And then I made the decision at the  
17 time that we would not enter KLA-controlled area with a tail of  
18 Serbian police.

19 Q. Thank you. I'll move on to a different topic, Witness, and,  
20 again, it's something that you spoke about in the ICTY. But I think  
21 in the September of 1998, you visited Serbian positions in Gjakove.  
22 Do you recall that?

23 A. Are you referring to the trip with Ambassador Parak?

24 Q. I'm referring -- I think there was a visit that you made and  
25 then shortly after David Slinn went as well.

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1 A. Yes. This was -- we were interested in the -- in what the Serbs  
2 were portraying that they built up a local police force.

3 Q. Exactly. And the characteristic of that local police force was  
4 that it involved or consisted of Albanians; correct?

5 A. Correct.

6 Q. Whereas the regular Serbian police had no Albanian members at  
7 that time; correct?

8 A. To my knowledge, none.

9 Q. And when David Slinn went to Gjakove, he reported back to you  
10 that he had seen members of this local police unit in uniform with  
11 insignia; is that right?

12 A. That's what he -- we split up. So that's what he told me, yeah.

13 Q. And do you recall him telling you that he had been told that  
14 their weapons would arrive the next day?

15 A. That I can't remember. I might have put it in the report, but I  
16 don't -- I can't remember that one anymore.

17 Q. Well --

18 A. But this was -- we didn't give too much credibility to this  
19 claim that there was a local Kosovo Albanian police force worth its  
20 name.

21 Q. And they were also referred to as security coordinators by the  
22 Serbian side; yes?

23 A. Could well be.

24 MR. ELLIS: Can I show you a document you saw yesterday, which  
25 was 1D00141. Could we scroll down, please.

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Cross-examination by Mr. Ellis

1 Q. Now, I think, in fairness, you confirmed yesterday that this  
2 section of the cable would have been contributed perhaps by  
3 Ambassador Petritsch who was actually at the meeting with Milosevic;  
4 is that right?

5 A. That is right. I was not present at that meeting with  
6 Milosevic.

7 Q. But the penultimate bullet point there, referring to "'security  
8 coordinators' are already in place in 70 villages in western Kosovo,"  
9 that's a reference back to these local police that you were talking  
10 about, isn't it?

11 A. Yes, so that's probably what Ambassador Petritsch was told in  
12 that meeting.

13 Q. Yes. And it matches what you and David Slinn had been told on  
14 the ground, that there were people who had been given uniforms,  
15 weapons, insignia; yes?

16 A. Mm-hmm.

17 MR. ELLIS: Can I show you a different document, please, which  
18 is 055503.

19 Q. Now, this is a newspaper article, sir, and it refers, in the  
20 second paragraph, to an individual called Muharrem Ibraj. It refers  
21 to him as being a police chief, "albeit not a Serb but an  
22 Albanian ..."

23 And it says in the second paragraph that:

24 "All over Kosovo, Albanians were dismissed from the police force  
25 after the abolition of the province's autonomy ten years ago."



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Cross-examination by Mr. Ellis

1 That's correct, isn't it? That's what you just confirmed?

2 A. This is, yes, to my knowledge.

3 Q. And it then refers to the police being "a purely Serbian force -  
4 except in the area around Djakovica," or Gjakove. "There, in  
5 addition to the well-armed Serbian police, since almost half a year,  
6 there is a poorly armed Albanian police force - in Serbian service."

7 That's a reference there to the local police force that you were  
8 talking about; correct?

9 A. Yes.

10 Q. And if we could go to the first paragraph, it speaks of Muharrem  
11 Ibraj of the local police shooting someone called Suleiman Bajramaj  
12 full in the face and shouting that he would kill them all, everybody,  
13 including women and children.

14 My question, sir, is were you aware of allegations that this  
15 Albanian local police force had committed crimes against Kosovo  
16 Albanians in Gjakove?

17 A. No.

18 MR. ELLIS: I tender the document, Your Honours.

19 MR. CAPIN: No objection.

20 PRESIDING JUDGE SMITH: 055503 is admitted.

21 THE COURT OFFICER: Your Honours, the entire document or just  
22 055503?

23 MR. ELLIS: I would --

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 THE COURT OFFICER: Microphone, please.

Witness: Jan Kickert (Resumed) (Open Session)

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Cross-examination by Mr. Ellis

1           PRESIDING JUDGE SMITH: That's the only item you named was 03,  
2 just the one page.

3           MR. ELLIS: Your Honour, may I have a moment just to check if  
4 the others are needed for context. No, I think we're -- I think just  
5 5503.

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

7           MR. ELLIS: All right.

8           THE COURT OFFICER: 055503 from 055503 to 055505 and its English  
9 translation will be admitted as 4D00056. Classification is  
10 confidential.

11          MR. ELLIS: It's a newspaper --

12          PRESIDING JUDGE SMITH: Thank you.

13          MR. ELLIS: -- article. I think it can be public, Your Honours.

14          MR. CAPIN: No objection.

15          PRESIDING JUDGE SMITH: The document will be reclassified as  
16 public.

17          THE COURT OFFICER: Thank you, Your Honour.

18          MR. ELLIS: The document can be taken down. Thank you.

19 Q. I'm sorry to jump around, Witness. I'm trying to move through  
20 the topics in the interest of time.

21                 Can I ask you now about your involvement in January 1999 in the  
22 release of some VJ soldiers who had been captured by the KLA. I  
23 think it's right that you weren't generally involved in prisoner  
24 releases because that was typically dealt with by KDOM; is that  
25 right?

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Cross-examination by Mr. Ellis

1 A. Or KVM.

2 Q. But not by yourself in [Overlapping speakers] ...

3 A. Not at all.

4 Q. But the capture of these soldiers was the highest profile issue  
5 in Kosovo at that time, wasn't it?

6 A. That is correct. I was -- I'm not aware of any other incidents  
7 where -- incidents where VJ soldiers were captured by the KLA.

8 Q. And there was a real risk at the time of open fighting breaking  
9 out as the Serbs moved troops into position to try to take them back.

10 A. That I'm not aware of, but it was certainly a very, very tense  
11 situation and was threatening to derail the political process which  
12 we wanted to drive forward.

13 Q. Exactly. And that's why you and Ambassador Petritsch and others  
14 were drawn into this particular issue; is that right?

15 A. Well, I was just at that time accompanying Ambassador Petritsch  
16 and Ambassador Hill.

17 Q. But in terms of the reason for their involvement at that  
18 level [Overlapping speakers] ...

19 A. Is that their mediation was threatened.

20 Q. Yes. Now, in your statement you said that the KLA had granted  
21 KVM access to the VJ soldiers soon after they'd been taken prisoner.  
22 Do you recall that?

23 A. I believe they did, yeah, but I -- I couldn't 100 per cent in my  
24 memory recollect that.

25 Q. Do you recall hearing that the captured soldiers were being

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1 treated well, sir?

2 A. I believe so.

3 Q. And we've heard evidence already that there were three separate  
4 meetings about these negotiations between the 9th and 13th January.

5 Am I right that you yourself were at two of those: On 11 January in  
6 Malisheve, and on 13 January in Likoc?

7 A. I can only recollect the one.

8 Q. And do you recollect which one that was?

9 A. Not in Malisheve.

10 Q. I said Malisheve. I should have said Malisheve municipality, to  
11 be clear. It was in a village in the municipality, not Malisheve  
12 itself.

13 A. No, I wouldn't recall that one.

14 Q. Very well. The crux of the issue was that the KLA sought a  
15 simultaneous exchange of the VJ soldiers for some KLA fighters who  
16 had been captured; yes?

17 A. Correct.

18 Q. And there's nothing unusual about prisoner exchange agreements  
19 in conflict situations, is there?

20 A. No. It's just that, which also turned out in our talks, it --  
21 that the KLA wanted to have it classified as a prisoner of war  
22 exchange to elevate themselves as a party at the same level as the  
23 Yugoslav Army or the Serb security forces.

24 Q. I see. Consistent with all the efforts we've previously spoken  
25 about to play up, if I can use that colloquial term, their own

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1 structure and organisation; yes?

2 A. To elevate themselves to on par with Belgrade authorities.

3 Q. Exactly. And on the other hand, the Serbian forces were keen to  
4 downplay the whole incident in order to save face.

5 A. Of course. Yet, they were very concerned that this could have a  
6 backlash, and therefore they were interested in resolving the issues  
7 of the VJ soldiers.

8 Q. And, sorry, to be clear, who was very concerned that this could  
9 have a backlash?

10 A. The Belgrade authorities.

11 Q. And ultimately it was the KLA which compromised, and the  
12 agreement was for the VJ soldiers to be released and then ten days  
13 later the KLA fighters to be returned; correct?

14 A. Correct.

15 Q. In your statement, you say that:

16 "During this time, it took some time to gain agreements from the  
17 Albanians. I got the impression that a high-level political or  
18 military collective body had to approve decisions by consensus, and  
19 this often delayed the decision-making process."

20 That's correct, isn't it?

21 A. That was my impression, yes.

22 Q. And that was a particular feature of the meeting that you recall  
23 in Likoc, wasn't it?

24 A. It was a long meeting. I would not be able to recall the  
25 details. But it is also nothing unusual. As we discussed before,

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1 even on political decisions it took a lot of time to get to a  
2 decision. And often we didn't have that time, and then we didn't  
3 find the interlocutors again. But here we were there and we wanted  
4 to get a decision done. And in the end came the very bold move of  
5 Ambassador Hill of giving his promise, a *besa*, which is a very strong  
6 promise in the Albanian code.

7 Q. Yes. Now, you told the Prosecution last week in your  
8 preparation session, and I'll just read it back to you:

9 "Witness 02144," and you remember from yesterday that's your  
10 good self, "recalls the meeting lasting very long, in part because of  
11 several interruptions, which W02144 assessed as being intended for  
12 KLA participants to consult with people not present."

13 That's recollection of it --

14 A. That's my impression --

15 Q. -- at the time?

16 A. -- yes.

17 Q. We know, I think from other evidence, that Shaun Byrnes was  
18 present at those negotiations. You'll recall him as head of US  
19 KDOM --

20 A. Yes.

21 Q. -- at the time?

22 A. Yes, I remember him.

23 Q. Will you agree with me that he was a very experienced man who  
24 had very good contacts with the KLA at that time?

25 A. He had the contacts with the KLA on the ground.

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1 Q. Yeah. And, in fact, even from the summer of 1998, the US had  
2 something of a head start on the Europeans in terms of knowledge and  
3 intelligence on the KLA; is that fair?

4 A. Yes and no. Yes, they have always more manpower. We were  
5 earlier there with our observers. But they, as I said, had a  
6 presence in Prishtine, which in our belief was also an intelligence  
7 presence. But then again, they were not the ones who could identify  
8 the main interlocutors in the KLA.

9 Q. I see. Well, can I just read back to you something that  
10 Mr. Byrnes has said. He said:

11 "Throughout the discussions, the KLA representatives were on the  
12 sat phone speaking to someone. Jakup Krasniqi in particular was  
13 always on the phone. He would get off the phone and tell me this is  
14 what they were willing to do. I would say this was not enough, and  
15 he would go back to the phone."

16 Is that consistent with your recollection, sir?

17 A. Yeah, that wouldn't surprise me.

18 Q. I'll move on to that, sir, to the Rambouillet negotiations. And  
19 we've heard already, I think, that Jakup Krasniqi was part of the KLA  
20 delegation to those negotiations?

21 A. That is correct. The KLA was able to name its five  
22 representatives in that delegation.

23 Q. Yes. And the LDK also had five representatives, if --

24 A. Yes.

25 Q. -- I'm right?

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1 A. And then the third grouping of the non-LDK political actors also  
2 had five.

3 Q. Quite. The negotiations began on 6 February 1999?

4 A. If you say so. I can't recall which exact date --

5 Q. Of course.

6 A. -- it started, but it was February, yeah.

7 Q. Of course. But your role in particular was spending time with  
8 the Albanian delegation. That's --

9 A. I was a liaison, yes. And I was even the one who was contacted  
10 by Hashim Thaci saying, "Okay, we're in front of the door." Because,  
11 unlike Jakup Krasniqi, who was driven by KVM to Prishtine airport and  
12 flown out together with Rame Buja, if I'm not mistaken, those who  
13 were sort of inside Kosovo at the time were flown out and flown back  
14 in after Rambouillet.

15 Q. Yes. And they flew out with the LDK delegation, did they? They  
16 all arrived together.

17 A. Yes. I think in a French military plane or government plane,  
18 yeah.

19 Q. At the negotiations themselves, the Albanian delegation split  
20 into working groups. That's right, isn't it?

21 A. Yeah.

22 Q. And Jakup Krasniqi was in a working group with Fehmi Agani,  
23 Mehmet Hajrizi, and Blerim Shala; is that correct?

24 A. I wouldn't be able to recall.

25 Q. Very well.



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1 MR. ELLIS: Could I show you then IT-05-87 P02662-E, which we  
2 think has been admitted as 1D00145.

3 Q. And I'm just interested for the moment in the third bullet  
4 point --

5 A. Of course.

6 Q. -- noting that:

7 "The Albanian delegation has formed a working group (Agani,  
8 Hajrizi, Shala, Krasniqi) ..."

9 A. I don't think that the Serbian version is the right version for  
10 this today.

11 Q. Are you able to see that now, sir --

12 A. Yes.

13 Q. -- the third bullet point? Does that refresh your recollection  
14 that this was the composition of one of the working groups?

15 A. Where are you now?

16 Q. At the third bullet point.

17 A. Third bullet. Yeah.

18 Q. And it was this working group that made comments on the draft  
19 agreements; correct?

20 A. Yes, it says so.

21 Q. And of the group, we've already spoken about Fehmi Agani and  
22 Mehmet Hajrizi. Blerim Shala was an independent representative, if  
23 you like. He wasn't from one of the typical groups.

24 A. No. We had -- yeah, that's correct. We had Veton Surroi and  
25 Blerim Shala as two independents in this group as well.

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1 Q. Yes.

2 MR. ELLIS: Can I then show you another document, P02658-E.

3 THE COURT OFFICER: Just for the record, this is the document  
4 that was admitted as 1D00145, not the previous one.

5 MR. ELLIS: Ah. May I check, has the previous document been  
6 admitted?

7 THE COURT OFFICER: No.

8 MR. ELLIS: In that case, Your Honour, I tender the previous  
9 document. I apologise.

10 PRESIDING JUDGE SMITH: Any objection to ...

11 MR. CAPIN: No, Your Honour.

12 PRESIDING JUDGE SMITH: IT-05-87 P02662-E is admitted.

13 THE COURT OFFICER: Your Honours, the document will be assigned  
14 Exhibit 4D00056. Classification is confidential.

15 MR. ELLIS: And could I then have 1D00145 on the screen, please.

16 Q. Sir, you'll remember seeing this document yesterday with, I  
17 think, Mr. Miseti, and it's a document that I think you produced as  
18 a final report on the Kosovo negotiations in Rambouillet; is that  
19 right?

20 A. That is correct.

21 MR. ELLIS: What I'm interested in the final page of the  
22 document, please, page 3.

23 Q. And in passing, we see the date at the bottom there, 25 February  
24 1998. I imagine that's a typing error and that you wrote this on  
25 25 February 1999?

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1 A. Yes. Of course.

2 Q. So very shortly after the conference ended?

3 A. Yes. And apparently I have written it in Vienna.

4 Q. Yes, correct. And you record there that:

5 "Agreement was reached in Rambouillet on an interim government  
6 under the leadership of the KLA (most probable candidate for the post  
7 of prime minister was Jakup Krasniqi who, as opposed to other KLA  
8 delegation members, worked constructively, cooperative and positively  
9 on the Agreement.)"

10 That's what you included in your memo at the time, sir?

11 A. Yes. And I still have the recollection that I had this  
12 impression also during the Rambouillet negotiations about him.

13 Q. And are you able to expand on what gave you the impression that  
14 Mr. Krasniqi worked constructively, cooperatively, and positively?

15 A. He was interested in getting to a final agreement. And we  
16 discussed yesterday with Mr. Misetic the problems of Hashim Thaci to  
17 sign up to the agreement. So we had the feeling that with  
18 Jakup Krasniqi, but also even with other members of the KLA part of  
19 the delegation, that they were more forthcoming of getting to an  
20 agreement already in Rambouillet.

21 Q. And it's right, isn't it, that Mr. Krasniqi worked cooperatively  
22 with other members of the delegation, including the LDK members?

23 A. That was actually a general impression. That contrary to, as I  
24 said, the political jockeying, that the cooperation of this  
25 delegation, despite being assembled and then meeting for the first

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1 time together in Rambouillet, worked -- they worked together.

2 Q. And you were aware at that point that those parties had reached  
3 agreement on the formation of an interim government; correct?

4 A. That is what I wrote here. Of the principle.

5 Q. And at that time you thought Mr. Krasniqi was the most probable  
6 candidate for the post of prime minister; correct?

7 A. This is what I wrote in my report.

8 Q. Was that because he would have been acceptable to LDK and LBD as  
9 well as KLA, sir?

10 A. Most probably. But as I've written here, that he was also for  
11 the non-UCK delegation members somebody who proved to be constructive  
12 and positive.

13 Q. Yes, thank you.

14 A. So this -- this is a mistranslation into English, sorry to say  
15 so, because what I wrote in German is that: Jakup Krasniqi who, for  
16 also non-UCK delegation members, has shown himself as constructive,  
17 cooperative, and positive in the negotiations for the agreement.

18 So it is not "as opposed to other KLA delegation members." This  
19 is not a correct translation.

20 Q. So the correct meaning is that other members of the delegation  
21 had seen Mr. Krasniqi --

22 A. Other members of the delegation who were not UCK were also  
23 sharing this assessment that Mr. Krasniqi showed himself in the  
24 negotiation as constructive, cooperative, and positive.

25 Q. Yes. Thank you for explaining that.

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1           Can I then move ahead in time again to the delegation's return  
2 to Kosovo. And it's right, isn't it, that there were intensive  
3 diplomatic efforts to try and ensure that the agreement was signed?

4           A.    Correct.

5           Q.    And as part of the Contact Group, the UK was part of those  
6 efforts as well as, of course, the Austrian delegation?

7           A.    We were not the Austrian delegation. We were representing the  
8 European Union.

9           Q.    I apologise. You're right to correct me on that, yes. But you  
10 were part of the efforts on the ground in Kosovo to ensure that the  
11 agreement was signed; correct?

12          A.    Yes.

13          Q.    And the UK representatives were part of that as well?

14          A.    I'm sure they did their part as the Americans did theirs.

15          Q.    Indeed. And can I get you to confirm that Sir Brian Donnelly  
16 was the UK ambassador to Serbia at that time?

17          A.    That is correct.

18               MR. ELLIS: Can I take you then to Exhibit 4D00035.

19               THE COURT OFFICER: Your Honours, if I may just make a  
20 correction. The previous exhibit, IT-05-87 P0266, was assigned  
21 4D00056. It should be 4D00057. Apologies for the confusion.

22               PRESIDING JUDGE SMITH: Thank you.

23               Go ahead, Mr. Ellis.

24               MR. ELLIS: Thank you. I was bracing for myself to have gotten  
25 the numbers wrong again. Thank you.

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1           Could we see 4D00035, please. And if we could scroll down to  
2 paragraph 2.

3           Q. I don't expect you to have seen this document before, sir. It's  
4 a British diplomatic cable from that time period. And what I wanted  
5 to ask you about is, firstly, paragraph 2, says they "spent the  
6 weekend in Kosovo talking to a majority of the key Kosovar players at  
7 Rambouillet ..."

8           That would be part of the diplomatic efforts that you were  
9 describing, wouldn't it?

10          A. It would.

11          MR. ELLIS: And if we could go down to page --

12          Q. We can see already in paragraph 3 that the people spoken to  
13 confirmed -- reaffirmed, sorry:

14                 "... their commitment to the agreement that they had  
15 provisionally accepted in Rambouillet ..."

16          Is that consistent with the messaging that you were receiving?

17          A. Sorry, I'm just reading now still. If you give me a moment.  
18 Can you repeat your question, please?

19          Q. Yes. Is it consistent with the messages that you were  
20 receiving, that those individuals were reaffirming their commitment  
21 to the agreement?

22          A. Well, I mean, if I see the list of the persons he met --

23          Q. It's in paragraph 2, Rugova --

24          A. Yes, he must have also gone, if I may say so, into the field to  
25 see Mr. Krasniqi and Buja --

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1 Q. Correct.

2 A. -- because they were certainly not -- the rest was based in  
3 Prishtine.

4 Q. Correct, yes.

5 A. I would not had -- that -- you said it is from 1 March this  
6 cable?

7 Q. I'm not sure I said that. But if we scroll up --

8 A. I looked it up --

9 Q. -- I would there was a date.

10 A. -- when it pulled up the screen. So I would --

11 Q. Yes, 1 March 1999. You are correct, sir.

12 A. I would not probably have shared at that very moment this  
13 assessment, refreshing the positive experience. I think we still had  
14 doubts whether we could win over the KLA to sign up to Rambouillet.

15 Q. And had you already returned to Kosovo by 1 March?

16 A. Whether Belgrade or Kosovo, I don't know.

17 Q. Very well.

18 JUDGE METTRAUX: Mr. Ellis, I don't know if it's material to  
19 your case. Are you sure this is 1 March and not 3 January; in other  
20 words, whether it's the American manner of dating? Because there's a  
21 footer that suggests the 2nd of what would be January.

22 MR. ELLIS: Well, that can't be right because it says:

23 "... the agreement they had provisionally accepted in  
24 Rambouillet ..."

25 So it must be after the delegation's return from Rambouillet.

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1 That's the basis on which I'm operating.

2 JUDGE METTRAUX: Thank you.

3 THE WITNESS: Yeah. And David Slinn was also in Rambouillet, so  
4 he could not have been the same time.

5 MR. ELLIS: Thank you. Could we go to the next page, please.

6 Q. Paragraph 4 records that:

7 "Rugova, Qosja and Krasniqi all ... confirmed their agreement to  
8 work together in a provisional 'government' after an agreement is  
9 signed."

10 Again, had you heard that as of 1 March 1999?

11 A. We were talking just about this -- that this was already an idea  
12 at the end of Rambouillet, so ...

13 MR. ELLIS: Your Honour, I see the time. I think I -- I've  
14 tried to speed up in this section. I think I have around about -- I  
15 have less than half an hour to go, but I do still have material left  
16 to go.

17 PRESIDING JUDGE SMITH: We'll take the 11.00 break now at this  
18 time, Witness. We'll take a half hour. Then you'll come back to the  
19 courtroom to finish up with this Defence team.

20 You may leave the room now. Thank you.

21 [The witness stands down]

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

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

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

25 MR. CAPIN: Your Honour.



1 PRESIDING JUDGE SMITH: Just a second. Get my ears on.

2 Yes, sir.

3 MR. CAPIN: Just taking advantage of the moment before the  
4 witness comes out. I am told on the break that the three exhibits  
5 tendered by Mr. Ellis, in fact, should be deemed confidential after  
6 further review of the provider information. For the record, it's  
7 4D0053, 4D0054, and 4D0055. I think the last we already kept  
8 confidential.

9 PRESIDING JUDGE SMITH: Thank you.

10 MR. CAPIN: Thank you.

11 PRESIDING JUDGE SMITH: Thank you very much. We will reclassify  
12 them as confidential then for the time being.

13 MR. ELLIS: Thank you, Your Honour. I'm grateful for the  
14 clarification.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 [The witness takes the stand]

17 PRESIDING JUDGE SMITH: All right. We will continue now with  
18 the questioning by Mr. Ellis.

19 MR. ELLIS: Thank you, Your Honour.

20 Q. So we had reached, I think, March of 1999, and we've seen  
21 already that on 5 March 1999 you, together with Ambassadors Petritsch  
22 and, for Germany, Pauls, met with Mr. Krasniqi and other KLA members  
23 on 5 March; yes?

24 A. Yes, we have seen the video, and I was shown the transcript.

25 Q. Yes. And I don't think I need to pull it up, but on the

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1 transcript Mr. Krasniqi is recorded as saying:

2 "... in general the standpoint of the KLA and, more importantly,  
3 the people is very positive about the document ..."

4 And "the document" must be a reference to the Rambouillet  
5 Agreement; correct?

6 A. Correct.

7 Q. And that reflects Mr. Krasniqi's consistent position in favour  
8 of the agreement; yes?

9 A. Yes.

10 Q. Were you also involved in the subsequent round of negotiations  
11 in Paris, Witness?

12 A. Yes, I was.

13 Q. And Mr. Krasniqi was again part of the Kosovo delegation?

14 A. I think it was the same delegation as we had in Rambouillet.

15 Q. Exactly. But unlike Rambouillet, following the Paris  
16 negotiations, the KLA delegation were not able to return to Kosovo.  
17 That's right, isn't it?

18 A. That could well be, yes.

19 Q. And in terms of Mr. Krasniqi's whereabouts, were you aware that  
20 he was in Albania for the period between March and June 1999, apart  
21 from some visits to western Europe in April?

22 A. Yeah, would -- it would be logical. I'm just now trying to  
23 scramble in my head whether I met him in Tirana, because I was  
24 visiting Tirana also during the bombing once or twice.

25 Q. Did you meet him in Austria on 5 April -- sorry, 9 April 1999?

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Cross-examination by Mr. Ellis

1 A. Could well be.

2 MR. ELLIS: Your Honours, could we move into private session due  
3 to some provider restrictions.

4 PRESIDING JUDGE SMITH: Into private session, please,  
5 Madam Court Officer.

6 [Private session]

7 [Private session text removed]

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Witness: Jan Kickert (Resumed) (Private Session)

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Cross-examination by Mr. Ellis

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Witness: Jan Kickert (Resumed) (Private Session)

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Cross-examination by Mr. Ellis

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Cross-examination by Mr. Ellis

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Witness: Jan Kickert (Resumed) (Private Session)

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Cross-examination by Mr. Ellis

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Witness: Jan Kickert (Resumed) (Private Session)

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Cross-examination by Mr. Ellis

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Witness: Jan Kickert (Resumed) (Private Session)

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Cross-examination by Mr. Ellis

1 [Private session text removed]

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12 [Open session]

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

15 MR. ELLIS: Thank you.

16 PRESIDING JUDGE SMITH: Thank you.

17 You may proceed, Mr. Ellis.

18 MR. ELLIS: Thank you, Your Honour.

19 Could we move then to 1D00148, which is a document you were  
20 shown yesterday by Mr. Misetic.

21 Q. Whilst that's being displayed, Witness, this was the US cable  
22 recording a meeting between Ms. Albright and Mr. Krasniqi.

23 MR. ELLIS: And if we could go to paragraph 7 on the document,  
24 please.

25 Q. This was, I think, the page that you looked at yesterday, and it

Witness: Jan Kickert (Resumed) (Open Session)

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1 shows, doesn't it, that Mr. Krasniqi's first request was  
2 humanitarian, in relation to the provision of food and medicine; yes?

3 A. Yes.

4 Q. He was also seeking or requesting arming the KLA to defend and  
5 protect the Kosovo people, as it records there?

6 A. If there would not be some international ground troops being  
7 sent into Kosovo, yes.

8 Q. Correct. And also diplomatic recognition of the new Provisional  
9 Government of Kosovo; yes?

10 A. And here stating "led by Hashim Thaqi."

11 Q. Correct. And, again, he records that the government has places  
12 reserved for Rugova's Democratic League of Kosovo; yes?

13 A. Yes.

14 Q. So I would suggest to you that's consistent with the message  
15 that he had conveyed in Austria a few days earlier; yes?

16 A. Yes. I've been present at neither of the meetings.

17 Q. No. But were you aware in April 1999 that Mr. Krasniqi was  
18 moving between Western European countries seeking support?

19 A. Yeah, in general, maybe, yeah, but -- but I was not aware of his  
20 meetings.

21 Q. I appreciate that. I won't put further documents on that to  
22 you.

23 MR. ELLIS: I want to move then to after the conflict in June  
24 1999. Could we have on the screen, please, P01224. And could we --

25 Q. Well, first of all, you, I think, prepared a who's who of the

Witness: Jan Kickert (Resumed) (Open Session)

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Cross-examination by Mr. Ellis

1 Albanian political landscape. Do you recall producing that document?

2 A. Yes, I do.

3 MR. ELLIS: And could we move to the page which is SITF00172950.

4 And if we could -- well, at the bottom of that page -- sorry, if we  
5 could scroll back up.

6 Q. Do you see at the very bottom of your screen now as the Minister  
7 of Reconstruction and Development Jakup Krasniqi?

8 A. Yes, I do.

9 Q. So you're aware at that time that that was the ministry  
10 Mr. Krasniqi was involved with; yes?

11 A. Yes.

12 Q. And were you aware that Mr. Krasniqi was put forward for that  
13 role by the LBD, not by the KLA?

14 A. No, I was not aware.

15 MR. ELLIS: If I could show you a document, which is 019662 to  
16 019663. You should be seeing a BBC article from 2 April 1999. And  
17 if we could scroll down, please, it has a number of posts within the  
18 provisional government.

19 Q. And it records:

20 "Minister of Reconstruction and Development - no name given,  
21 ministerial post belongs to LBD."

22 Were you aware at the time that different posts were being  
23 shared between the different political groupings, sir?

24 A. Yes, we were looking at it, logically, because at that time I  
25 was working for the UN already. And the UN, under Security Council

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1 Resolution 1244, had the mandate to govern Kosovo. So this was a  
2 structure which we believed is a competition to the UN and the UN's  
3 mandate. So a lot of my work then was to negotiate and get them for  
4 a buy-in what we then dubbed the Joint Interim Administration  
5 Structure, the JIAS.

6 Q. But that came a little later, I think --

7 A. That came a bit later.

8 Q. [Overlapping speakers] ...

9 A. But this was at the beginning. I just tried to explain the ...

10 Q. I am grateful for the explanation. But it presumably wouldn't  
11 surprise you that Mr. Krasniqi would be associated with a ministerial  
12 post belonging to the LBD because your own memo noted his links to  
13 the LBD; correct?

14 A. Correct.

15 Q. And this document records that:

16 "Even after postponing the deadline several times, the LDK still  
17 did not send the proposals envisaged in the agreement."

18 So it's right, isn't it, that it was the LDK which didn't  
19 nominate its people for posts at that time?

20 A. As I was saying yesterday, the LDK was in disarray at that time.  
21 Mr. Rugova was discredited. His confidence were scattered, so it  
22 took a while until they could reorganise and regain a bit of their  
23 position.

24 Q. Thank you.

25 A. So it's not surprising that they didn't bring forward any names.

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1 Q. I see.

2 A. If ever they were willing to.

3 Q. And at the top of that page, in terms of deputy prime ministers,  
4 it identifies Mehmet Hajrizi of the LBD and, again, the post of the  
5 LDK remains vacant. That's consistent with what you just said, isn't  
6 it?

7 A. Yes, I'm reading the same as you do.

8 Q. Very well.

9 MR. ELLIS: I tender the BBC article, Your Honours.

10 JUDGE GAYNOR: Just for accuracy, am I right in understanding  
11 this is the text of a statement issued by the Government of Kosovo  
12 broadcast by Albanian TV on 2 April and it was picked up by BBC  
13 Monitoring? Is that accurate?

14 MR. ELLIS: It says at the top of the first page:

15 "Text of announcer-read statement issued by the Government of  
16 Kosova, broadcast by Albanian TV on 2nd April," Your Honour.

17 JUDGE GAYNOR: Right. So it's from BBC Monitoring. It's not a  
18 BBC article; isn't that correct?

19 MR. ELLIS: Yes, I suppose that's --

20 JUDGE GAYNOR: Yes, thank you.

21 MR. ELLIS: -- correct. It's picked-up reporting, yes. I still  
22 tender --

23 PRESIDING JUDGE SMITH: Any objection to the article?

24 MR. CAPIN: No, Your Honour.

25 PRESIDING JUDGE SMITH: 019662 to 019663 is admitted.

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Cross-examination by Mr. Ellis

1 THE COURT OFFICER: That document will receive Exhibit 4D00060.

2 It's classified as public.

3 MR. ELLIS: Thank you.

4 Q. In your who's who, you identified the deputies of Mr. Krasniqi  
5 in the Ministry of Reconstruction and Development as Muje Gjonbalaj  
6 and Nagip Murati; is that right?

7 A. We can pull it up, but I think it was -- if I now remember  
8 correctly, having glanced it, it was with a question mark.

9 Q. That's correct, yes. Was the question mark because you weren't  
10 sure that they were the deputies or you weren't sure of what party  
11 they had belonged to?

12 A. No, no. It wasn't sure whether they were at this position.

13 Q. I see. You didn't then have interaction with those two  
14 individuals; is that right?

15 A. Can I see their names again?

16 Q. Yes, of course.

17 MR. ELLIS: It was on your who's who, which was P1244, and it  
18 was the page ending 950.

19 THE WITNESS: Neither name rings a bell of the deputies.

20 MR. ELLIS:

21 Q. Very well. Now, you would have seen the condition that Kosovo  
22 was in after the conflict.

23 MR. ELLIS: Can I show you, please, a couple of documents. The  
24 first is SPOE00305417.

25 Q. And it would be right that ECMM were still in the field and

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Cross-examination by Mr. Ellis

1 reporting in July 1999?

2 A. Apparently.

3 Q. Could we look together at paragraph 6, please. This is -- were  
4 you aware at the time, sir, that reports were being carried out into  
5 how many shelters had been damaged?

6 A. Yes.

7 Q. And, indeed, this is reporting that initial survey suggested  
8 almost 120.000 homes damaged, 77.000 suffering serious damage or  
9 complete destruction.

10 And further down, 40 per cent of villages were reporting that  
11 their quantity and quality of water was inadequate.

12 Is that consistent with what you were hearing at the time?

13 A. Yes. I mean, we had -- in the UN, we had four pillars. The  
14 humanitarian pillar was taking care of the UNHCR. But the EU, with  
15 its ECHO, its humanitarian arm, was present even during the conflict  
16 in 1998, and they also did their reports on destruction. And there  
17 was a race against time before the onset of winter of at least  
18 getting temporary shelter or temporary coverage of houses. So to  
19 winterise them, as it's said, so that the people could survive  
20 winter. Many houses were burnt out, the roofs destroyed, and I  
21 witnessed it going around Kosovo at that time.

22 Q. Yes.

23 A. I even went to the house where I met Hashim Thaci, which was  
24 also destroyed in Banje, and I was able to help with the delivery of  
25 a roof for this house.

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1 Q. And it was a serious concern for everybody at the time because,  
2 as you say, everybody feared winter approaching and people being left  
3 without shelter at that time; yes?

4 A. Absolutely.

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

6 MR. CAPIN: No objection.

7 PRESIDING JUDGE SMITH: Is that not already admitted?

8 MR. ELLIS: I don't believe so, but I'm sure I'll be corrected.  
9 It's SPOE00305417 to 419.

10 THE COURT OFFICER: [Microphone not activated].

11 PRESIDING JUDGE SMITH: All right. Any objection to that?

12 MR. CAPIN: No, Your Honour.

13 PRESIDING JUDGE SMITH: That document as stated is admitted.

14 THE COURT OFFICER: Your Honours, SPOE00305417 to 00305419 is  
15 admitted as 4D00061. Classification is confidential.

16 MR. ELLIS: And could we then have on the screen SPOE00305422 to  
17 423. And if we could move --

18 Q. This, as you will see, sir, is dated 26 July 1999 and again  
19 within the ECMM.

20 MR. ELLIS: And if we could move to the section headed  
21 "Economic," which I think is on page 305423.

22 Q. And what I see there, sir, is that there was an assessment of  
23 the electricity needed in Peje showing that 8.000 houses out of  
24 11.000 are destroyed. The intention was to deliver electricity to  
25 all the remaining locations in less than ten days, but the estimate



1 was that five years would be needed to restore the entire net if no  
2 international help is provided.

3 Were you also aware of the concern at the time to ensure that  
4 the homes had shelter and electricity?

5 A. Yeah, sure. I mean, there were electricity outages throughout  
6 Kosovo constantly during the winter of 1999, 2000. I remember that I  
7 had to sleep in the office at times because my accommodation was  
8 bitter cold.

9 MR. ELLIS: Your Honour, I tender that document.

10 PRESIDING JUDGE SMITH: Any objection?

11 MR. ELLIS: The two pages.

12 MR. CAPIN: No objection.

13 PRESIDING JUDGE SMITH: SPOE00305422 to 00305423 is admitted.

14 THE COURT OFFICER: Your Honours, the document will receive  
15 Exhibit 4D00062. Classification is confidential. Thank you.

16 MR. ELLIS:

17 Q. And the reality is at that time there was a lot of work for the  
18 Ministry of Reconstruction and Development to be involved in, wasn't  
19 there?

20 A. Well, the work was done by the international community foremost.  
21 As I said, we had a pillar, one of the four pillars of the UN  
22 administration, UNHCR. There were international actors on the  
23 ground. I don't know to which extent there was a cooperation with  
24 the Ministry of Reconstruction at all.

25 Q. You weren't involved in that issue yourself?

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Cross-examination by Mr. Ellis

1 A. Not at all.

2 Q. I see. Were you aware of a donor conference on rebuilding in  
3 the Balkans on 20 September 1999 in Washington?

4 A. It could well have been. As I told you, in the moment we had a  
5 bigger mission, like the UN. There was a division of labour, and I  
6 was not dealing with either security nor humanitarian affairs nor  
7 civil administration.

8 Q. Very well. So it could be that Mr. Krasniqi was engaging with  
9 the UN on those issues. You wouldn't know?

10 A. I wouldn't know.

11 Q. Very well. I want to finish by dealing with a photograph you  
12 were shown by the Prosecution both in your preparation session and  
13 again at the start of your evidence.

14 MR. ELLIS: It's SPOE -- it's now admitted as P01228.

15 Q. Now, it's said by the Prosecution that this is a document seized  
16 from Mr. Krasniqi's house. There's an ongoing dispute about the  
17 search and seizure which I won't go into with you, sir. But this was  
18 not a document --

19 A. I was not aware of the origin --

20 Q. No.

21 A. -- of this photo when I was shown it.

22 Q. And you hadn't ever seen it before when you were shown it?

23 A. No, I hadn't.

24 Q. It follows, doesn't it, that you would have no idea when or how  
25 this photograph came to be in Mr. Krasniqi's house, if indeed it did?

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Cross-examination by Mr. Ellis

1 A. Of course not because I've seen it first time ten days ago.

2 Q. Yeah. And you personally haven't visited Mr. Krasniqi in his  
3 home, have you?

4 A. I would not -- I would not think so. I visited a lot of my  
5 interlocutors at their homes throughout Kosovo, but I don't think I  
6 did meet Mr. Krasniqi at home.

7 Q. No. So you wouldn't be able to say if there were or if there  
8 are other photographs of Mr. Rugova in Mr. Krasniqi's house? You  
9 can't help either way on that, can you?

10 A. No.

11 Q. It is right, though, that this photograph does not show the  
12 complete Albanian delegation from Rambouillet.

13 A. That is --

14 Q. We're missing, for example, Edita Tahiri and others; yes?

15 A. Yes. I was stating that Edita Tahiri. I don't see Rexhep  
16 Qosja. So it is just a part of the delegation, a big part but not  
17 the total part.

18 Q. And it follows, doesn't it, that if Mr. Krasniqi or anyone else  
19 from the KLA delegation didn't want to be photographed with Rugova,  
20 they could have simply left the image; yes?

21 A. Well, I mean, this is a suggestive question.

22 Q. Of course.

23 A. This is a photo which seems that everybody was willing taking  
24 part in.

25 Q. And am I right in recognising Mr. Rame Buja of the KLA next to

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1 Mr. Rugova?

2 A. That is correct.

3 Q. And if you could help me with the other LDK members in the  
4 photograph. Fehmi Agani is photographed there, isn't he?

5 A. He is. Just from our point of view, right of Mr. Rugova is  
6 Skender Hyseni, who was an adviser, a close adviser to Mr. Rugova.  
7 Fehmi Agani is there. And next to Mr. Krasniqi, that could be -- the  
8 elderly gentleman could be one of the -- the representative of the  
9 Christian Democratic Party --

10 Q. Can I --

11 A. -- affiliated to the LDK.

12 Q. Can I suggest to you that that could be Idriz Ajeti affiliated  
13 to the LDK at that time?

14 A. Could be, yeah. But I didn't have so much interaction with him  
15 to remember.

16 Q. I see. But as far as we can tell on the photograph, there's no  
17 mark against Mr. Agani or Mr. Ajeti or other LDK representatives;  
18 yes?

19 A. As we can see.

20 Q. Very well.

21 MR. ELLIS: I want to show you finally DJK00798 to be  
22 accompanied with -- the original is DJK00798 and the English  
23 translation has ET after it.

24 Now, we spoke towards the start of your evidence about a  
25 gentleman called Milazim Krasniqi, and you'll recall that, I think,

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Cross-examination by Mr. Ellis

1 your witness statement identified him as a close ally of Rugova; yes?

2 A. At the time.

3 Q. Now, what you are seeing on the screen is Milazim Krasniqi's  
4 published reaction to the introduction of this photograph yesterday.  
5 And there are a couple of features of it to which I wanted to draw  
6 your attention.

7 The first is that it records that Mr. Krasniqi was chair of the  
8 LDK branch in Drenas. You've already said that he was part of the  
9 LDK formerly. Were you aware of his chairmanship of the LDK branch  
10 in Drenas?

11 A. No.

12 Q. Very well. Continuing further down, it states that:

13 "Meanwhile, in Rambouillet, Jakup Krasniqi was accepted as a  
14 candidate for prime minister of a joint government by Rugova  
15 himself."

16 That's consistent, isn't it, with the reporting that we looked  
17 at earlier about the proposals for an interim government at  
18 Rambouillet; yes?

19 A. I wouldn't be able to confirm "by Rugova himself." He was  
20 accepted as a candidate for prime minister by the delegation. As we  
21 have also seen in the British cable, Mr. Rugova was, if you put it  
22 mildly, passive in Rambouillet. So he was not existent as a factor  
23 there at all. We were rather talking to other LDK members on  
24 substance, not to him at all.

25 Q. Quite. And it continues:

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Cross-examination by Mr. Ellis

1 "During the bombings, on May 1, 1999, a delegation of the LDK  
2 met Jakup Krasniqi in Tirana (at Meriman Braha's apartment) with the  
3 aim of finding spaces for rapprochement and cooperation between the  
4 LDK and the KLA in those circumstances. Jakup Krasniqi was very  
5 constructive even in that meeting. He did not say a bad word about  
6 Rugova in that meeting."

7 Were you aware that in May 1999 in Tirana there were meetings  
8 between members of the LDK and members of the KLA with an attempt to  
9 work cooperatively together?

10 A. No, I was not aware. I was also going to Tirana, and I met with  
11 members of the delegation. In this case, in Tirana, it was mostly  
12 Xhavit Haliti from the UCK part of the delegation. But I can't  
13 recall any LDK-UCK meetings that I was aware of at the time.

14 Q. Very well. This member of the LDK recording that "Jakup has  
15 always been a person with high integrity" is consistent with what you  
16 recorded in your memo after the conference that you had heard from  
17 other parts of the KLA delegation; correct?

18 A. That is correct.

19 MR. ELLIS: I tender the document, Your Honours.

20 MR. CAPIN: Objection, Your Honour. I don't think it serves the  
21 Court's purpose to have contemporaneous outside commentary on the  
22 proceedings added to the record. So it's -- basically it's a  
23 relevancy and foundation objection.

24 MR. ELLIS: Well, may I respond, Your Honours?

25 PRESIDING JUDGE SMITH: [Microphone not activated].

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Cross-examination by Mr. Ellis

1 [Trial Panel confers]

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 Yes, Mr. Ellis. You had --

4 MR. ELLIS: So the Prosecution choose to adduce a photograph  
5 found during the search with no foundation whatsoever through this  
6 witness and then object straightaway to the Defence's attempts to  
7 respond immediately to that.

8 The photograph has been admitted. The response to it from  
9 Milazim Krasniqi should be admitted as well. But in any event, the  
10 parts that I took the witness through today are parts relevant to  
11 events in 1998 and 1999 involving my client, Mr. Krasniqi, and his  
12 contacts with the LDK.

13 PRESIDING JUDGE SMITH: Yes. As far as I'm concerned, the  
14 beginning parts are irrelevant and should not be -- and look a bit  
15 manufactured, but the rest of it is relevant and we will allow the  
16 exhibit.

17 MR. ELLIS: Thank you, Your Honour. That concludes my cross.

18 PRESIDING JUDGE SMITH: We need to mark the exhibit or give the  
19 exhibit an exhibit number.

20 THE COURT OFFICER: Your Honours, document DJK00798 and its  
21 English translation will receive Exhibit 4D00063. It's classified as  
22 public.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 Redirect.

25 MR. CAPIN: If I may, Your Honour. A single line.

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Re-examination by Mr. Capin

1           PRESIDING JUDGE SMITH: [Microphone not activated].

2                               Re-examination by Mr. Capin:

3       Q.     Good afternoon, Mr. Kickert.

4       A.     Good afternoon.

5       Q.     Counsel for Mr. Thaci and Mr. Veseli both asked you questions  
6 yesterday about the timing of the first two meetings in July 1998 you  
7 had with KLA leadership. Do you recall those lines of questioning?

8       A.     Yes, I do.

9       Q.     And among the questions Mr. Emmerson put to you was about  
10 corrections that you made when you and I met to your ICTY testimony  
11 in the Limaj proceeding. Do you recall those questions?

12      A.     Yes, I do.

13      Q.     I'd like to ask you a few questions just to set the record clear  
14 so that we know, and I think we should start with what you are trying  
15 to correct in the Limaj matter.

16           MR. CAPIN: Can we please see, Madam Court Officer,  
17 Exhibit P01209.

18      Q.     What you're about to see, Mr. Kickert, is a portion of your  
19 testimony in Limaj.

20           MR. CAPIN: And if we could go to page 669, please. And,  
21 Madam Court Officer, if we could focus on lines 16 through 18,  
22 please.

23      Q.     So do you see, Mr. Kickert, where it says, on line 13, it says:

24           "... when we finished yesterday we were finishing with your  
25 first meeting with the KLA, sometime in late July, I think you said,



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Re-examination by Mr. Capin

1 1998. When was the next time that you met with members of the KLA?"

2 And your response was:

3 "I believe it was ... the very next day ..."

4 Was what you were trying to correct when you and I met and on  
5 other occasions --

6 MR. MISETIC: Objection, it is leading. You should just ask him  
7 what was he trying to correct.

8 PRESIDING JUDGE SMITH: Yes.

9 MR. CAPIN:

10 Q. What were you trying to correct?

11 A. I was trying to correct the dates of the meetings I had after  
12 being presented with documents which clearly stated that the meeting  
13 which I erroneously thought was the very next day of -- the meeting  
14 with the Secretary-General and Number 7 was actually not then but  
15 later on. So I think that my point was that testimony based on  
16 documents should be more credible than a testimony based just solely  
17 on memory.

18 MR. CAPIN: Can we please see in the same exhibit,  
19 Madam Court Officer, page 749. And looking at the top of the page  
20 through about line 17, please. That should do.

21 Q. And do you see that you're asked here about three meetings: The  
22 22nd, 23rd, and 30th? And later, on line 13, the question is:

23 "And the second meeting on the 23rd ... effectively the day  
24 after, that was [the] meeting with Mr. Thaqi and Mr. Veseli."

25 Was there something about that that you wanted to correct?

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Re-examination by Mr. Capin

1 A. Yes. I mean, I was also presented at the time with the reports,  
2 so it was clear through a report of mine that I met Number 3 and  
3 Number 7 on the 23rd. So then I tried to re-establish because my  
4 memory confounded that the meeting with 3 and 7 happened after the  
5 Secretary-General's meeting with Number 7. But instead, the  
6 immediate meeting I had after Secretary-General Rohan met was on the  
7 30th with Mr. Krasniqi. That was the meeting I had which in my mind  
8 was stuck as the day after the Secretary-General left. That was on  
9 the 29th where we had the troika there, political directors of the  
10 UK, of Germany, and the Secretary-General of the Austrian foreign  
11 ministry, and which was unable to meet KLA representatives.

12 Q. So to be clear, your second meeting with KLA leadership, the one  
13 with Number 3 and Number 7, was not immediately the day after your  
14 first meeting; is that right?

15 A. That is correct.

16 Q. And did you try to make the same correction -- did you, in fact,  
17 make the same correction in your SPO statement? And just before you  
18 answer that.

19 MR. CAPIN: We're going to show you, if I may,  
20 Madam Court Officer, Exhibit P01210 at paragraph 20. The ERN of that  
21 page is 075998. If you could scroll down, please, and focus on 20.  
22 Thank you.

23 Q. Do you see paragraph 20 of your SPO statement in front of you,  
24 Mr. --

25 A. Yes, I do.

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Re-examination by Mr. Capin

1 Q. -- Kickert?

2 A. This is exactly what I was trying to explain. Once I was  
3 presented with the 10 July ECMM report, I understood that I was  
4 mistaken. That the meeting between Secretary-General Rohan and  
5 Number 7 was not on 22 July but on or just prior to 10 July,  
6 according to the ECMM report.

7 Q. So -- and I note you say after -- on the second line of  
8 paragraph 20, after saying that you believe you were mistaken, you  
9 say:

10 "Having been shown a 10 July 1998 ECMM daily report describing  
11 this meeting, I believe that this meeting actually took place on or  
12 about 10 July 1998."

13 Is that what you just alluded to and what you tried to  
14 communicate yesterday?

15 A. Yes, indeed.

16 Q. So am I correct that it only -- strike that. Is the only  
17 correction you intended to make to this the date of the Veseli and  
18 Gani Krasniqi meeting; i.e., the date of your very first meeting in  
19 July with KLA?

20 A. Yes.

21 Q. And if we --

22 MR. CAPIN: Can we please see Exhibit P01222, which is the  
23 redacted Prep Note 1 at paragraph 5, please. Paragraph 5, please.  
24 Thank you.

25 Q. You see there, jumping to the text, it says:

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Re-examination by Mr. Capin

1            "... the meeting with Hashim Thaci and Kadri Veseli referred to  
2            took place on or about 9 or 10 July, not on 22 July."

3            If we took the words "Hashim Thaci" out of that sentence, would  
4            it be accurate?

5            A.    Yes.

6            Q.    And is that in fact the correction you intended?

7            A.    Yes.

8            Q.    When we were on this -- when on this topic yesterday,  
9            Mr. Emmerson asked you -- and this is the transcript page 16210,  
10           starting at line 17. He asked you -- the quote was:

11           "... what does your memory tell you?"

12           And you explained -- you tried to explain the mistakes you just  
13           described in your Limaj testimony, and you said that you learned  
14           those through the documents, "I believe that this has been ... sorted  
15           out." Was that a reference to that ECMM report of 10 July and your  
16           report of later in the month?

17           A.    Yes. We have two reports, one of the ECMM of 10 July and then  
18           my own report, I think that was 23 July. So -- July 24th, thank you.  
19           About the 23 July meeting written on the 24th.

20           Yes. So I thought that this is now sorted out because we have  
21           two documents, two reports which clearly state that the meetings took  
22           place.

23           Q.    And because we want to make sure that the record is crystal  
24           clear, we're going to look just for one moment at those two  
25           documents.

1 MR. CAPIN: Can we please see Exhibit P0216. I'm sorry, I think  
2 I may have given wrong cite. It is an ECMM report, the ERN of which  
3 is -- I'm sorry, Your Honour.

4 Madam Court Officer, was that P0 -- maybe I misspoke. P01216.  
5 I think I omitted the 1. There we are. Thank you.

6 Q. We're not going to go through the whole document, but the  
7 document in front of you, is this the much vaunted 10 July 1998 ECMM  
8 memo?

9 A. Yes, it is.

10 Q. And I notice that it makes reference to Secretary-General Albert  
11 Rohan. Is this report documenting the meeting you described  
12 yesterday, the one that you were accompanied -- on which you  
13 accompanied Secretary-General Rohan to meet with Number 7?

14 A. Yes, it was.

15 Q. And that was your first meeting with KLA in July 1998?

16 A. Yes, it was.

17 Q. Now, when Mr. Emmerson was asking you about this yesterday, he  
18 suggested - this is at transcript 16211, starting at line 15 - that:

19 "... sometimes there are typing or date errors that creep into  
20 documents."

21 So I just have a couple final questions about the ECMM report  
22 and the other report to see if there are any indications after such  
23 creeping typing or other types of errors.

24 This is a -- am I correct that this is a 10 July 1998 daily  
25 report from the entity identified on the front line?

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Re-examination by Mr. Capin

1 A. Yes, it is.

2 MR. CAPIN: Can we please go to page 3, the middle of the page.

3 Q. So, sir, this is a three-page document of which more than half  
4 conveys media reports, starting on page 2 and going through the  
5 remainder of the document. And we can go through each one, but I  
6 think, absent an objection, I'll point out that each one of these  
7 media reports refers to either 10 July or, in the body of it, 9 July.

8 MR. EMMERSON: Sorry, Your Honour, there is no objection.

9 Indeed, there is no dispute that the first meeting took place on  
10 10 July. That's not in dispute.

11 MR. CAPIN:

12 Q. So the question, sir, is noting that each of these media  
13 references refers to either 10 July or 9 July, in your experience  
14 with such daily reports, do they tend -- when they allude to media  
15 information, do they tend to refer to media in the news on or about  
16 the day of the report?

17 A. Yes, because they're daily reports.

18 Q. So the fact that these reports -- the media allusions to 9 or  
19 10 July suggests that, in fact, there is no error in the date of this  
20 report; correct?

21 A. This is my assumption.

22 Q. And, finally, just looking at your report, sir.

23 MR. CAPIN: Madam Court Officer, if we could see P01217-ET.

24 Q. So, sir, I note that the report is dated 24 July 1998. And  
25 you're the author; correct?

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Re-examination by Mr. Capin

1 A. That is correct.

2 Q. And if we could scroll down slightly, under the title -- caption  
3 "Government of national unity or round table," it states:

4 "The embassy reports that it met with high-ranking  
5 representatives of the KLA, numbers 3 and 7 ..."

6 And then it gives the date of 23 July.

7 Was that you reporting a meeting with Number 7 and Number 3 that  
8 happened the day prior?

9 A. Yes. The report was -- as I was just corrected by Mr. Emmerson,  
10 the report was written on 24 July, and the first paragraph is about a  
11 meeting with Number 3 and Number 7 on 23 July in Malisheve.

12 Q. And is there any doubt in your mind that the day on that report  
13 is correct?

14 A. No doubt.

15 Q. And just to emphasise the point.

16 MR. CAPIN: If we go to the top of page 2 on the same document,  
17 please.

18 Q. The paragraph beginning: "According to Shala ..." makes  
19 reference to:

20 "... who is in Pristina again today ..."

21 In parentheses, it says "24 July"; correct?

22 A. Mm-hmm.

23 Q. And that confirms that you, in fact, did write this report on  
24 that day?

25 A. Yes, because I met Mr. Shala after returning from Malisheve on

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1 the 23rd in the evening and before returning to Belgrade, and he told  
2 me that he would be going into the field, as we call it, the very  
3 next day.

4 MR. CAPIN: Nothing further, Your Honour.

5 Q. Thank you, sir.

6 PRESIDING JUDGE SMITH: Thank you.

7 Judge Barthe.

8 JUDGE BARTHE: Yes, thank you, Judge Smith.

9 Questioned by the Trial Panel:

10 JUDGE BARTHE: And good afternoon, Mr. Kickert.

11 A. Good afternoon.

12 JUDGE BARTHE: I hope you can hear me well.

13 A. I can.

14 JUDGE BARTHE: The Panel has a few more questions for you which  
15 we believe are necessary to fully understand what happened in Kosovo  
16 in 1998 and 1999. And for this purpose, I would like to go through  
17 the record of your SPO interview from January 2020 with you.

18 My first questions are about paragraphs 11 and 12 of the record,  
19 where you talked about a meeting with Adem Demaci which took place,  
20 according to paragraph 11, on 6 July 1998. Do you remember  
21 discussing this meeting with the SPO in January 2020?

22 A. Yes. And there exists also a report of mine writing about this  
23 meeting.

24 JUDGE BARTHE: Thank you. In paragraph 12 of your SPO  
25 statement, it is recorded that Mr. Demaci had explicitly said that, I



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1 quote, "he was not the political representative of the KLA, and as a  
2 result it was clear that he was not the political interlocutor [you]  
3 were looking for because he did not represent the KLA."

4 Now, Witness, my question is or I would like to know the  
5 following: Did Mr. Demaci tell you who the political representative  
6 of the KLA was at the time and/or who you should talk to?

7 A. No, he didn't.

8 JUDGE BARTHE: Thank you. My next questions concern the meeting  
9 with Mr. Thaci and Mr. Veseli in Malisheve/Malisevo in July 22  
10 addressed in paragraph 22 and the following of your SPO interview.  
11 And I'm specifically interested in the information contained in  
12 paragraphs 26 and 27 which read as follows, quote, this is from  
13 paragraph 26:

14 "During this first meeting, I mentioned the Geneva Convention  
15 obligations because there had been allegations, mostly in the Serb  
16 press, about the KLA taking prisoners. I actually met colleagues of  
17 the International Committee of the Red Cross ('ICRC') in  
18 Malisheve/Malisevo at this time, and they were also seeking to  
19 establish interlocutors within the KLA to raise international  
20 humanitarian law issues and possibly gain access to any detainees."

21 And now from paragraph 27:

22 "I do not remember specifically what I said to Thaci, but I  
23 would not have raised specific allegations about particular crimes  
24 because I did not have evidence, and I did not trust the propaganda  
25 from either side. However, I would have raised the issue in general

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1 terms of these widely reported allegations of detentions and  
2 abductions and in the context of ICRC access. When I raised these  
3 issues with the KLA, they knew what I was talking about, though they  
4 never addressed the allegations themselves."

5 First of all, am I right in assuming that you were referring to  
6 Mr. Thaci and Mr. Veseli when you said that "they knew what [you  
7 were] talking about, though they never addressed the allegations  
8 themselves"?

9 A. This is a more general remark. So since I don't know what the  
10 response there was at this specific meeting, this was the general  
11 answer we received. In general, it was always told: We are an army,  
12 and we are, of course, therefore respecting the Geneva Conventions.

13 But I could not recall that Mr. Thaci or somebody else was  
14 specifically mentioning it the way it is written in the SPO  
15 statement.

16 JUDGE BARTHE: And why did you make that general remark, or why  
17 did you think that the KLA was aware, that they knew about the  
18 allegations of detentions and abductions by the KLA? Just because  
19 they were widely reported?

20 A. As I mentioned, there were also ICRC members on the ground that  
21 very same day in Malisheve, where I bumped into them, and so they  
22 tried to establish contact after with the KLA. So it is not  
23 something which must have surprised them that this was an issue.

24 JUDGE BARTHE: Did these individuals from the ICRC tell you that  
25 they tried to establish contact or that they actually established --

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1 A. No.

2 JUDGE BARTHE: -- contact with members of the KLA?

3 A. They specifically said they tried to establish contact.

4 JUDGE BARTHE: But you don't know whether they actually  
5 established contact.

6 A. I was not aware because it was not my primary focus. And we  
7 might meet in a restaurant afterwards in the evening, but it was not  
8 something that we would exchange upon.

9 JUDGE BARTHE: Thank you. In your SPO interview you said  
10 that -- and this is in paragraph 26 of the report, that there had  
11 been allegations about the KLA taking prisoners, but these  
12 allegations were mostly articulated or made in the Serb press; is  
13 that correct?

14 A. Yes. As I also stated, there was a lot of propaganda going  
15 around, also from both sides, to be honest, exaggerating. And for  
16 us, it was the difficulty to manoeuvre through and see what we can  
17 establish with facts. That was the main reason also that we tried to  
18 get our monitors on the ground.

19 JUDGE BARTHE: Do you know whether there were also reports about  
20 alleged detentions and abductions by the KLA in the Albanian media at  
21 the time? That is, in summer 1998.

22 A. Probably less, if so.

23 JUDGE BARTHE: Thank you. You said in paragraph 15 of  
24 Preparation Note 2 that your focus was on the Serbian media, is that  
25 right, when you --

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1 A. My portfolio at the embassy in Belgrade was a bit strange. I  
2 was dealing with media, culture, and politically Kosovo.

3 JUDGE BARTHE: And you said you don't speak Albanian; right?

4 A. I do not speak Albanian. I speak some Serbian.

5 JUDGE BARTHE: So you don't know or you were not able to read at  
6 the time media articles or newspaper articles in Albanian?

7 A. No. But there was daily LDK news bulletin which they sent out  
8 to every embassy, and that was the one reason I also said that there  
9 is also propaganda from the Kosovo Albanian side, because there was  
10 allegations that in western Kosovo the area looked like Vukovar. And  
11 this was what I mentioned in my report when I took place or took part  
12 of this diplomatic outing which Belgrade had organised, that we then  
13 decided that I participate to see it with my own eyes. And it was --  
14 also this was grossly exaggerated.

15 JUDGE BARTHE: Thank you. And you further said in your SPO  
16 interview in paragraph 27 that they - and, again, I assume in this  
17 context you were referring to Mr. Thaci and Mr. Veseli because they  
18 were both your interlocutors - never addressed the allegations  
19 themselves, is that right, during your conversation?

20 A. Yeah, I can't recall that -- that we discussed this.

21 JUDGE BARTHE: Did one of the two, either Mr. Thaci or  
22 Mr. Veseli, tell you that they first had to inform themselves about  
23 the allegations or that they had to find out whether the allegations  
24 were true or not?

25 A. No, I can't recall.

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1 JUDGE BARTHE: In paragraph 40 of the record of your SPO  
2 interview, it is stated that you had already noted in your testimony  
3 in the Djordjevic trial that there was -- and I'm quoting from  
4 paragraph 40 of your SPO interview or the report about your  
5 interview:

6 "... '[t]here was just general knowledge of the allegations that  
7 Serb civilians were abducted' and 'there were also allegations which  
8 you would find in the press, in the media, of detention camps which  
9 the KLA had.'"

10 Is this still your evidence?

11 A. I don't have any evidence. It is just coming from media  
12 reports. And there were time and again issues, I think also in the  
13 SPO statement, about journalists being taken into custody for a while  
14 and then released. This was widely reported in the press, in the  
15 Serbian press. And also there were English bulletins of the Serbian  
16 press which included partly also events in Kosovo.

17 JUDGE BARTHE: Thank you. Coming back to paragraph 27.

18 A. Okay.

19 JUDGE BARTHE: The next sentence in paragraph 27 reads, and I  
20 quote:

21 "In response, Thaci stressed that the KLA would respect the  
22 Geneva Convention because they were a regular army."

23 And I would like to know following: During this conversation or  
24 later, did you have any doubts that the KLA was, in fact, able to  
25 comply with the Geneva Conventions as stressed or as promised by

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1 Mr. Thaci?

2 A. Yeah, I was not convinced that the KLA has such a structure that  
3 one person could control the whole organisation.

4 JUDGE BARTHE: And did you mention that to Mr. Thaci and/or to  
5 Mr. Veseli during the conversation in July 1998, that you had doubts  
6 or that you were not convinced?

7 A. That I had doubts on their positions? No.

8 JUDGE BARTHE: No.

9 A. It would have undermined my position.

10 JUDGE BARTHE: I understand. And did Mr. Thaci and/or  
11 Mr. Veseli tell you that the KLA would respect the Geneva Conventions  
12 if the circumstances or the war situation allow it? Was such a  
13 reservation made by one of the two during the conversation?

14 A. I can't remember any qualifier.

15 JUDGE BARTHE: Thank you. In the last sentence of paragraph 27,  
16 it is said that you:

17 "... also communicated the general sentiment that the KLA was  
18 doing a disservice to its cause if it complained about human rights  
19 abuses from the 'Serb oppressors' but then engaged in similar  
20 behaviour."

21 Did Mr. Thaci and/or Mr. Veseli say anything to this in  
22 response? Can you remember that?

23 A. I can't remember.

24 JUDGE BARTHE: Thank you.

25 Mr. Kickert, my next questions are about the first sentence of

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1 paragraph 28, the following paragraph, which reads, I quote:

2 "At the conclusion of this meeting, we believe that we had found  
3 a senior KLA interlocutor we had been looking for in [Mr.] Thaci," or  
4 "in Thaci," as it is said here, "and that, through him, we could  
5 begin the process of integrating the KLA into the political process."

6 In this context, I would like to know the following: Did  
7 Mr. Thaci or Mr. Veseli tell you, during or at the end, at the  
8 conclusion of the meeting, that they would have to confer with or  
9 have to consult someone before they could engage in further  
10 discussions with you?

11 A. No, there was just a general willingness to engage in the  
12 political process. We were not at a stage which we have just  
13 discussed of trying to create a platform of all Kosovo Albanian  
14 factors.

15 The first outreach was simply to see whether the KLA just wanted  
16 to fight or if the KLA did want to engage in a political process, and  
17 that was my job, that was the job of other diplomats, to get them  
18 into the fold of a political process so that the conflict would not  
19 exacerbate.

20 JUDGE BARTHE: I understand. But they didn't tell you that they  
21 first had to ask anybody or to consult with anybody?

22 A. No. They told me that the KLA is willing to engage, but it was  
23 in general terms. It was not something: Okay, are you going to go  
24 together with the LDK? Are you going to go with this person or that  
25 person? These problems started later.

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1 JUDGE BARTHE: Understood. And did they tell you -- maybe your  
2 answer will be no, but I'm asking anyway. Did they tell you that  
3 they had to consult someone before a decision can be made such as  
4 granting the ICRC access to detainees? Did they tell you that?

5 A. I can't recall.

6 JUDGE BARTHE: Thank you.

7 I will now turn to paragraph 30 of your SPO statement. In that  
8 paragraph, it is recorded that, I quote:

9 "As part of the negotiation process, the United States was in  
10 contact with other figures in the KLA besides [Mr.] Thaci, notably  
11 Rrustem Mustafa, [also known as] Commander Remi, who was the  
12 commander in the Llap zone where we, as diplomats, were not going."

13 And my question here is simply this: Why were you not going to  
14 the Llap zone as diplomats? What prevented you from going to the  
15 Llap zone?

16 A. Because we as diplomats were interested in political  
17 interlocutors, and Remi was not a political interlocutor for us.

18 JUDGE BARTHE: So factually you were able to go to the Llap  
19 zone, nobody prevented you from going there, but you thought it was  
20 not --

21 A. It was not good for our purpose. The freedom of movement was  
22 dependent on the day. But I never made an effort to meet Mr. Remi  
23 because it was not for my purpose.

24 JUDGE BARTHE: Understood. And now I have another question in  
25 relation to the last sentence of paragraph 30, which reads:



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1 "In the wake of preparing for the Rambouillet peace conference,  
2 the Americans also came around to recognising [Mr.] Thaci as the main  
3 political interlocutor of the KLA."

4 And my question here is the following: Do you know why the  
5 Americans recognised Mr. Thaci as the main political interlocutor?  
6 Was it because he seemed to be particularly trustworthy or  
7 influential, or was it because as you said -- as you also said in  
8 paragraph 30, no other KLA member could be identified as more senior  
9 in the political process than Mr. Thaci? If you know, of course.

10 A. Yeah, I mean, why did I say they came around? Because there  
11 were in midsummer the efforts by the Americans, as we discussed  
12 earlier, just to -- to make a deal, if you so like, with the LDK,  
13 leaving the KLA aside. And that was a bit of a disagreement with us,  
14 or with me in particular, because we did not believe that this is a  
15 sustainable approach.

16 In the aftermath of this effort, I think they had contact with  
17 various KLA interlocutors who would then probably agree that the one  
18 to involve in the political process is Mr. Thaci.

19 JUDGE BARTHE: Thank you.

20 Now, I would like to move on to paragraph 50 and the following  
21 paragraphs of your SPO interview, where you talked about additional  
22 meetings you had with Mr. Thaci in autumn 1998. And you said, I'm  
23 referring to the last sentence of paragraph 51, that these  
24 meetings -- or:

25 "At these meetings, [Mr.] Thaci and [Mr.] Limaj would be making

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1 the usual demands such as stopping attacks, giving up Serb  
2 checkpoints, the retreat of Serb police, and the return of displaced  
3 persons."

4 And what the Panel would like to know is did Mr. Thaci offer  
5 anything in return on behalf of the KLA; and if so, what?

6 A. I think that our exchange was that we wanted to get to a  
7 cease-fire, that the hostilities stop, also because the civilian  
8 population was suffering the most. That was also in the interest of  
9 the KLA, I believe. And that we could push forward the political  
10 process. But, I mean, it was not that they set a quid pro quo, if  
11 they do that, we do this. I remember now that my memory was  
12 refreshed of the meeting with Jakup Krasniqi that there were -- that  
13 they were willing to stop their offensive actions if certain  
14 conditions were fulfilled. But I think that was a general interest  
15 of the KLA that the security forces from Belgrade, both the Yugoslav  
16 Army and the special police and police units, would stop their  
17 offensive actions.

18 JUDGE BARTHE: But during these meetings in autumn 1998 with  
19 Mr. Thaci and Mr. Limaj, no such offer was made; is that right? As  
20 far as you remember, of course.

21 A. Which kind of offer?

22 JUDGE BARTHE: To stop hostilities or --

23 A. I mean, that was --

24 JUDGE BARTHE: -- attacks on --

25 A. That --

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1 JUDGE BARTHE: -- Serbian --

2 A. -- was the whole purpose, that hostilities stop and we engage in  
3 a political process. A tool of the international community was then,  
4 as we discussed yesterday, to get the OSCE Verification Mission on  
5 the ground, to have it -- a stronger presence, international  
6 presence, so that the hostilities would stop on both sides.

7 JUDGE BARTHE: Thank you.

8 In paragraph 53 and the following paragraphs of your SPO  
9 interview, you spoke about your participation in prisoner  
10 negotiations. And you mentioned, according to the record of your  
11 interview, that you met with Jakup Krasniqi and two members of the  
12 KLA General Staff, namely, Mr. Sokol Bashota and Mr. Rame Buja. And  
13 this is in paragraph 54 of the record of your SPO statement.

14 My first question in this context is this: How do you know that  
15 Mr. Bashota and Mr. Buja were actually members of the KLA  
16 General Staff? Did they tell you this at the time?

17 A. No, it was my assumption.

18 JUDGE BARTHE: It was your assumption?

19 A. Yeah.

20 JUDGE BARTHE: And how did you come to this conclusion or  
21 assumption?

22 A. Maybe contacts with journalists. I mean, this was -- a lot of  
23 exchange was through this way.

24 JUDGE BARTHE: But it was clear to you when you met the three  
25 that the other two, apart from Mr. Krasniqi, were members of the KLA

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1 General Staff, that you were dealing with members of the KLA

2 General Staff?

3 A. I mean, the assumption would be there because if you talk about  
4 a prisoner release, there must be some sort of also military role not  
5 only political.

6 JUDGE BARTHE: And did you know in 1998 and/or in 1999, later  
7 on, who else was a member of the General Staff? Did you know, for  
8 example, whether Mr. Thaci was a member of the KLA General Staff,  
9 Mr. Veseli, Mr. Selimi, or Mr. Krasniqi?

10 A. I mean, the most informative for me myself now, in retrospect,  
11 is the report I've written, which I was shown today. But if I knew  
12 the constellation before, I doubt it.

13 JUDGE BARTHE: Thank you.

14 Mr. Kickert, according to paragraph 68 of your SPO statement,  
15 you told the SPO that in late 1999 and 2000 you met with Mr. Veseli,  
16 Kadri Veseli, although you said you dealt with Mr. Veseli less as he  
17 was the head of intelligence.

18 Can you first tell us, please, how you knew that Mr. Veseli was  
19 the head of the intelligence service? Did he tell you this, or was  
20 it publicly announced or was that public knowledge?

21 MR. EMMERSON: I just -- purely a correction of fact. The  
22 period being referred is not late 1998 but late 1999 and 2000.

23 JUDGE BARTHE: Mr. Emmerson, I think I said, I hope at least I  
24 said, according to the transcript, I said in late 1999 and 2000.

25 MR. EMMERSON: Oh, I do apologise. I heard [Microphone not

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1 activated].

2 JUDGE BARTHE: Not a problem at all.

3 So you heard the time I was referring to is late 1999 and 2000.

4 A. I had European colleagues who were intelligence who met  
5 Mr. Veseli in this capacity. And he was also somebody the  
6 international community would be talking to get some control over  
7 certain elements which were drifting towards organised crime after  
8 the war.

9 JUDGE BARTHE: Do you know how Mr. Veseli got this position?  
10 Particularly who appointed him?

11 A. No.

12 JUDGE BARTHE: Do you know why he was appointed or chosen as  
13 head of intelligence? In other words, what qualified him for the  
14 job?

15 A. No.

16 JUDGE BARTHE: Did you know or do you know now what Mr. Veseli  
17 did or what task or position he had during the war?

18 A. What position he had during the war?

19 JUDGE BARTHE: Yes.

20 A. Well, I mean, he was introduced as Number 7 at that time also as  
21 a political interlocutor, so this is what we were looking for. So we  
22 were assuming that he has also a political role to play in the KLA.  
23 As I said, we were not interested, as diplomats, what their position  
24 was in the army itself or in the military sense. That was none of  
25 our business.

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1 JUDGE BARTHE: I think you made that clear. Let me,  
2 nevertheless, ask you whether you had any information that indicated  
3 that Mr. Veseli had a role in intelligence during the war or played a  
4 role in the intelligence during the war?

5 A. During the war, no. I mean, I met him in a different capacity.  
6 I learned that only after the war, through colleagues, as I said,  
7 that he was dealing with intelligence for, I would say, the former  
8 KLA.

9 JUDGE BARTHE: Were you aware that the KLA allegedly had an  
10 intelligence service during the war, be that a military intelligence  
11 service or civilian intelligence service? Are you or were you aware  
12 of that?

13 A. I wasn't aware but I would not be surprised either.

14 JUDGE BARTHE: I apologise for asking that question again, but  
15 it could be relevant. Do you know whether within the KLA there was a  
16 distinction or would it surprise you if there was a distinction  
17 between an intelligence service responsible for domestic affairs and  
18 one responsible for external, non-domestic affairs, such as, for  
19 example, in Western European countries? Would that surprise you?

20 A. I'm not aware that there was. I know that they -- outside  
21 Kosovo, they were trying to collect funds, but that doesn't  
22 necessarily mean intelligence service. That means that there was a  
23 network to create funds to buy the weapons they needed for their  
24 insurgency.

25 JUDGE BARTHE: Thank you.

1           PRESIDING JUDGE SMITH: We need to break for lunch. We will be  
2 an hour and a half. We'll come back at 2.30 and continue this.  
3 Thank you for being with us thus far. You may leave the room with  
4 the Court Usher.

5                               [The witness stands down]

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

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

8                               --- On resuming at 2.33 p.m.

9           PRESIDING JUDGE SMITH: Before beginning, and following up on  
10 the Status Conference of 27 May and the helpful submissions the Panel  
11 received from all of you, the Panel makes the following orders.

12           First, the Panel orders the SPO to provide further notice of the  
13 streamlining of their case to the Panel and to the parties and  
14 participants no later than 16 September 2024. At that point in time,  
15 the Panel expects to receive clear and detailed accounting of the  
16 steps and measures taken by the SPO to further shorten and expedite  
17 the presentation of its case. At that point, the Panel will also  
18 call a Status Conference to take stock of this matter and to hear the  
19 parties' submissions in respect of the SPO's notice.

20           Second, the SPO is ordered to explore the possibility of  
21 conducting preparation sessions remotely or in person in the state of  
22 residence of suitable witnesses to expedite the process of preparing  
23 and disclosing preparation notes. The Panel takes the view that such  
24 a process might be particularly adequate in respect of: A, crime  
25 base witnesses; B, witnesses whose underlying statements and

1 interviews are limited in size; C, as well as witnesses of a primary  
2 corroborating nature.

3 Third, upon receiving preparation notes of a witness, each  
4 Defence team will within 24 hours notify the Panel and the SPO of any  
5 change in its cross-examination estimate.

6 Fourth, the SPO will take necessary steps to ensure, to the  
7 extent possible, that no scheduled court day is wasted. The SPO  
8 should give consideration to having at least one backup witness for  
9 relevant weeks.

10 Fifth, the Defence is ordered to provide realistic estimates of  
11 cross-examination time within three working days of receiving  
12 indications of the next group of witnesses to be called by the SPO in  
13 the next three-week block of witnesses.

14 In respect of those witnesses who will start testifying on 24  
15 June 2024, the Defence shall provide such estimates no later than  
16 12 June 2024. The Panel will review the Defence estimates and, where  
17 necessary, provide its own estimates of adequate cross-examination  
18 time and impose a time limit based on relevant factors if  
19 inconsistent with the Defence's estimates.

20 Where the Panel considers it necessary to reduce the estimate  
21 for cross-examination time of a witness, it will communicate that  
22 promptly to the parties and participants. The Panel's time limit  
23 will provide the basis on which the SPO should base its scheduling of  
24 witnesses. In addition, the Defence shall prepare its  
25 cross-examination based on the Panel's time limit and shall seek any



1 extension at the time of cross-examination with adequate  
2 justification for such extension.

3 Sixth, as soon as the SPO has formed the view that it will not  
4 call a particular witness, it shall give prompt notice of that fact  
5 to the Panel and to the Defence.

6 Seventh, regarding crime-base witnesses, the SPO is directed to  
7 consider the possibility of tendering their evidence pursuant to  
8 Rule 153. The Panel notes that such provision is particularly  
9 helpful where, A, the proposed evidence is primarily or exclusively  
10 of a corroborative nature; or, B, where the evidence in question is  
11 not in dispute.

12 Prior to filing any Rule 153 application, the SPO should first  
13 consult with the Defence whether there is any objection to it.

14 Lastly, consistent with the suggestion made by the Thaci  
15 Defence, the Panel orders the SPO to file a detailed roadmap of its  
16 plan to present its case until April 1, 2025. The roadmap is to be  
17 provided to the Panel on an *ex parte* basis no later than 21 June  
18 2024. It shall provide detailed information about the following:  
19 One, the witnesses the SPO plans to call during that period in their  
20 approximate order; two, the number of expected hours of  
21 examination-in-chief for each witness; three, which witnesses the SPO  
22 wishes to offer pursuant to Rule 153 or pursuant to Rule 154; five,  
23 which remaining witnesses are to be offered pursuant to Rule 155  
24 during that period; six, any bar table motion or motions to be filed  
25 during that period; seven, which of these witnesses will be subject

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1 to an application for videolink testimony; and, eight, to articulate  
2 any factors which might negatively affect the implementation of the  
3 proposed roadmap.

4 Once it has received that roadmap, the Panel will decide whether  
5 it can be made available in whole or in part to the Defence and  
6 Victims' Counsel after hearing the SPO and whether to call a Status  
7 Conference on this point. Such a roadmap is intended to enable all  
8 those involved to plan and prepare effectively and to ensure that the  
9 case proceeds expeditiously. The SPO will not, of course, be  
10 strictly bound to the roadmap.

11 And this concludes the Panel's order.

12 We will now continue with the testimony of the witness.

13 Madam Court Officer, you may please bring the witness in.

14 [The witness takes the stand]

15 PRESIDING JUDGE SMITH: Witness, we will continue with the  
16 Judges' questions.

17 Judge Barthe still has the floor.

18 JUDGE BARTHE: Thank you, Judge Smith. And good afternoon and  
19 welcome back, Mr. Kickert.

20 A. Good afternoon.

21 JUDGE BARTHE: I hope you had a nice and a restful lunch break.

22 A. Everything's relative.

23 JUDGE BARTHE: Okay. I have a few more questions for you, and  
24 this is my first question.

25 During the last 14 months, we have heard a lot about the

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1 relationship between the KLA and the LDK in this courtroom. And  
2 based on what you experienced during your time in Kosovo, you  
3 described the relationship between the two groups yesterday as, I  
4 quote, "political rivals," and what you said also, you also said,  
5 that the KLA was a threat to the LDK's political monopoly.

6 For the record, this is on page 89 of the provisional  
7 transcript.

8 Now, I'm more interested in the other side of the story; that  
9 is, the KLA's attitude towards the LDK and their members and  
10 supporters. And we've heard from witnesses that they, the witnesses,  
11 had been LDK supporters before the war, like, as they pointed out,  
12 the majority of the Albanian population in Kosovo, and that they  
13 later joined the KLA during the war.

14 I would like to know are you aware that this happened, that  
15 people who had previously supported the LDK later became members of  
16 the KLA?

17 A. Yes. As we have also discussed today with Mr. Krasniqi and  
18 Mr. Rame Buja, there were people from the LDK who joined the ranks of  
19 the KLA.

20 JUDGE BARTHE: Thank you. This would have been my next  
21 question. I was just talking about people who supported the LDK, but  
22 this is also true, as you just said, for official members or  
23 representatives of the LDK, as Mr. Krasniqi had been before the war  
24 and Mr. Buja, because they were both ex-LDK; right?

25 A. That is correct.

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1 JUDGE BARTHE: And what about members or representatives of the  
2 LDK who were not willing to join the KLA and who instead publicly  
3 spoke against the interests and goals of the KLA? Would that be a  
4 problem either for the KLA or for the person concerned?

5 A. My feeling at the time was that there were frictions between the  
6 LDK and the KLA. As I said in my statements here, there was  
7 sometimes even from LDK circles the attitude of saying publicly that  
8 the KLA didn't exist or making its role smaller. This is part of  
9 what I said is a political rivalry. And the LDK had problems with  
10 the fact that its political monopoly was broken, because there were  
11 other political parties in Prishtine also of some personalities who  
12 have broken away from the LDK which were unhappy with the, as they  
13 saw it, passive -- too passive positioning of the LDK in their  
14 peaceful resistance to the Serb occupation.

15 JUDGE BARTHE: So would it be a problem for a person who, as I  
16 said, publicly spoke against the interests and goals of the KLA if  
17 that person was a representative or a supporter of the LDK and was  
18 not willing to join the KLA?

19 A. It could be. I don't know. There were reports of some attacks  
20 on LDK people even in Prishtine, but it was never clear who was  
21 behind those events.

22 JUDGE BARTHE: And, finally, we saw yesterday in a video shown  
23 by the Defence for Mr. Thaci that Mr. Thaci gave a speech in which he  
24 called, among other things, for peace, reconciliation, and the  
25 inclusion of minorities, using my words now. I'm sure that you

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1 recall that video, right, yesterday?

2 A. I do recall the video, which I've seen the first time.

3 JUDGE BARTHE: Thank you. The Panel would like to know how such  
4 speeches or public appearances were viewed by the international  
5 community at the time? Were they welcomed?

6 A. Absolutely, because that was our aim, to stop the conflict, and  
7 there were still security incidents galore. So the idea was through  
8 the engagement of political leaders on the Kosovo Albanian side,  
9 especially those from the KLA who had credibility among the ranks of  
10 the KLA, that these incidents could be constrained.

11 JUDGE BARTHE: And were such speeches or, as I called it, public  
12 appearances by members of the newly established Provisional  
13 Government of Kosovo, the so-called PGoK, essential or even a  
14 *conditio sine qua non* for further engagement or support of that newly  
15 established government?

16 A. We, as the international community, as the UN, did not recognise  
17 a provisional government of Kosovo. We saw Mr. Thaci as an important  
18 leader from within the KLA who could be a very valuable ally in our  
19 endeavour to get hostilities, interethnic hostilities down.

20 JUDGE BARTHE: Apart from that official or from the question of  
21 recognition of that government, the provisional government, was it  
22 clear, from your point of view that the international community  
23 expected efforts from high-ranking players or government officials to  
24 prevent or stop violence against minorities?

25 A. That was the appeal of the international community, yes.

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1 JUDGE BARTHE: And apart from such speeches or public  
2 appearances, are you aware of other efforts made by Mr. Thaci or  
3 members of the Provisional Government of Kosovo to prevent or stop  
4 violence against minorities?

5 A. As I stated yesterday, I think, I was not part of UN at the time  
6 when these videos were made of. I remember that it was also an  
7 outreach in particular of SRSG Bernard Kouchner, and there was also  
8 an outreach campaign in the fall of 1999, where he went also  
9 into predominantly -- also in difficult areas, predominantly Albanian  
10 inhabited areas, and that he would have part of his speeches also in  
11 Serbian even if it created at that time some unease among the Kosovo  
12 Albanian population, but he made a point of it.

13 JUDGE BARTHE: But now you're talking about what Mr. Kouchner --

14 A. Yeah.

15 JUDGE BARTHE: -- did. I was asking for -- or I was asking  
16 whether you're aware of any efforts made by the provisional  
17 government, which was led by Mr. Thaci, other than giving speeches or  
18 making public appearances?

19 A. I can't recall. It was also not necessarily my focus of my work  
20 at the UN.

21 JUDGE BARTHE: And my last question, and maybe I can make myself  
22 clearer on that point with that question: Are you aware of any  
23 specific measures taken by Mr. Thaci or the government to cooperate  
24 with UNMIK, for example, or KFOR, measures of a legislative or  
25 administrative nature; for example, to hand over suspects caught in

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1 the act or to disclose the identities of persons who alleged -- or  
2 who were alleged to have been abducted or detained civilians during  
3 or in the aftermath of the war? Are you aware of any such measures  
4 taken --

5 A. I --

6 JUDGE BARTHE: -- by the government?

7 A. I would not have been aware. These are security issues. KFOR  
8 as the -- after the war, the number one security provider, was  
9 certainly in touch with the KLA and probably also with the  
10 provisional government as such or representatives of the provisional  
11 government, but I was not in this capacity.

12 JUDGE BARTHE: Thank you. Then we have to ask KFOR, members of  
13 KFOR, former members of KFOR and UNMIK about that.

14 Thank you very much, Mr. Kickert. I have no further questions.

15 A. Thank you.

16 JUDGE BARTHE: Thank you.

17 PRESIDING JUDGE SMITH: Judge Mettraux.

18 JUDGE METTRAUX: Thank you, Judge Smith. And good afternoon,  
19 sir. I would like to follow up on a few issues that you already  
20 address in your evidence.

21 You've indicated that you were given repeated and successive  
22 assurances from KLA leaders that they would comply with the Geneva  
23 Conventions. Do you recall questions about this?

24 A. Yes. I would not be able to pinpoint at which of the meetings  
25 and in which form, but it was certainly brought up, and the general

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1 answer was: Of course we adhere to them because we are a regular  
2 army.

3 JUDGE METTRAUX: And would you agree with the suggestion that it  
4 was in the political interest of the KLA leadership to give you those  
5 assurances? Would you agree with that?

6 A. Of course. It served their purpose, portraying themselves as,  
7 as I said, a regular army which follows all the rules, international  
8 rules, and I think this is something they would want to be known to  
9 diplomats.

10 JUDGE METTRAUX: And would it be fair to suggest that your  
11 support, the support of the international community, might have been  
12 a lot less forthcoming had you not received these sort of assurances  
13 that they would comply with the Geneva Convention and human rights  
14 standards?

15 A. I think in the notes or in the messages we prepared for the  
16 meeting up in Klecke, I think we spelled it even out, David Slinn and  
17 myself, that cooperation in this field will be important to not lose  
18 the international community's support.

19 JUDGE METTRAUX: And I want to ask you about the implementation,  
20 if you want, of those assurances. You've been asked already a few  
21 questions. I want to follow up slightly on that.

22 When you raised these concerns and were given assurances of  
23 compliance, did any of the KLA leaders you met tell you what in  
24 practice they planned to do to implement those assurances?

25 A. No.



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1 JUDGE METTRAUX: And outside of what they told you or did not  
2 tell you, did you ever become aware of what step or steps they took  
3 to implement those assurances of compliance?

4 A. No. As I said before, this was, use your language, brought up  
5 *en passant* and not the main topic of our conversations.

6 JUDGE METTRAUX: And specifically, and I think I know the answer  
7 but I'll ask it, you were asked or it was drawn to your attention by  
8 counsel for Mr. Thaci that a military court was set up at some stage  
9 by the KLA. Did you ever become aware of a member of the KLA being  
10 prosecuted or punished for violating the Geneva Conventions during  
11 your time in Kosovo?

12 A. No, I'm not aware of this.

13 JUDGE METTRAUX: Now, I want to follow up on something that you  
14 were asked about by the Krasniqi Defence.

15 And perhaps I will ask the Registry to bring up the first  
16 document, which is U008-1323. That's again your ICTY statement, sir,  
17 and I will go to page U008-1333. And simply for the record, this is  
18 now part of 1D142, but it's not yet available online.

19 I want to ask you about -- well, first, I understand these to be  
20 the notes you prepared for the purpose of the meeting that you've  
21 been discussing. I want to ask you again about that last paragraph  
22 towards the bottom of the page, where you say:

23 "Prisoners of war, Geneva Convention - no civilians access to  
24 the ICRC."

25 The two words I want to ask you about are "no civilians." Am I

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1 right to understand this to suggest that there should be no civilians  
2 as prisoners? Is that what you meant?

3 A. Yes.

4 JUDGE METTRAUX: And, again, I'm asking a lot of your memory,  
5 sir, but is that a particular issue that you would have raised with  
6 the KLA leaders when you met with them, that there shall not be any  
7 civilians being detained by the organisation?

8 A. In general terms, that would have been. But, again, it was not  
9 the main topic of our conversations.

10 JUDGE METTRAUX: Can you recall, and again if you can't, we  
11 would fully understand, but can you recall whether there was any  
12 response to such requests?

13 A. I cannot recall of any -- whether this was brought up or  
14 discussed at that particular meeting.

15 JUDGE METTRAUX: Now I'd like to ask you about something else,  
16 the numbers which you were given by some of the KLA members as  
17 pseudonyms, if you wish, that they would use to introduce themselves  
18 to you. And I'll perhaps put the document on the screen so we have  
19 it in case of necessity.

20 It's Exhibit P1217. And if we can scroll down in the English a  
21 little bit. Thank you.

22 Now, I simply put this report here because it's one of those  
23 where you made reference to numbers or numbers you attributed to  
24 individuals. What I understand you to have interpreted these numbers  
25 to mean was some sort of a hierarchy whereby Number 1 would be

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1 superior to Number 2, Number 2 to Number 3, and so on; is that fair?

2 A. At the time, yes, that was our guess.

3 JUDGE METTRAUX: And would you accept or would you entertain the  
4 possibility that these numbers, in fact, might have referred to  
5 something else? In other words, the order in which these individuals  
6 became members of the KLA? Could you entertain this possibility?

7 A. It could also be.

8 JUDGE METTRAUX: Now, if we go to the next page of that  
9 document, and I will direct you in the English. It's towards the  
10 middle. It's the paragraph starting with the words:  
11 "Negotiations ..." and in German, it's the second paragraph, and to  
12 follow the example of Mr. Misetić, I will go into foreign languages:  
13 "*Es wird auch bereits ...*"

14 Can you see that?

15 A. Yes, I do.

16 JUDGE METTRAUX: Now, there was a comment that you made, it  
17 seems, about Adem Demaci. In the English it's translating as him  
18 being a symbolic figure. Do you see that?

19 A. Yeah.

20 JUDGE METTRAUX: Is that a fair understanding of what you  
21 understood the power and authority of Mr. Demaci at the time?

22 A. Yes, Mr. Demaci was a long-time political prisoner and had a  
23 certain status in the Kosovo Albanian society because he never gave  
24 up his resistance, peaceful resistance towards the Serb oppression.  
25 So he was quite a strong personality and was well respected but, of

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1 course, also very combative. He was not a very tall person but very  
2 energetic.

3 JUDGE METTRAUX: And what I understand, and, again, I don't mean  
4 to put words in your mouth, and I'll trust your own, but if you refer  
5 here to symbolic, should we understand this as suggesting that you  
6 did not see him, for example, giving orders to anyone in the KLA or  
7 making binding decisions on behalf of the KLA? Would that be fair?

8 A. Absolutely. I think we saw also my report where I was talking  
9 about a meeting with him in the beginning of July, and it's him who  
10 came up also with this idea that numbers represent hierarchy, so it's  
11 not that I just invented this idea. But he was -- he came -- told me  
12 that because he had meetings with the KLA, and I think that the KLA  
13 would have respected him quite a lot. And later in that year, he did  
14 become kind of, if you want, a political representative of the KLA.

15 JUDGE METTRAUX: In Prishtine.

16 A. In Prishtine.

17 JUDGE METTRAUX: I'd like to follow up on something else the  
18 Krasniqi Defence asked you about, and that's in Exhibit P1220,  
19 please.

20 Now, you are by now more than familiar with your own report of  
21 31 July 1998.

22 And I'll ask the Registry to please go to the fourth page of  
23 this document, that's the -- thank you.

24 You were read the passage that talks about Nekibe Kelmendi. Can  
25 you locate that paragraph? In German, it's second full --

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1 A. Yeah, mm-hmm.

2 JUDGE METTRAUX: -- paragraph, yes.

3 Now, I want to ask you is this: In the English, it says that:

4 "In an initial reaction KLA representatives completely rejected  
5 Nekiba Kelmendi of the LDK and demanded participation from the  
6 LPK ..."

7 Now, you've told us you know who Ms. Kelmendi is, and I took  
8 your account to suggest that you know her well and met her. My first  
9 question is can you recall which KLA representatives it was who  
10 completely rejected her as a suggested member of a would-be  
11 government?

12 A. Of the -- you mean specifically of the -- who of the three  
13 interlocutors?

14 JUDGE METTRAUX: That's correct.

15 A. I could not recall.

16 JUDGE METTRAUX: And that was my second question. It would have  
17 been one of the three, right, Mr. Buja, Mr. Krasniqi, or Mr. Limaj?

18 A. Yes. And as far as I remember, most of the talking was done by  
19 Mr. Krasniqi, but I could not give percentages who spoke how much in  
20 that meeting.

21 JUDGE METTRAUX: And would it be fair to suggest that the  
22 opposition that these representatives expressed in relation to  
23 Ms. Kelmendi was based on her membership of the LDK, or are you aware  
24 of any other factor that would explain this opposition?

25 A. I would not be aware of any other factor. I did know

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1 Mrs. Nekibe Kelmendi but not so well at that time. I worked with her  
2 and got to know her more after the war, because I think she was in  
3 also the -- we had then a system of co-ministers for justice.

4 JUDGE METTRAUX: And your memo here that we -- or your note that  
5 we're looking at here is from the end of July, 31 July 1998. Do you  
6 know what happened to Ms. Kelmendi a few weeks later in the month of  
7 September? Did she ever tell you what happened to her and other  
8 members of the Kosovo parliament?

9 A. No.

10 JUDGE METTRAUX: Did you hear of her being arrested and,  
11 perhaps, detained for a time by the KLA? Did you hear about that?

12 A. I might have been that somebody showed me a document in the  
13 last -- or something -- media report in the last ten days. But at  
14 the time, I might have, but I would not have a recollection of my  
15 own.

16 JUDGE METTRAUX: Now, my last set of questions has to do with  
17 questions that were asked of you about your testimony in the Limaj  
18 case.

19 And for that purpose, I'll ask the Registry to bring up DHT00177  
20 to DHT00492.

21 And here, sir, this is the judgment of the trial chamber of the  
22 ICTY, Trial Chamber II, dated 30 November 2005 in the case of  
23 Mr. Limaj and others in which you testified.

24 And I'll ask the Registry to go to page 48, please. That should  
25 be page 48 of the judgment, so it's going to be a bit further down

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1 the road, maybe three pages, four pages more. Thank you.

2 Just to give you some context here. That's the part of the  
3 judgment where the trial chamber started summarising your evidence.  
4 Do you understand?

5 A. I understand. It's the first time I see it.

6 JUDGE METTRAUX: And it goes on for a page and a half where they  
7 refer to your and related witnesses' evidence, and then I'll ask the  
8 Registry to go to page 50, 5-0, it's page 54 in the PDF if it helps.

9 And here are, at paragraph 129, some of the main findings that  
10 the trial panel made relying in particular, but not only, on your  
11 evidence. And I will read it out to you. And what I will ask you  
12 afterwards to do, if you may, is simply to indicate whether you agree  
13 with what's being determined there or whether you would qualify it or  
14 take issue with any aspect of it. And it says this:

15 "As this evidence confirms, by July 1998 the KLA had become  
16 accepted by international representatives, and within Kosovo, as a  
17 key party involved in political negotiations to resolve the Kosovo  
18 crisis. This discloses and confirms that by that time the KLA had  
19 achieved a level of organisational stability and effectiveness. In  
20 particular this gave it the recognised ability to speak with one  
21 voice and with a level of persuasive authority on behalf of its  
22 members. Both the KLA's need for secrecy and the existence of an  
23 established hierarchy in its ranks is apparent from the circumstance  
24 that individuals involved in negotiations with foreign missions were  
25 referred to by a number, apparently corresponding to their level in

1 the KLA hierarchy. Further, from the course of these discussions it  
2 appears that the KLA was able to formulate and declare a change of  
3 military tactics and also conditions for refraining from further  
4 military action. This is indicative that at that time the KLA had  
5 the ability to coordinate military planning and activities and to  
6 determine a unified military strategy, as well as the ability to  
7 conduct military operations of a larger scale."

8 Now, would you agree, dispute, or qualify any of these findings,  
9 or are they consistent with your own knowledge and experience?

10 A. You are asking me to possibly criticise a judgment?

11 JUDGE METTRAUX: No, I'm not asking you to criticise. I'm  
12 asking you whether you saw that part of the events any differently  
13 than the chamber did.

14 A. If that was not from a judge, I would not subscribe to this  
15 paragraph.

16 JUDGE METTRAUX: And any particular issue you would not  
17 subscribe to?

18 A. As I said, at the time we believed that numbers were  
19 representing a hierarchy. We were not certain. And also later on,  
20 when the numbers were not used and personalities were -- and the  
21 names came up, it not necessarily reflected this number hierarchy as  
22 we thought. And you just yourself, Your Honour, suggested that it  
23 could have well been a different numbering system of who joined at  
24 which time. I heard that, now that you mention it, also at some  
25 stage later on.



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1           And I would not subscribe that the KLA at that time was so  
2           organised as this paragraph states.

3           JUDGE METTRAUX: I'm very grateful. Thank you, sir.

4           PRESIDING JUDGE SMITH: Judge Gaynor.

5           JUDGE GAYNOR: Thank you, Judge Smith.

6           Good afternoon, Mr. Kickert.

7           A. Good afternoon.

8           JUDGE GAYNOR: I'd like to return to the question of where you  
9           considered responsibility for investigating war crimes lay while you  
10          were serving as an adviser to the SRSG in particular.

11          Now, yesterday Mr. Miletic asked you -- he said:

12          "Whose authority was it to investigate and prosecute war  
13          crimes?"

14          Your answer:

15          "It should be structures set up by UNMIK.

16          "Q. Is there a reason that UNMIK did not have those structures  
17          set up?

18          "A. It was totally overwhelmed. The UN had never done an  
19          administration of a territory, and it was very slow to get into  
20          motion," et cetera.

21          Now, do you recall that particular part of your evidence?

22          A. Yes, I do.

23          JUDGE GAYNOR: Now, I want to probe aspects of that bit.

24          During your service as a diplomat, and while you were in Kosovo,  
25          did you become familiar with the notion there was responsibility on

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1 each party to a conflict to investigate war crimes committed by  
2 members of its own armed forces?

3 A. No, I didn't.

4 JUDGE GAYNOR: But are you aware that that is a general  
5 principle of international law?

6 A. As I said, I'm not a lawyer.

7 JUDGE GAYNOR: Sure. Okay. Now, while you were in Kosovo, you  
8 were obviously aware that the ICTY had jurisdiction to investigate  
9 and to prosecute crimes committed by any party on the territory of  
10 Kosovo?

11 A. Yes, I was.

12 JUDGE GAYNOR: Now, did you consider that the ICTY's  
13 jurisdiction was in any way displaced because UNMIK got into the  
14 business of investigating war crimes?

15 A. No. I even remember that -- that I met ICTY personnel on the  
16 ground in Kosovo. I remember even very distinctly that when I  
17 returned in June 1999, that at a gas station I bumped into colleagues  
18 of the ICTY which -- who were also entering Kosovo. So, yes, I was  
19 aware they were on the ground.

20 JUDGE GAYNOR: Right. And you saw no conflict or tension  
21 between UNMIK on the one hand investigating war crimes and the ICTY  
22 also investigating war crimes?

23 A. As far as I understood, the ICTY had the principle of  
24 subsidiarity so that it would not investigate necessarily if the  
25 local judicial system could cope with it.

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1 JUDGE GAYNOR: Now, let me turn to the obligations on the FRY  
2 forces.

3 Did you consider -- and, again, from your perspective while you  
4 were serving in UNMIK in particular. Did you consider that the  
5 establishment of UNMIK in any way released the FRY government from  
6 the responsibility to investigate war crimes committed by its forces  
7 on the territory of Kosovo?

8 A. No.

9 JUDGE GAYNOR: And did you consider that the establishment of  
10 UNMIK or the establishment of the ICTY in any way released the KLA  
11 from its responsibility to investigate war crimes committed by its  
12 forces?

13 A. As I said, I was not aware of the principle that armed forces  
14 are -- have an obligation to investigate war crimes their forces  
15 allegedly committed. I was not aware of that.

16 JUDGE GAYNOR: Okay. Let me put it this way: While you were  
17 serving in UNMIK, was there ever any understanding that the KLA  
18 should cease investigating crimes by its own forces because UNMIK had  
19 been established and because the ICTY had been established?

20 A. I mean, the ICTY existed --

21 JUDGE GAYNOR: Yes.

22 A. -- way before. Just had the -- because it was ex-Yugoslavia,  
23 also the jurisdiction on Kosovo. But, no, I was not involved, so I  
24 can't remember, recall, any talk, contact about the KLA investigating  
25 crimes allegedly committed by their forces.

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1 JUDGE GAYNOR: Okay. And following upon that, is it right to  
2 say that you weren't aware of steps taken by the KLA to investigate  
3 crimes committed by their own forces?

4 A. I was not aware.

5 JUDGE GAYNOR: Okay. Now, I just would like to move to a  
6 separate issue, and that is the relationship between Mr. Thaci and  
7 Mr. Fatmir Limaj.

8 And could I ask the Court Officer to bring up Exhibit P01225.

9 Now, you've discussed in your SPO statement at paragraph 50, you  
10 told us about your meetings, and you referred to them again today,  
11 where you met Thaci and Limaj in autumn of 1998. Can you recall  
12 about how many meetings you attended at which both Thaci and Limaj  
13 were present?

14 A. If I tried to reconstruct it, I could only think of one for  
15 sure.

16 JUDGE GAYNOR: Okay. Your statement gives the impression that  
17 you attended more than one.

18 A. Yeah. I wouldn't -- not be able to pinpoint another one. And  
19 since I was reminded that one of the meetings with Hashim Thaci took  
20 place in Vienna together with Bardhyl Mahmuti, I would not be able to  
21 say whether we had a second one where both of them were present, in  
22 Kosovo, in Banje.

23 JUDGE BARTHE: Now I just want to refer you to the document  
24 which is on your screen at the moment. This is P1225. This is an  
25 interoffice memorandum which you authored and dated 25 October 1999.

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1           And you explained that on 24 October 1999 you met Fatmir Limaj,  
2           and you describe him as the "the self-styled 'deputy defence  
3           minister' of the so-called 'Interim Government' of Mr. Thaci (and one  
4           of his closest confidants) ..."

5           Do you see that in the opening paragraph?

6           A.    I do.

7           JUDGE GAYNOR:  Yes.  Now, what was it that you observed or that  
8           you were told that led you to describe Mr. Limaj as one of  
9           Mr. Thaci's closest confidants?

10          A.    That he was present at the meeting we had in Banje.  So now  
11          trying to go through my head, there might have been a second one,  
12          because the house where we met, I was not there only once.  So I  
13          don't know who else I did meet there, but it was not just a one-time  
14          location in Banje at this house where we met.

15          But my assumption was that if he was there with Mr. Thaci, he  
16          must give a special trust in him.

17          JUDGE GAYNOR:  Very well.  Now, if we go to the next page of  
18          this, please, to the very, very end of this document, under your  
19          "Comments" section, you say:

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          Do you see that portion?

24          A.    I do.

25          JUDGE GAYNOR:  Now, Mr. Miseti asked you a question about that

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1 earlier. Mr. Misetic said:

2 "And did you have an understanding of why he was the authority?"

3 Your answer was:

4 "Because of his nimbus as the probably regional commander of the  
5 UCK at the time."

6 Now, I just want to clarify your evidence on this. On the one  
7 hand, you believed that Thaci and Limaj were close, working closely  
8 together; and then, on the other hand, Limaj is telling you, "What I  
9 say is law around here."

10 So could you tell me that -- I want to understand whether you  
11 considered Limaj to be working independently of the KLA leadership,  
12 or did you consider Limaj to be working energetically but in  
13 accordance with orders from the KLA leadership?

14 A. The relation between also high KLA functionaries was dynamic.  
15 There were splits of parties from the PDK, the party they founded. I  
16 think among the four accused, you would find membership in three  
17 different political parties. So it was nothing uncommon that after  
18 the war there were some differences between certain former  
19 high-ranking KLA officials.

20 You would have also parties even after the war immediately  
21 founded which had nothing to do with the PDK, which was led by  
22 Mr. Thaci. If you just look at Ramush Haradinaj who founded his own  
23 party right away and tried also in approaching me at the time to say,  
24 "Hey, I am also an important person. Don't always talk to  
25 Mr. Thaci."



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1 follow-up question about whether you had seen a declaration that was  
2 made in August, about a month after your meetings with Mr. Thaci,  
3 Mr. Veseli, Mr. Demaci, Mr. Krasniqi, and others.

4 MR. MISETIC: So if we could please have on the screen  
5 Exhibit 1D50, please.

6 Q. Witness, this is something titled "Political Declaration no 7,"  
7 it was published on 13 August 1998, reportedly by the General Staff  
8 of the KLA. And in the third paragraph it says, beginning in the  
9 second sentence -- well, let's start with the first sentence:

10 "New circumstances necessitate the creation of institutions in  
11 which the broad political spectrum of Kosovo will be duly  
12 represented. With the intention of cutting off the manipulations  
13 related to the creation of these institutions, the General Staff  
14 makes it known to the public that Jakup Krasniqi, Xhavit Haliti,  
15 Bardhyl Mahmuti, Hashim Thaci, Faton Mehmetaj and Sokol Bashota are  
16 the political representatives of the KLA. The public announcement of  
17 the KLA's political representatives facilitates the coordination of  
18 political activity at the national level."

19 And then if you go to the last paragraph, it says:

20 "For the purpose of expediting the process of creating the  
21 institutions of Kosovo, the General Staff of the Kosovo Liberation  
22 Army gives complete trust to Adem Demaci to take a leading role in  
23 this process. Not being under any party umbrella the Kosovo  
24 Liberation Army asks Adem Demaci to withdraw from party activism."

25 Witness, were you aware of that declaration, which was obviously



1 public, in mid-August 1998?

2 A. I can't recall. But, of course, in general terms, as it was  
3 probably representative in the media. But we took it that  
4 Adem Demaci was tasked to be then, because there was no other chance  
5 to contact the people we contacted before, that he was, as he was in  
6 Prishtine, made to be the interlocutor on behalf of the KLA in  
7 Prishtine.

8 Q. Okay. And you already testified, but I just wanted to follow  
9 up. You said in your earlier testimony that you arranged for  
10 Mr. Thaci to go see Adem Demaci in Ljubljana during the Rambouillet  
11 conference. Not you personally, but the --

12 A. Yeah.

13 Q. -- international community.

14 A. International community, yes. Because Adem Demaci was speaking  
15 out against the Rambouillet Accords, and had, by that time, become an  
16 obstacle for the international community to reach an agreement in  
17 Rambouillet.

18 Q. Well, can you explain to the Panel what kind of obstacle, what  
19 kind of authority would Adem Demaci have such that Mr. Thaci has to  
20 fly to Ljubljana to speak to him about agreeing to the Rambouillet  
21 Accords?

22 A. As we discussed before, he was a highly symbolic figure. And it  
23 was not only him who was -- as we discussed also, who was against  
24 concluding the accord. But we did -- we tried everything possible so  
25 that especially Hashim Thaci at Rambouillet was able to agree to the

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1 Rambouillet Accords.

2 Q. Okay.

3 A. So that was one of the -- the different meetings the  
4 international community has arranged for him to convince him that it  
5 is a good agreement.

6 Q. Okay. Thank you. I want to turn to another --

7 A. Or --

8 Q. -- set --

9 A. Sorry. Or also for him to be able to convince people like  
10 Adem Demaci that he should be able to subscribe to the Rambouillet  
11 Agreement.

12 Q. Okay. Would you say that Adem Demaci had some authority with  
13 the local KLA commanders? Was that your impression at the time?

14 A. I don't know. He might have been in contact with some. As from  
15 my early July cable, he did go into the field and meet them. So I  
16 suppose that he continued that even during the time when we were  
17 sitting in Rambouillet.

18 Q. Okay. Thank you. I want to turn to another issue raised by  
19 Judge Barthe. But in answer to one of his questions, you said: We  
20 did not recognise the PGoK. And Judge Barthe then asked you about  
21 what the international community wanted Mr. Thaci to be doing more  
22 of, and I want to see the interplay between those two points. So if  
23 we can go back for a second to what happened from Rambouillet to the  
24 point of you not -- "you" meaning the international community, not  
25 recognising the PGoK.

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1 In Rambouillet, there was a discussion or an understanding that  
2 there would be a Provisional Government of Kosovo. I think you  
3 agreed to that earlier today; is that correct?

4 A. Correct. I mean, to answer your -- the question that's coming,  
5 what happened was --

6 Q. Well, let me --

7 A. -- a war and Security Council Resolution 1244.

8 Q. Yes. So I'm glad, but let's go step by step. You then go to  
9 the local commanders to get their consent because they're resisting  
10 because they don't want to dissolve the KLA which is a fundamental  
11 requirement of the Rambouillet Accords; correct?

12 A. Correct.

13 Q. And one of the ways you get them on board is by saying: There  
14 are going to be -- you're going to convert into the political  
15 institutions of what will be the PGoK ultimately?

16 A. Yes.

17 Q. So you get their agreement, "you" meaning Mr. Thaci gets their  
18 agreement, of the local commanders; correct?

19 A. Yes.

20 Q. The war happens, as you say. And something completely that had  
21 not been contemplated, the UN administration of Kosovo, that hadn't  
22 been contemplated at Rambouillet, that hadn't been contemplated in  
23 these discussions with the zone commanders and the local KLA, takes  
24 over events. Would you agree?

25 A. I would agree.

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1 Q. June happens and the international community insists, with  
2 Mr. Thaci, the fulfilment of the dissolution of the KLA. Would you  
3 agree with that?

4 A. Yes.

5 Q. But without the other part, which was: And these guys are all  
6 going to be transitioned into political institutions; correct?

7 A. Correct. But as you -- I might --

8 THE INTERPRETER: The speakers are kindly requested to pause  
9 between question and answer. Thank you.

10 THE WITNESS: I apologise.

11 MR. MISETIĆ:

12 Q. No, I --

13 A. Yes.

14 Q. -- apologise. But go on.

15 A. But as you are well aware, the Rambouillet Accords were not --  
16 were not signed by the other side, by Belgrade. So there was not a  
17 prerequisite for the Rambouillet Agreement to come into force.

18 Q. I absolutely agree with that. But that still doesn't change  
19 that despite fact that there was no agreement, the international  
20 community continued to insist with Mr. Thaci that the KLA needed to  
21 be disbanded.

22 A. Yes. Whether it is part of the Kumanovo Agreement or 1244, I  
23 don't know, but this is a prerequisite of the NATO presence was that  
24 no other armed groups would be accepted. The Yugoslav Army  
25 retreated, the Serbian police and security forces retreated, and NATO

1 would not accept any other armed group on the territory of Kosovo.

2 Q. I accept that.

3 A. Thank you.

4 Q. And I'll be slower now for the interpreters.

5 Would you accept that this created similar problems for  
6 Mr. Thaci that had existed in February for Mr. Thaci with respect to  
7 internally within KLA structures or former KLA structures?

8 A. I don't know. After the war, the general feeling among KLA was  
9 they won the war, and it is their right to have the government of  
10 Kosovo. And we tried to convince them that it's not the case, that  
11 we had to -- that they had to work with us, UN at that time already,  
12 to find something where they could be part of it, but we would still  
13 comply with Security Council Resolution 1244.

14 Q. Right. And ultimately there were things that were created that  
15 would incorporate former KLA into institutions, including things like  
16 the Kosovo Protection --

17 A. Corps.

18 Q. -- Corps, yes.

19 A. Where I was not involved. But I was involved in, what I  
20 mentioned today, the Joint Interim Administration Structure, where we  
21 took Kosovars and especially -- it was a -- it was a way of -- also  
22 for Mr. Thaci and the government, the provisional government or  
23 whatever, to compromise and to save face and say, "Okay. We are now  
24 part of a joint undertaking, the Joint Interim Administration  
25 Structure."

1 Q. Okay. I'm sorry to jump around here, but because it's a related  
2 topic, Judge Gaynor asked you questions about the KLA's obligation to  
3 investigate crimes.

4 Were you aware that by early June UNMIK had appointed judges to  
5 try to set up courts and continued to do so by summer?

6 A. Yeah, I don't know whether -- whether that had happened. I was  
7 not involved in the judiciary side either. I think we -- the two of  
8 us briefly discussed regulation or -- Regulation No. 1, the mother of  
9 all regulations, because, first, it had to be clarified which is the  
10 applicable law. And it's nice to have judges, but based on which law  
11 they can do their procedures.

12 Q. Yes. And are you aware that UNMIK ultimately did, in fact,  
13 investigate and prosecute war crimes?

14 A. I think they did, yeah. But, again, it was not something I was  
15 following.

16 Q. Okay. You were in Kosovo for how long?

17 A. I was in Kosovo until November 2000, until just after the local  
18 elections. That was a good time for me to say, okay, now we have a  
19 democratic process started. It was also for other reasons that I  
20 left.

21 Q. Okay. Judge Mettraux asked you about whether it was in the  
22 political interests of the KLA to portray themselves as following the  
23 Geneva Conventions. Do you recall that question?

24 A. Yes, I do.

25 Q. Would you agree that it was in the political interests of the

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1 KLA to allow access to the ICRC?

2 A. I think so.

3 Q. Would you agree that it was in the political interests of the  
4 KLA to allow access to the OSCE to detainees?

5 A. I think so.

6 Q. Would you agree that it was in the political interests of the  
7 KLA to establish a military court and appoint someone to be the  
8 head of -- a lawyer to be the head of that court?

9 A. I don't know. I simply don't know.

10 Q. Well --

11 A. I mean, a military court -- I don't know what -- what that -- I  
12 mean, yes, I think it would be in the interest -- the political  
13 interest portraying themselves as -- as an orderly regular army, yes.

14 Q. Yes. And that's my point. It helps the KLA attract Western  
15 support to be able to say: Look, we're following up on our  
16 statements that we're following the Geneva Conventions and we've now  
17 set up a military court. Would you agree?

18 A. I would agree, but I was not aware, as I told you, of -- that it  
19 was set up.

20 Q. Okay. You were asked did KLA leaders tell you how they would  
21 comply with the Geneva Conventions, and you said no. My question is:  
22 Did you ask them?

23 A. No.

24 Q. A few brief questions left. I believe Judge Gaynor asked you,  
25 and I scribbled this at the end, so I apologise, but --

1 MR. MISETIC: If I can just have a minute just to get this right  
2 on the transcript.

3 Q. You were asked by Judge Gaynor:

4 "... did you have any reason to believe that Fatmir Limaj was  
5 acting as a rogue in any way or acting outside of -- outside  
6 directions from the KLA leadership?"

7 And you said:

8 "No, I had no reason to."

9 And my question was: Do you have any reason to believe that  
10 Fatmir Limaj was at all times following orders of any superiors; and,  
11 if so, on what basis?

12 A. Well, I don't know. I just saw that he was with Mr. Thaci at  
13 the meeting, and then I saw him again at the meeting between  
14 Rambouillet and Paris. So it appeared to me that he's part of the  
15 KLA structure.

16 Q. Okay. And you discussed -- but let me take it back. In terms  
17 of what was going on in his zone, you don't have any information one  
18 way or another as to --

19 A. No, I don't.

20 Q. Okay. As to what he was doing, just if I can complete the  
21 question. And the answer is you don't know; correct?

22 A. Correct.

23 Q. Okay. And, finally, it was a little bit unclear whether you  
24 were saying that you had met -- had had multiple meetings where both  
25 Mr. Thaci and Mr. Limaj were present. And so I will suggest to you



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1 that Mr. Thaci left Kosovo in mid-November around the time of the  
2 meeting that we have established took place and did not return to  
3 Kosovo until following the Rambouillet Accords.

4 So if Mr. Thaci was not in Kosovo subsequently --

5 A. I could not have met him.

6 Q. Okay. All right. Thank you. That's all I have. Thank you.

7 A. In Kosovo.

8 Q. [Microphone not activated]. We've established that you met him  
9 in Vienna, yes. Thank you.

10 PRESIDING JUDGE SMITH: Thank you.

11 Mr. Emmerson.

12 MR. EMMERSON: Your Honour, I have about 15 minutes or so. Did  
13 you have it in mind to take a break or not this afternoon?

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. EMMERSON: Fine.

16 MR. ROBERTS: Your Honours, if it helps for planning purposes, I  
17 don't have any questions.

18 PRESIDING JUDGE SMITH: Mr. Ellis?

19 MR. ELLIS: I do, but I hope five minutes, ten minutes.

20 Further Cross-examination by Mr. Emmerson:

21 Q. I want to start, if I may, by returning to some of the questions  
22 that Judge Barthe asked you about your relationship or meetings with  
23 Kadri Veseli in the period between late 1999 and during 2000 up until  
24 November when you left Kosovo.

25 Can I, first of all, just be clear: Precisely when did you move

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1 to be the political adviser of Bernard Kouchner?

2 A. I believe it was beginning of August 1999.

3 Q. Right. So throughout the period that we're speaking about, the  
4 autumn of 1999 and the greater part of 2000, you were working within  
5 the UNMIK structures as political adviser to the SRSG.

6 And you told us, and as you said in your statement and  
7 elaborated, that you would have meetings with Mr. Veseli as head of  
8 intelligence in the PGoC [sic]; is that correct?

9 A. I did not have meetings in his capacity --

10 Q. No.

11 A. -- as intelligence chief --

12 Q. Because you didn't recognise the PGoC?

13 A. Not only, because I was not an intelligence officer.

14 Q. Yes.

15 A. So I met with him maybe over dinner or something, maybe in a  
16 group. This was part of my job to stay in touch, in friendly touch  
17 with -- with former KLA --

18 Q. Yes.

19 A. -- but with not necessarily an agenda.

20 Q. Although, in fact, were you aware that the SRSG himself also  
21 visited Mr. Veseli's office to discuss -- maybe we can -- I don't  
22 know quite how you put it, in his capacity as the head of  
23 intelligence of a government that the UNMIK didn't recognise?

24 Mr. Kouchner himself had private meetings with Mr. Veseli, two or  
25 three, before the end of 1999.

1 A. Could well be. Again, he was not visiting him in -- in his  
2 meeting, in Mr. Veseli's capacity as head of intelligence of the  
3 provisional government, but probably as an influential figure in the  
4 KLA circles.

5 Q. Yes. Although, in fact, you did pass messages to him if you  
6 needed help in connection with the interim structures, didn't you?

7 A. With the interim structures? I mean, my main interlocutor also  
8 in trying to get the interim government dissolved and creating the  
9 joint -- the JIAS was also Mr. Thaci.

10 Q. Yes. I'm just looking at what you wrote in your statement:

11 "I would have lunch" -- this is paragraph 68:

12 "I would have lunch with him and pass message to him if we  
13 needed support in connection with the interim structures."

14 And when you were pressed on that, I think you mentioned  
15 something about organised crime.

16 A. I don't know whether that was connected to lunching with  
17 Mr. Veseli but --

18 Q. Did -- well, could we perhaps just ask you the open question  
19 then.

20 A. Yeah.

21 Q. Did you discuss matters with Mr. Veseli, including methods to  
22 tackle organised crime, the establishment of systems to resist the  
23 influx of Islamists, terrorists, and others across the borders?

24 A. I personally did not.

25 Q. You did not. What did you discuss with him or what messages did

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1 you pass to him?

2 A. It's like also meeting other personalities, like Xhavit Haliti,  
3 is to convince them that they would be in favour of what we were  
4 working on, this Joint Interim Administrative Structure.

5 Q. So in a sense --

6 A. So it would be, in a sense, the dissolution of their own  
7 provisional government.

8 Q. But you do -- I imagine you're aware that the intelligence  
9 agencies of other states inside Kosovo were also liaising with  
10 Mr. Veseli?

11 A. Absolutely.

12 Q. You were aware of that. Thank you. And do you have a clear  
13 idea of how long they had been liaising with Mr. Veseli?

14 A. No. But -- I mean, I will not mention anybody here, but we had  
15 a common friend, and this common friend was also during the war in  
16 Kosovo.

17 Q. Yes, precisely. As indeed, obviously, there was influx of  
18 intelligence representatives when the war came to an end. But I  
19 think you were asked at one point by Judge Barthe: Well, why  
20 would -- what would qualify Mr. Veseli for such a role. Do you agree  
21 with me that if he had been working with foreign intelligence  
22 agencies during the war, that would be something that would qualify  
23 him to continue in that role in the PGoC?

24 A. I don't know whether he was working during the war with  
25 intelligence, Western intelligence. I know that he did it after the

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1 war.

2 Q. Exactly.

3 A. That's for sure.

4 Q. Exactly. And, indeed, he wouldn't have been permitted by the  
5 Western powers to occupy that role unless they supported him. If  
6 they had wanted a different person in that role, would you agree they  
7 would have ensured a change?

8 A. Well, I think you exaggerate the almightiness of the  
9 international community, but I think they would -- it's fair to say  
10 that they would not have worked with him hadn't they had established  
11 a trusted relationship and hadn't there been some results in their  
12 cooperation.

13 Q. And, again, without mentioning any person or any country, there  
14 was one particularly powerful intelligence agency that had been  
15 working in Kosovo during the war but also very significantly in the  
16 period afterwards; is that right?

17 A. I think it's fair to say that there were more than one --

18 Q. Yes.

19 A. -- intelligence agency being active in Kosovo.

20 Q. And an important part of their concern was to ensure that Kosovo  
21 didn't become a honeypot to attract Islamists. Would you agree with  
22 that?

23 A. Yes. We had problems with an influx of money from Gulf states,  
24 a sudden shooting up of --

25 Q. Mosques.

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1 A. -- mosques and of certain imams preaching in the way which  
2 probably is not the European tradition.

3 Q. And clearly that would have been something of interest to those  
4 intelligence agencies that were happy to work with Mr. Veseli in that  
5 regard; correct?

6 A. I would assume so.

7 Q. One of the questions Judge Barthe asked you in that connection  
8 related to intelligence within a country and international  
9 relationships between intelligence agencies.

10 And you were asked, first of all, were you aware that the KLA  
11 allegedly had an intelligence service during the war. And you say:

12 "I wasn't surprised" --

13 Sorry:

14 "I wasn't aware but I would not be surprised ..."

15 A. Correct.

16 Q. Now, to be clear, as we see from your own work trying to unify  
17 from as early as June, July 1998, a unified Albanian position, you  
18 know, don't you, that there were intelligence discussions and  
19 military discussions taking place with countries outside Kosovo?

20 A. I wouldn't know if it was intelligence discussions. I mentioned  
21 the meeting of American diplomats with Bardhyl Mahmuti. So of  
22 others, of intelligence, again, I wouldn't know, but I would not be  
23 surprised.

24 Q. In your view, how would a guerilla army that had sprung up in  
25 this relatively chaotic and short space of time go about acquiring

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1 the skills needed to run an intelligence agency?

2 A. I cannot answer that question.

3 Q. Would it surprise you to think that, for example, someone in  
4 charge of such an agency would be liaising and receiving support from  
5 the Albanian intelligence service?

6 A. That would not surprise me.

7 Q. And, indeed, as Western involvement intensified, with other  
8 agencies associated with and through the Albanian intelligence  
9 agencies?

10 A. You mean other than Albanian --

11 Q. Yes.

12 A. -- intelligence services? Certainly in -- during the war for  
13 sure.

14 Q. Yes. There's targeting information, there's territorial  
15 information, population movement, and so on and so forth. There's  
16 exchanges that take place at that military intelligence level;  
17 correct?

18 A. I would not be surprised.

19 Q. Now, you said you knew that certain members of the leadership  
20 were outside Kosovo raising money but weren't -- this is again in  
21 answer to the same line of questioning. But you were --

22 A. I might not have necessarily said "leadership," but there was --

23 Q. Sorry, yes.

24 A. -- a network for raising money. Correct.

25 Q. I apologise. You said certain people were in Europe raising

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1 money, but you weren't sure what the nature of the intelligence  
2 functions would have been outside in Europe. Have I got that --

3 A. I --

4 Q. -- wrong?

5 A. No, I would not -- what I try to distinguish is I had no  
6 knowledge of an intelligence structure outside of Kosovo.

7 Q. Yes, I'm sorry.

8 A. What I was aware of was that there was a structure to collect  
9 funds, I think it was called Homeland Calling, to get money to be  
10 able to equip the KLA in Kosovo.

11 Q. Yes, I -- yes. The answer, just for the record, is:

12 "I know that they in -- outside Kosovo, they were trying to  
13 collect funds, but that doesn't necessarily mean intelligence  
14 service."

15 We've seen a document in this case. In fact, it's a page from  
16 the notebook that you were asked to look at, the six-ring binders,  
17 when you were asked to identify by the staples, there's a page of  
18 that document which makes the comment:

19 "You can't run an intelligence agency inside Kosovo if you're  
20 outside the country."

21 Would you agree with that proposition?

22 A. I think that's just illogical. You cannot run an agency outside  
23 to gather information inside.

24 Q. So if it's the case, and there's evidence to this effect as well  
25 as official records, that Mr. Veseli was outside Kosovo between



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1 November and March, would that help you reach a conclusion as to  
2 whether his intelligence connections after the war were initially  
3 forged before -- or during the war?

4 A. I don't know about Mr. Veseli's whereabouts --

5 Q. No.

6 A. -- at the time you mentioned.

7 Q. No, you don't know, but there's other evidence to that effect in  
8 this case. Would that in any way influence your view as to whether  
9 his qualification for the job, as Judge Barthe asked you, is that  
10 he'd been working with those agencies and those the same intelligence  
11 agencies that you knew him to be working with in 1999 since 1998?

12 A. Could be.

13 Q. Yeah. Now, you were asked also one or two questions about the  
14 timing of the meetings and the documents in relation to the 10th and  
15 the 23rd. I'm not going to in any way belabour any of this material  
16 because I think it's clear what your understanding of the position  
17 is. I just want to ask you one or two matters.

18 First of all, do you remember at or about the time of your  
19 meeting jointly with Mr. Veseli and the person you describe as 3, do  
20 you remember any time around that period meeting with Blerim Shala?

21 A. I think, as I stated today, that I met with him the very same  
22 evening over dinner before I returned to Belgrade to write the cable  
23 the next day.

24 Q. I see. So the cable was then sent clearly on the 24th because  
25 the events that it refers to occurred at around that time, but

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1 there's -- I want to just check one aspect of this with you.

2 It's not the date of the cable, obviously, that we're concerned  
3 with but the date of the meeting that's referred to in the cable.  
4 And we've evidence that on the 23rd, Malisheve was encircled with  
5 fighting in Bllace, Orahovac, Kijevo, and Llapushnik, all around. Do  
6 you remember driving through active fighting lines to get to  
7 Malisheve for that meeting?

8 A. No, I did not drive to -- through active fighting. I remember  
9 that by that time we had the former -- the former car of the Austrian  
10 ambassador in Ankara at my disposal. It was a white Chevy Caprice.  
11 And it looked very odd that I was driving in a white Chevy Caprice  
12 into Malisheve.

13 But, no, I was certainly going through Serb checkpoints like  
14 always an issue, but not any active fighting. And if you had --

15 Q. Were you aware that you were driving, for this meeting, right  
16 into the heart of a conflict zone? I mean, does it help you in any  
17 way in dating the meeting to know that you would have had to have  
18 driven through surrounding territory in which Malisheve was at the  
19 centre of battles on pretty much every side?

20 A. We could gladly look it up on a map. I would not be able to  
21 tell you which route I took, but probably a similar route that we  
22 took with Rohan coming from Suhareke, I would suppose. But, no, I  
23 would not -- I was not aware of any fighting going on, and the  
24 calmness of my interlocutors didn't suggest so.

25 Q. And yet you've seen already one document that says there were

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1 hundreds -- 20.000 refugees inside Malisheve on the 23rd. I mean,  
2 does any of this cause you to have any doubt about whether you may  
3 have, as we've seen you done elsewhere, mistyped the date?

4 MR. CAPIN: [Microphone not activated].

5 THE WITNESS: No.

6 MR. CAPIN: Objection. "Mistyped the date" misstates the  
7 record.

8 MR. EMMERSON: Well, can I -- I don't think it does, actually.

9 PRESIDING JUDGE SMITH: Well, let's just -- if you want to quote  
10 the record, just quote it.

11 MR. EMMERSON: Yes, I'm just looking for my document. Ah, there  
12 we are.

13 Can we call up again, we looked at this earlier on, P -- sorry,  
14 it's 1D00145. We have it in the German and the English.

15 Q. Now, you've already been asked some questions about the content  
16 of the document. I'm not interested in the content other than to  
17 note that it's your bullet point report to the Ministry of Foreign  
18 Affairs summarising the key points in Rambouillet at the very day the  
19 Rambouillet conference came to an end. And not only do you write  
20 1998 in the title, but if we turn over the page, please, you also  
21 sign it 25 February 1998. So in the title, it's 6 February to  
22 23 February 1998, and you separately get it mistyped in the date at  
23 the end for 25 February 1998. And as we passed over rather briefly  
24 earlier on, you got the wrong year, two digits wrong; yes?

25 A. As you can look up at the top, it says the report is from 1999,

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1 because it has a number for 1999.

2 Q. Yes, but you wrote the wrong date twice; correct?

3 A. I understand that you try to --

4 Q. No, I'm just --

5 A. -- to --

6 Q. -- asking you to --

7 A. No, no, no, no. May I say something?

8 Q. Mm-hmm.

9 A. I think also yesterday your strategy is trying to undermine the  
10 credibility of my statements here. Yes, this it is the wrong date,  
11 and this could happen to everyone, and I don't know what that makes a  
12 difference.

13 Q. No, I understand -- first of all, with real genuine respect,  
14 nobody is criticising you at all. Nobody is trying to undermine the  
15 credibility of anything that you've testified about. Credibility,  
16 though, and numerical reliability, when people sometimes get dates  
17 wrong, are two completely different things. And this is not a  
18 situation where you've got the date wrong once.

19 You've testified on oath that these meetings happened on  
20 consecutive days. You then corrected it by reference to a document  
21 only when you say you have no independent recollection of it. You've  
22 testified that, as you said to me at the end of it, your memory  
23 conflicts with the document, and yet you choose to say the document  
24 must be right, and that we hear that a week ago, when you were in a  
25 preparation session, it would have all been correct if it hadn't just

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1 said that Mr. Thaci was Mr. Veseli at the time when you met him on  
2 the 9th or the 10th.

3 You can understand why it's necessary to probe, surely, the  
4 reliability of whether you put a 2 next to the 3 instead of a 1.

5 A. Okay. If you look at that report of 24 July --

6 Q. Yes.

7 A. -- I don't see any problematic dates put in there.

8 Q. Well --

9 A. Would you agree?

10 Q. I'm -- the problematic date I'm suggesting to you is the  
11 reported meeting on the 23rd.

12 A. So you doubt that that meeting took place on 23 July?

13 Q. I think you were right all along, and that's what I'm putting to  
14 you. When you testified before, when you made witness statements  
15 before, and, indeed, when you answered questions from counsel, I  
16 think you're right in your memory is the suggestion. You don't  
17 because there's a document which has got a number in it.

18 A. So you suggest that my first meeting with Mr. Veseli, Number 7,  
19 was on 22 July?

20 Q. No, on the 10th.

21 A. Yes, and I agree with that.

22 Q. We agree on that.

23 A. So --

24 Q. And just as you testified --

25 A. -- what's the problem?

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1 Q. Just as you testified and swore to, the meeting with Mr. Thaci  
2 was --

3 A. To the best of my knowledge.

4 Q. -- a couple of days later in the same building as one would  
5 [Overlapping speakers] ...

6 A. It is to the best of my knowledge that I was being a witness to  
7 every of these proceedings. It is not that I make a false statement  
8 on purpose.

9 Q. No, exactly.

10 A. Okay.

11 Q. But you can mistype a date, can't you?

12 A. I did mistype a date in 1999 where I --

13 Q. We all can do it, as you say. It happens all the time.

14 A. Okay. But apparently, or also you would agree, I didn't do it  
15 in this report of 24 July 1999.

16 Q. No, I'm suggesting that you didn't mistype the date of the  
17 report. You mistyped the date of the meeting.

18 MR. CAPIN: I have to object at this point, Your Honour. This  
19 is pure argument.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MR. EMMERSON: Well, I -- well, if it --

22 PRESIDING JUDGE SMITH: It's gone beyond asking questions. It  
23 has become an argument.

24 MR. EMMERSON: [Microphone not activated].

25 PRESIDING JUDGE SMITH: All right.

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1 [Microphone not activated].

2 I'm sorry. Mr. Ellis, you have the floor.

3 MR. ELLIS: Thank you, Your Honour.

4 Further Cross-examination by Mr. Ellis:

5 Q. I want to ask a couple of questions to follow up on a topic that  
6 I had asked you about earlier and then His Honour Judge Mettraux  
7 addressed with you. It's in relation to the meeting on 30 July 1998,  
8 and it's in relation to Nekibe Kelmendi.

9 Now, you were asked some questions by His Honour Judge Mettraux  
10 about the KLA representatives objecting to Nekibe Kelmendi, which was  
11 the name that appeared on the cable that you wrote I think the day  
12 after the meeting; yes?

13 A. Correct.

14 Q. You recall looking with me before that at your handwritten note  
15 of the meeting --

16 A. Mm-hmm.

17 Q. -- which referred to the KLA representatives objecting to  
18 Milazim Krasniqi? That's right, isn't it?

19 A. That's right.

20 Q. And your handwritten note didn't mention Nekibe Kelmendi at all.  
21 You recall that?

22 A. Yes.

23 Q. And, indeed, I've just been checking your witness statement to  
24 the Prosecution, and paragraph 44 of that -- 43 of that statement  
25 refers to Milazim Krasniqi and not to Nekibe Kelmendi. Would you

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1 accept that, sir?

2 A. Yeah. Probably, yeah. I don't see it now in front of me, but  
3 if you say so.

4 Q. Yes. So it could be, couldn't it, that this line of questioning  
5 was proceeding on a mistaken basis? It could be it was Milazim  
6 Krasniqi that was objected to and not Nekibe Kelmendi; correct?

7 A. It was on my written notes Milazim Krasniqi and not Mrs. Nekibe  
8 Kelmendi. I don't know why I then in the report wrote "Nekibe  
9 Kelmendi."

10 Q. At this point in time, you wouldn't have an independent  
11 recollection one way or the other; correct?

12 A. I mean, we could pull up the report again for the simple reason  
13 that probably was not -- no, I'm sure now that we've seen it. It was  
14 not only information gathered at the meeting in Klecke, but it was  
15 also information gathered from meetings in Prishtine.

16 Q. So the objection to Nekibe Kelmendi could have come from  
17 somebody entirely different, not from Mr. Krasniqi, Mr. Buja or  
18 [Overlapping speakers] ...

19 A. It could have been some information which was passed down, so I  
20 would not know whether that was mentioned in the meeting in Klecke  
21 itself.

22 Q. Right. Thank you. Would you accept that in politics it's not  
23 unusual when one party proposes a candidate for a position that  
24 another party objects to that person?

25 A. It's not unusual.



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1 Q. And it doesn't mean that they're calling for crimes to be  
2 committed against that person, does it?

3 A. It doesn't.

4 Q. After the conflict, when UNMIK was fully operational, it began  
5 conducting trials against KLA members; correct?

6 A. Yeah, I would not have any recollection exactly.

7 Q. Were you aware that Nekibe Kelmendi acted as defence lawyer for  
8 Latif Gashi, one of the KLA members tried in one of the early trials?

9 A. No, I'm not aware of that.

10 Q. Well, I'll just show you one document on that point.

11 MR. ELLIS: It's DJK00799-TR-ET. Could I have that on the  
12 screen, please.

13 Q. And it's simply the -- I think all you need to see is the third  
14 paragraph there, sir. It simply records first that:

15 "Nekibe Kelmendi, together with" two other lawyers, "were the  
16 defence lawyers for Latif Gashi."

17 Have you found that in the text, sir?

18 A. I can read it, yes.

19 Q. And her statement on that occasion was:

20 "'I believe ... no evidence has proven that these defendants or  
21 the KLA in general were a criminal enterprise or had a criminal plan  
22 to commit war crimes.'"

23 You see that in the text there, sir?

24 A. I do see it.

25 MR. ELLIS: Your Honours, I tender that document. I do

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1 understand there's been a problem with the video, but I tender the  
2 transcript.

3 JUDGE METTRAUX: And as proof of what, Mr. Ellis?

4 MR. ELLIS: Well, as evidence that it is unlikely that Nekibe  
5 Kelmendi regarded herself as targeted by the KLA when she was  
6 appearing as defence lawyer for them in 2003, within a couple of  
7 years of the end of the conflict.

8 PRESIDING JUDGE SMITH: Any objection to the tender?

9 MR. CAPIN: No, Your Honour.

10 PRESIDING JUDGE SMITH: DJK00799-TR-ET is admitted.

11 THE COURT OFFICER: Your Honours, that document will receive  
12 Exhibit 4D00064. Classification has not been specified in  
13 Legal Workflow.

14 MR. ELLIS: I believe it can be public.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 Any objection?

17 MR. CAPIN: No.

18 PRESIDING JUDGE SMITH: To the reclassification. Reclassified  
19 as public.

20 Go ahead.

21 MR. ELLIS: That was --

22 THE COURT OFFICER: Thank you.

23 MR. ELLIS: -- all. Thank you, Your Honour.

24 PRESIDING JUDGE SMITH: Mr. Kickert, you are finished.

25 THE WITNESS: Thank you very much for that.

1           PRESIDING JUDGE SMITH: We will excuse you now. We thank you  
2 for being with us these two days. It's been interesting and we  
3 appreciate your sharing your information with us. We wish you well  
4 in the future. And you can leave the courtroom, I hope happily, with  
5 the Court Usher.

6           THE WITNESS: Thank you very much. I'm happy to return to my  
7 family.

8                                 [The witness withdrew]

9           PRESIDING JUDGE SMITH: So we will take up the next witness  
10 tomorrow. Hopefully, finish with that witness tomorrow. You can all  
11 aim at that conclusion, if possible.

12           Thank you all for your attendance today. Anything further for  
13 the Court?

14           We are adjourned until tomorrow at 9.00 a.m.

15                                 --- Whereupon the hearing adjourned at 4.11 p.m.

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