

1 Tuesday, 30 September 2025

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.01 a.m.

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

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

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

12 Today we will start hearing the evidence of Defence
13 Witness 1DW-004. Before we start, there are a few preliminary
14 matters the Panel would like to address.

15 First, on September 17th, 2025, the Panel marked a video with
16 evidence reference number 128791-02 and its transcript for
17 identification as P04492. The video is a BBC documentary called
18 "Moral Combat - NATO at War." The SPO tendered this video and its
19 transcript during cross-examination of Thaci Defence Witness 1DW-003
20 for the purpose of impeachment and the truth of its contents. The
21 Thaci Defence objected to its admission, arguing that the witness
22 doesn't know anything about the video and added nothing to it.

23 Contrary to the SPO's submission, the Panel is not satisfied
24 that the video goes to credibility of 1DW-003. However, the Panel is
25 satisfied that the video is relevant since the content is

1 sufficiently linked to issues material to this case, including
2 Mr. Thaci's position and his conduct at the Rambouillet conference.

3 Regarding authenticity, the Panel is satisfied of its
4 *prima facie* authenticity as the video bears relevant markings of its
5 origin, including the reporter's name, the broadcasting agency, and
6 the date when it was first broadcasted.

7 Regarding probative value, the Panel is satisfied that
8 sufficient contextualisation has been provided in relation to the
9 video. The Panel is further satisfied that the *prima facie* probative
10 value of the video is not outweighed by any prejudice since the other
11 parties had the opportunity to question the witness about it.

12 Therefore, the Panel finds that MFI P04492 meets the
13 requirements of Rule 138 and admits the portion from 44:02 to 45:30
14 and corresponding pages 9 to 10 of the transcript into evidence.
15 Considering that other parts of the same video are already in
16 evidence, the now admitted part will be added to the existing
17 Exhibit P04487. The Panel directs CMU to vacate the video's MFI
18 status.

19 This concludes the first oral order.

20 The second oral order concerns V00036, a report dated 23 May
21 2022 prepared by the iMMO experts Karin Duhne-Prinsen and
22 Sonja Swen-van Langen in Case 05, which I will hereafter refer to as
23 the iMMO Case 05 report.

24 On 18 September 2025, as instructed by the Panel in the decision
25 on the admission of expert report submitted by Victims' Counsel,

1 which is F03451, at paragraphs 50 and 60(e), Victims' Counsel
2 disclosed to the parties and participants a redacted version of the
3 admitted portion of the iMMO Case 05 report. The redacted portions
4 of the iMMO Case 05 report concern parts of that report that relate
5 to scarring of an individual, evidence not relied upon by
6 Victims' Counsel in this case.

7 Given that the Panel only assessed that part of the iMMO Case 05
8 report that pertained to the issue of mental harm and excluded from
9 its assessment the portion not relied on by the Victims' Counsel, the
10 Panel directs the CMU to replace the unredacted version of V00036
11 with the redacted version recently disclosed by Victims' Counsel,
12 which will in turn become the authoritative version of V00036.

13 This concludes the second oral order.

14 Yesterday, the SPO indicated by e-mail to the Panel and parties
15 and participants that it will be seeking to leave to start
16 cross-examination of Witness 1DW-004 not earlier than Wednesday,
17 1 October 2025. The SPO indicated that the reason for this request
18 was the late disclosure of the preparation notes as well as its
19 length.

20 Do either of the parties or participants wish to respond?

21 MR. MISETIC: Just briefly, Mr. President. I think the Panel
22 knows how we got here with this witness, so I would challenge the
23 assertion that we're late. We did the best we could under the
24 circumstances to produce the note. That's the first point.

25 The second point is we have no objection to them starting

1 tomorrow provided that we finish with this witness this week and
2 don't have to make him come back. If that can be ensured, then we
3 have no objection.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 The Panel recalls that, pursuant to paragraphs 94 and 96 of the
6 Order on the Conduct of Proceedings, subject to the witness's
7 availability and travel logistics, the calling party shall endeavour
8 to complete its preparation sessions as early as possible and, in any
9 event, at least 24 hours before the witness's testimony is due to
10 commence.

11 Similarly, the calling party shall provide the non-calling
12 parties and participants and Panel with all of the information that
13 is subject to the calling party's disclosure obligations at least 24
14 hours before testimony.

15 In the case of 1DW-004, the preparation notes containing such
16 information were disclosed slightly less than the 24 hours before
17 testimony. For this reason, and considering that the request for
18 delayed start for cross-examination does not result in excessive
19 waste of court time, the Panel exercises its discretion to accept the
20 SPO's request to start cross-examining 1DW-004 tomorrow, Wednesday,
21 1 October.

22 This concludes the third oral order.

23 Lastly, the Panel wishes to remind the parties and the
24 participants that, pursuant to paragraph 81 of the Order on the
25 Conduct of Proceedings, it is the presenting party's responsibility

1 to ensure that at the conclusion of the evidence of a witness there
2 is another witness ready to begin to testify. Similarly, if one of
3 the proposed witnesses is not able to testify at the scheduled time,
4 or if there is no cross-examination of a witness, or if
5 cross-examination proceeds faster than expected, the presenting party
6 shall ensure that an alternative witness can be called so as to avoid
7 any delay in the proceedings.

8 The Panel observes that since the beginning of the month, there
9 have been several hours of hearing days which could not be used.
10 Mindful to use hearing days to the fullest, the Panel asks the
11 Defence to do its best to have witnesses ready to testify without
12 interruption in the next block.

13 Mr. Court Officer, please bring the witness in.

14 [The witness entered court]

15 PRESIDING JUDGE SMITH: Good morning, Witness.

16 THE WITNESS: Good morning, sir.

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

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

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1 PRESIDING JUDGE SMITH: Thank you, Witness. You can be seated
2 now.

3 THE WITNESS: Thank you.

4 PRESIDING JUDGE SMITH: Witness, today we will start your
5 testimony, which is expected to last approximately two or as much as
6 three days. As you may know, the Thaci Defence will ask you
7 questions first. Once they are finished, the other Defence teams and
8 the Prosecution have the right to ask questions of you, and members
9 of the Panel may have questions for you.

10 The Thaci Defence estimate for your examination is four hours.
11 The three other Defence teams estimates that they will need about a
12 half an hour. The SPO estimates that it will need five hours for
13 cross-examination. As regards each estimate, we hope that counsel
14 will be judicious in the use of their time. The Panel may allow
15 redirect examination by the Defence if conditions for it have been
16 met.

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

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

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1 Please also speak into the microphones, and please wait five
2 seconds before answering a question and then speak at a slow pace so
3 the interpreters can catch up.

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

8 Please stop talking if I ask you to do so and also stop talking
9 if you see me raise my hand. These indications mean that I need to
10 give you an instruction.

11 If you feel the need to take a break, please make an indication
12 and an accommodation will be made.

13 We begin first with the questions from the Thaci Defence. They
14 will have some questions for you, and then we will proceed with other
15 Defence members, and then the SPO.

16 Go ahead, Mr. Misetic.

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

18 Examination by Mr. Misetic:

19 Q. Good morning, Mr. Covey.

20 A. Good morning.

21 Q. We have met before, but for the record, my name is Luka Misetic,
22 and I am Specialist Counsel for Mr. Hashim Thaci. Could you please
23 state your full name for the record.

24 A. My full legal name is James Peter Covey, but I'm known
25 professionally and to my friends as Jock Covey.

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1 Q. Thank you. And could you please state your date of birth?

2 A. March 7, 1944.

3 Q. And what is your nationality?

4 A. I'm American, USA.

5 Q. I could already tell that we were talking a bit too fast, so I
6 will try to pause between question and answer, and I would ask you to
7 do the same because sometimes --

8 A. Thank you.

9 Q. -- I forget.

10 A. Sorry.

11 Q. Did you give a statement to the Thaci Defence which you signed
12 on 12 August 2025?

13 A. Yes, I did.

14 MR. MISETIC: Mr. Court Officer, could you please bring up
15 DHT11849 to DHT11864, please.

16 Q. Mr. Covey, do you recognise the first page of this document?

17 A. I do.

18 Q. And is this a record of the statement you gave to the Thaci
19 Defence?

20 A. Yes.

21 MR. MISETIC: Mr. Court Officer, could we turn to page DHT11863,
22 which should be the second-to-last page. If we could scroll to the
23 bottom, please.

24 Q. Mr. Covey, is that your signature that you see on the screen?

25 A. Yes, it is.

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1 Q. And did you sign this document?

2 A. Yes, I did.

3 Q. Did you have a chance to review the document before you signed
4 it?

5 A. Yes.

6 Q. Did you have another chance to review this document beginning
7 last week and this week?

8 A. Yes.

9 Q. Did you have an opportunity to meet with me and my colleagues
10 this week?

11 A. Yes, I did.

12 Q. And in those meetings, were you given an opportunity to make
13 corrections and clarifications to this document?

14 A. Yes.

15 Q. Do you recall those clarifications and corrections being
16 recorded in a note which was read back to you?

17 A. Yes.

18 MR. MISETIC: For the record, Preparation Note 1 is DHT12068 to
19 DHT12073.

20 Q. And subject to those clarifications and corrections that you
21 gave us this week and that we recorded in the note, is the
22 information you provided in the statement to the Thaci Defence
23 accurate and truthful to the best of your knowledge and belief?

24 A. Yes.

25 Q. And subject to those corrections and clarifications recorded in

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1 the note, does the information provided in your witness statement to
2 the Thaci Defence accurately reflect what you would say if you were
3 asked the same questions again in court as you were asked when you
4 provided the witness statement?

5 A. Yes.

6 MR. MISETIC: Your Honour, we move for the admission of the
7 witness statement, DHT11849 to DHT11864, and the associated exhibits
8 that were provisionally admitted by the Trial Panel in decision
9 F03452, and we also tender Preparation Note 1, DHT12068 to DHT12073,
10 for admission.

11 PRESIDING JUDGE SMITH: Any objection?

12 MS. IODICE: No, Your Honour.

13 PRESIDING JUDGE SMITH: No objection being heard. DHT11849 to
14 11864, DHT12068 to 12073, and all associated exhibits as listed are
15 admitted.

16 THE COURT OFFICER: Thank you, Your Honours.

17 The statement, which is DHT11849 to DHT11864, will be assigned
18 Exhibit 1D00390, currently classified as confidential.

19 The Preparation Note 1, DHT12068 to DHT12073, will be assigned
20 Exhibit 1D00391.

21 As for the associated exhibits, the range which is DHT05053 to
22 DHT05112 and the pages DHT05056 to DHT05057 will be assigned
23 Exhibit 1D00392, classified as confidential. From the same range,
24 which is DHT05053 to DHT05112, pages DHT05082 to DHT05084 will be
25 assigned Exhibit 1D00393, classified as confidential. The same

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1 mentioned range and the pages DHT05093 to DHT05096 will be assigned
2 Exhibit 1D00394, classified as confidential. The same mentioned
3 range and the pages DHT05098 to DHT05102 will be assigned
4 Exhibit 1D00395, classified as confidential. The same mentioned
5 range and the pages DHT05104 to DHT05104 will be assigned
6 Exhibit 1D00396, classified as confidential. And again the same
7 mentioned range, the pages DHT05106 to DHT05108 will be assigned
8 Exhibit 1D00397, classified as confidential. And in the same range,
9 pages DHT05110 to DHT05110 will be assigned Exhibit 1D00398,
10 classified as confidential.

11 The next ERN number is DHT05589 to DHT05591 will be assigned
12 Exhibit 1D00399, classified as confidential.

13 And the last exhibit number which is SPOE00203200 to 00203209
14 will be assigned Exhibit 1D00400, classified as confidential.

15 Thank you, Your Honours.

16 PRESIDING JUDGE SMITH: Any reason to remain confidential on
17 these documents?

18 MR. MISETIC: Yeah, I was just going to tell you, Mr. President,
19 I think most of them can be public, but we will give you a -- after
20 the 10.00 break I propose to tell you which have to remain
21 confidential and the rest can be made public.

22 PRESIDING JUDGE SMITH: Thank you very much.

23 Go ahead.

24 MR. MISETIC: Thank you.

25 On 6 September 2025, the Thaci Defence submitted a proposed

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1 summary of this witness's now admitted Rule 154 statement to the
2 Panel and all parties and participants. We have not received any
3 objection to the proposed summary, so, Mr. President, I ask for your
4 leave to read the summary now.

5 PRESIDING JUDGE SMITH: Leave is granted. Go ahead.

6 MR. MISETIC: Thank you.

7 Jock Covey served in Kosovo as the Principal Deputy of the
8 Special Representative of the Secretary-General Bernard Kouchner from
9 July 15, 1999, through January 2001. In this role, Mr. Covey played
10 a crucial role in the implementation of the mandate of the
11 United Nations Mission in Kosovo, also known as UNMIK, under
12 United Nations Security Council Resolution 1244 in Kosovo and worked
13 closely with local representatives, stakeholders, and political
14 figures, including Hashim Thaci.

15 He provides evidence about Mr. Thaci's role in working with
16 UNMIK to help stabilise Kosovo by speaking out against violence and
17 calling for tolerance, committing to the demilitarisation of the KLA,
18 supporting the creation of the Kosovo police service and Kosovo
19 Protection Corps, and participating in efforts to involve local
20 participation in governance such as the Kosovo Transitional Council
21 and the Joint Interim Administrative Structures.

22 His observations led him to conclude that Mr. Thaci had no real
23 authority over the Kosovo Liberation Army, with most of the KLA's
24 virtually autonomous strongmen harbouring little to no respect for
25 Mr. Thaci; that Mr. Thaci was not in a position either to organise or

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1 stop the violence that occurred during the summer of 1999; and that
2 Mr. Thaci's role and ambitions were that of a politician who showed
3 himself to be able to work with UNMIK and capable of compromise.

4 And that concludes the summary, Mr. President.

5 PRESIDING JUDGE SMITH: Thank you.

6 MR. MISETIC:

7 Q. Mr. Covey, just for your understanding, your witness statement
8 has now been admitted into evidence, and we don't need to repeat
9 what's already in your witness statement, so I will have some
10 follow-up questions mostly on new matters that are not contained in
11 your witness statement. Do you understand?

12 A. I do.

13 Q. In paragraph 79 of your witness statement, you say that:

14 "I never saw Mr. Thaci as having any power or meaningful
15 influence over the KLA. This observation is based not only on
16 reports from highly trusted sources, but also having witnessed
17 first-hand, Mr. Thaci's humiliating isolation in the presence of the
18 KLA's real strongmen."

19 And in Preparation Note 1, paragraph 10(x), you state that these
20 highly trusted sources included General Sir Mike Jackson. Do you
21 recall that?

22 A. I do.

23 Q. At paragraphs 61 to 62 of your witness statement, you discuss a
24 meeting in September 1999 where General Wesley Clark flew into Kosovo
25 to use his authority to help persuade the KLA regional commanders to

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1 agree to the completion of demobilisation. Do you recall that?

2 THE INTERPRETER: Could the speakers kindly be asked to slow
3 down. Thank you.

4 MR. MISETIC:

5 Q. Do you recall that?

6 A. Yes, I do.

7 Q. Yes. And in paragraph 62, you say that this was the first time
8 that you and Mr. Kouchner could see Mr. Thaci with the regional
9 commanders in the same space. Do you recall that?

10 A. Yes, I do.

11 Q. In Preparation Note 1, on page 4, at paragraph 10(r), you
12 explain a painting that is in General Jackson's book.

13 MR. MISETIC: And I would like to ask the Court Officer to
14 please call up that painting, which is at SPOE00212586 to 00212692 at
15 page SPOE00212620.

16 MS. IODICE: Your Honour, if I may, that's an exhibit. It's
17 Exhibit P2521.

18 MR. MISETIC: It's my understanding, Mr. President, that that
19 page of the book is not part of the Prosecution exhibit, but I could
20 be corrected.

21 MS. IODICE: The painting is but -- that's the exhibit number of
22 the painting, but --

23 MR. MISETIC: Okay.

24 MS. IODICE: Yeah.

25 MR. MISETIC: Thanks. Then, yeah -- thank you to counsel. And,

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1 yeah, we would prefer then to use the admitted exhibit number, so
2 P2521.

3 Q. Mr. Covey, do you recall this painting?

4 A. I do.

5 Q. Did you participate in any way in the creation of this painting?

6 A. As it turns out, yes.

7 Q. And how did you participate?

8 A. The artist showed me his painting in progress because he
9 intended to paint me into it. In fact, he had painted me in -- this
10 is -- I am the fellow in the yellow tie immediately to the left of
11 Ceku. And I asked him would he please paint in the police chief, who
12 was ill at the time and did not attend the particular meeting that
13 this depicted, because the police chief was an important functionary
14 and I felt he should be part of the historical record. The artist
15 kindly did so, and also at my request minimised my image since I tend
16 to be a bit camera shy.

17 Q. Thank you.

18 MR. MISETIC: And if we could scroll up to the top of the page,
19 please. If we could zoom in on the corner with the picture what --
20 yes.

21 Q. The person that's in that picture in the upper right-hand
22 corner, do you recognise who that person is?

23 A. The one closest to his brush --

24 Q. Yes.

25 A. -- is Mike Jackson.

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1 Q. No, no, I mean the person in the photo in the upper right-hand
2 corner, not of the painting but of the page.

3 MR. MISETIC: Yes, if we could zoom in for the witness and
4 scroll over to the right-hand portion of the page.

5 Q. The person in the blue shirt?

6 A. Oh, that would be Bernard Kouchner.

7 Q. No, no, again, upper part of the page in the far right, the
8 person who is apparently painting something on the painting.

9 A. Oh. I no longer remember his name.

10 Q. But who was he generally?

11 A. We're talking about the fellow in the blue shirt, with the long
12 hair?

13 Q. Yes.

14 A. He appeared only, as far as I know, I -- at -- with KFOR's
15 permission to paint this picture.

16 Q. Okay. So he is the artist who drew it?

17 A. He is the artist, yes.

18 Q. Yes. We see in there he has various pictures of people in
19 this -- near his canvas. Did you see that at the time when you were
20 working with him?

21 A. No. I only saw his painting in progress because he just wanted
22 to see enough of me to paint me in.

23 Q. Okay. In Preparation Note 1, page 4, paragraph 10(r), you
24 explained that this painting depicted a typical scene at a meeting of
25 the Joint Implementation Council, or JIC, but not the last meeting

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1 involving Mr. Thaci that you discuss in paragraph 62 of your witness
2 statement. Do you recall?

3 A. Yes, and that is correct. This was typical of the preparatory
4 meetings chaired by General Jackson to hammer out the details of
5 implementing the understanding.

6 Q. Yes. And in the same paragraph of Preparation Note 1, you state
7 that, other than at that last meeting, you are not sure that
8 Mr. Thaci ever attended any prior JIC meetings, although KFOR records
9 might show that he attended some. Is that correct?

10 A. That is correct. I attended a number of these preparatory
11 meetings and do not recall Mr. Thaci ever being present at the
12 preparatory meetings.

13 Q. Yes.

14 MR. MISETIC: If we can now show the actual painting, please.

15 Q. Could you tell us who is sitting in what positions in the
16 painting?

17 A. Going clockwise around the table, the fellow in the white shirt
18 is the political adviser, the --

19 Q. Political adviser to whom?

20 A. Military adviser to Mike Jackson, to General Jackson.

21 Q. Okay.

22 A. The officer to his left, I do not recall the name. Then there
23 is Mike Jackson. Continuing around the table, Bernard Kouchner, then
24 the police chief, and then Mr. Ceku. And I do not recall who the UCK
25 officer was at the far right.

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1 Q. Okay. Would the KLA be sitting on the opposite side of
2 General Jackson at the table typically?

3 A. Yes. General Ceku generally sat opposite General Jackson, and
4 other regional commanders sat out of the picture to the left, behind
5 General Ceku.

6 Q. To the left or to the right?

7 A. Or actually to the right. To the right.

8 Q. With the assistance of the Court Usher, I will ask you to please
9 use the screen in front of you, and if you could sketch now - for the
10 last meeting - the seating arrangements and where Mr. Thaci sat at
11 that last meeting in relation to everyone else seated around a table
12 like this.

13 So I think the Court Officer will be able to help you with the
14 drawing.

15 THE COURT OFFICER: Is my understanding correct that we should
16 remove the current document from the --

17 MR. MISETIC: Yes.

18 THE COURT OFFICER: Okay. Thank you.

19 THE WITNESS: With apologies, I am not an artist or a proper
20 draftsman, but I'll do my best.

21 At the top of the room was a kind of dais where sat
22 General Jackson and Wes Clark and several other officers from KFOR.

23 MR. MISETIC:

24 Q. Could you make a 1 for those -- for that?

25 A. [Marks]

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1 Q. Yes.

2 A. Then there was a table here where sat a cast of characters
3 similar to what was depicted in the painting, with
4 Bernard Kouchner -- Sven, the police chief, was not there. I was
5 there, and I do not recall if there was a third UNMIK person present.

6 Q. Could you put a 2 there, please.

7 A. [Marks]. Here there were folding chairs. And as I recall it,
8 Ceku sat -- in my mind's eye, I have him here. And then this
9 section, all on folding chairs, was populated by the regional
10 commanders.

11 Q. And just for the record, this section with the regional
12 commanders you have depicted on the sketch with a square composed of
13 dotted lines --

14 A. Yes.

15 Q. -- if you could please --

16 A. Because they were in chairs, not at the table, as I recall it.

17 Q. And could you put a 3 there, please.

18 A. [Marks]. Here, also on chairs, sat Mr. Thaci with one or two
19 other individuals apart from the commanders.

20 Q. Could you put a 4 there, please.

21 A. [Marks]

22 Q. Thank you.

23 MR. MISETIC: Mr. President, I propose that we take a screen
24 capture of this, and I tender it into evidence.

25 PRESIDING JUDGE SMITH: Any objection?

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1 MS. IODICE: No, Your Honour.

2 PRESIDING JUDGE SMITH: The screenshot will be marked as an
3 exhibit, please, and admitted.

4 THE COURT OFFICER: Your Honour, if I can have a moment to save
5 the document. Thank you.

6 PRESIDING JUDGE SMITH: Yes?

7 THE WITNESS: Your Honour, would I be permitted a scratchpad so
8 that I could make notes? I find, as time goes on, point 2 gets lost
9 while I'm making point 1.

10 PRESIDING JUDGE SMITH: We have no objection to you having a pad
11 and a pen, but you will not be allowed to remove it from the court.

12 THE WITNESS: That's quite fine.

13 PRESIDING JUDGE SMITH: When you're finished, those notes will
14 be destroyed.

15 THE WITNESS: Yes, sir. Your Honour, thank you.

16 THE COURT OFFICER: Your Honour, the sketch that was drawn by
17 the witness will be assigned Exhibit 1D00401.

18 If we can have a clarification on the classification. Thank
19 you.

20 MR. MISETIC: It can be public.

21 PRESIDING JUDGE SMITH: So it's reclassified as public.

22 MR. MISETIC: Thank you.

23 PRESIDING JUDGE SMITH: And 1D00401 is admitted.

24 Go ahead.

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

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1 Q. Mr. Covey, did Mr. Thaci participate in the discussion in any
2 way during this final meeting?

3 A. No. As I recall it, and it made quite an impression at the
4 time, he did not participate. He was neither called upon nor did he
5 volunteer.

6 Q. Who spoke at the meeting on behalf of the KLA?

7 A. General Ceku.

8 Q. Did you see the KLA commanders speak to Mr. Thaci?

9 A. No. And perhaps I can say something about that in more detail,
10 but --

11 Q. Please --

12 A. -- please --

13 Q. -- do.

14 A. This stands out vividly in memory because it seemed to
15 emphatically confirm what we had believed virtually from the
16 beginning of our acquaintance with Mr. Thaci, that he had a very
17 slender relationship with the field commanders of the KLA, and that
18 they had little time or, perhaps more emphatically, they had -- they
19 evidenced no respect for him. In fact, on this occasion, if you look
20 at that diagram -- may I go back just a little?

21 Q. Sure.

22 A. General Jackson, who famously had a contretemps with Wes Clark
23 over the Russian efforts to take the airfield before KFOR could enter
24 Kosovo, I -- Wes Clark and General Jackson, to their great credit,
25 had gotten past that very serious disagreement. And when

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1 General Jackson needed help bringing the KLA commanders over the
2 line, that is, to accept the conditions for implementing the
3 undertaking, specifically the arrangements for the creation of the
4 Kosovo Protection Force, a civilian unarmed organisation, we were
5 right up -- or KFOR was right up against the deadline and needed some
6 help persuading the commanders to give a positive response.

7 General Clark gave a very spirited presentation, going on at some
8 length about the importance of the legend of Cincinnatus, and, in the
9 end, even pulling up his tunic to show that even he was unarmed and
10 subject to civilian control.

11 At the end of Wes Clark's presentation, General Jackson called a
12 break, and people gravitated to the refreshments which were off to
13 the -- off the page and to the left. Everyone gravitated except
14 Mr. Thaci remained where he was. And the other commanders chatted
15 among themselves and eagerly, if they spoke English, chatted with
16 General Clark. I -- and pointedly did not engage Mr. Thaci, did not
17 even look in his direction. As an observer, it seemed to me their
18 behaviour was virtually contemptuous. I was very surprised. Though,
19 it brought home what we had believed from the very beginning, that
20 Mr. Thaci really had no meaningful relationship with that body of
21 field commanders, and that it was highly unlikely that they would
22 seek his guidance, let alone take orders or report their activities
23 to him.

24 Q. Following up on that, what was your understanding at the time of
25 why the regional commanders or the zone commanders needed to be

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1 spoken to by General Clark as opposed to, for example, just speaking
2 to Mr. Ceku or Mr. Thaci? What was your understanding of why the
3 zone commanders had to be spoken to by the Supreme Allied
4 Commander of NATO?

5 A. As we understood it at the time, there was no central command.
6 General Ceku was by far the most influential individual within the
7 KLA, but he did not seem to be in a position to simply speak for it
8 and needed to know that they were in agreement. And during that
9 meeting, we could see General Ceku, very calmly, not in any pleading
10 way, look over his shoulder to continue to check that the commanders
11 were basically with him as they discussed the details of the
12 agreement.

13 So let's say it seemed to us that Ceku needed to know that he
14 had a consensus among the field commanders. And it made perfect
15 sense to us because we understood the KLA to be more of a movement
16 than an army, with each individual zone or field commander having
17 great autonomy, whether in reality or just in their imagination.
18 They felt they could do what they chose to do within their zone.
19 That was our understanding.

20 Q. Thank you, Mr. Covey. I'd like to turn to a different topic.

21 MR. MISETIC: Mr. Court Officer, if we could please have on the
22 screen DHT05465 to DHT05471, please.

23 Q. And, Mr. Covey, just to orient you, this is an UNMIK code cable
24 from 5 July from Mr. Sergio de Mello. I know it's about ten days
25 before your arrival in Kosovo, but, nevertheless, I'd like to take

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1 you to page DHT05466, please.

2 MR. MISETIC: And if we could scroll to point number 1.

3 Q. In there we read a report that:

4 "The SRSG informed that he had conveyed to Thaci the protest of
5 Bishop Artemije and Mr. Trajkovic on the incidents in the night of
6 2 July. Thaci had distanced himself from those incidents and offered
7 to make a public announcement to that effect."

8 And if we move to the next page, which is DHT05467, under
9 "Conclusion," it states:

10 "Thaci's willingness to make a public statement distancing
11 himself from the 2 July incidents took away the Serb's argument to
12 stop working with the Kosovo Albanians. Rhetorics aside, they now
13 look ready to participate in the KTC."

14 Does this note correspond to your general recollection of
15 Mr. Thaci's approach to ethnic violence?

16 A. Yes. I think we're going -- we may discuss the first and second
17 meetings of the KTC that we witnessed. Of course, this particular
18 report precedes our arrival, but it is consistent with what we
19 observed later of Mr. Thaci's public behaviour.

20 Q. Thank you.

21 MR. MISETIC: Mr. President, I tender this document in evidence,
22 DHT05465 to DHT05471.

23 PRESIDING JUDGE SMITH: Any objection?

24 MS. IODICE: No, Your Honour.

25 PRESIDING JUDGE SMITH: DHT05465 to 05471 is admitted.

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1 THE COURT OFFICER: And this will be assigned Exhibit 1D00402,
2 and it's classified as confidential.

3 MR. MISETIC: I believe it can be public. It can be public.

4 PRESIDING JUDGE SMITH: Reclassified as public.

5 THE COURT OFFICER: Thank you, Your Honours.

6 MR. MISETIC: Next, Mr. Court Officer, if we could please call
7 up DHT01307 to DHT01308.

8 Q. And, Mr. Covey, this is an OSCE Situation Brief from 10 July
9 1999.

10 MR. MISETIC: And if we could turn the page, please. Yes.

11 Q. And I'll just read it out to you and then ask you a question.
12 This reports on something that happened on 9 July. The headline is:
13 "Albanian authorities in Kosovo condemn intrusions into Serb flats."

14 "The local authority board of the Kosovo Albanian Transitional
15 Government, led by Hashim Thaqi met with the chairmen of 25 Kosovo
16 municipalities, appointed as heads of the Albanian authorities after
17 the entrance of KFOR troops into Kosovo.

18 "They condemned the intrusions by ethnic Albanians into Serb
19 flats and houses."

20 Does the text correspond to your contemporaneous understanding
21 of Mr. Thaci's approach to ethnic tensions after the conflict?

22 A. Yes. This was before we arrived and it came to our attention
23 only afterwards as -- but it is consistent with the impression we had
24 of Mr. Thaci's approach as it emerged over time.

25 Q. Thank you.

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1 MR. MISETIC: Mr. President, I tender this document into
2 evidence, DHT01307 to DHT01308.

3 PRESIDING JUDGE SMITH: Any objection?

4 MS. IODICE: No, Your Honour.

5 PRESIDING JUDGE SMITH: DHT01307 to 01308 is admitted.

6 THE COURT OFFICER: Thank you, Your Honours. This will be
7 assigned Exhibit 1D00403. And if we can clarify the classification.

8 MR. MISETIC: It should remain confidential.

9 Mr. Court Officer, can we please have on the screen
10 Exhibit 1D00361, please. If we could turn to the next page, please.

11 Q. Mr. Covey, this appears to be an UNMIK memo dated 5 October
12 1999. And it's sent from Bernard Kouchner, and there are some
13 initials next to his name. Do you recognise those initials?

14 A. Yes. As you can see, before his name there's a scribble that
15 means "for," and I signed it -- I initialled it myself in his place.
16 We often did this on things that were clearly understood between us,
17 and there was no need to go follow a bureaucratic route and have him
18 sign everything. I would note in passing that we made every effort
19 to treat the role of the principal deputy as if in tandem with the
20 SRSG, not as a box through which things had to go.

21 Q. Thank you. If we look at the first paragraph, it says:

22 "UNMIK offices at all levels receive written communications from
23 the so-called 'Government of Kosovo' or the 'Interim Government of
24 Kosovo' entities. It has been the policy of the Mission to return
25 such letters to the sender without response since the Mission does

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1 not want to be put in a position of recognising these entities. This
2 policy does not restrict the daily contacts which UNMIK staff members
3 have with the representatives of these so-called 'Government'
4 entities."

5 Now, the memo says that this "has been" the policy of UNMIK to
6 return letters to the sender if they came from the Government of
7 Kosovo or the Interim Government of Kosovo. Do you recall whether
8 this policy was in place in or around June -- July of 1999 when you
9 arrived?

10 A. I believe so, yes. It was our intention. And I would like to
11 believe that in every instance we returned -- but I would not be
12 shocked if there were errors along the way, but it was our intention
13 to return without comment so that we would not, in effect, recognise
14 the existence of the PGoK.

15 Q. Pursuant to this policy, would UNMIK accept a document sent by
16 Mr. Thaci if he signed it as the prime minister of the Provisional
17 Government of Kosovo or would UNMIK return it as a matter of policy?

18 A. As a matter of policy -- I'm sorry, I should slow down. As a
19 matter of policy, we would return it.

20 Q. Thank you.

21 MR. MISETIC: Mr. President, I see the time.

22 PRESIDING JUDGE SMITH: Mr. Covey, we'll give you a ten-minute
23 break at this time.

24 THE WITNESS: Thank you.

25 PRESIDING JUDGE SMITH: We'll reconvene at ten minutes after the

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1 hour.

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

3 [The witness stands down]

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

5 --- Break taken at 10.00 a.m.

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

7 MR. MISETIC: Mr. President.

8 PRESIDING JUDGE SMITH: You have your report back?

9 MR. MISETIC: Yes. Mr. President, we believe that all of our
10 exhibits can be made public except for 1D394 and 1D395, which need to
11 remain confidential at the request of a Rule 107 provider. And we
12 are waiting to hear back from the SPO on their position on 1D397, on
13 whether that needs to remain confidential.

14 MS. IODICE: It can be public.

15 MR. MISETIC: Okay. Then the only two exhibits that need to
16 remain confidential are 1D394 --

17 PRESIDING JUDGE SMITH: All right.

18 MR. MISETIC: -- and 1D395.

19 PRESIDING JUDGE SMITH: All the associated exhibits except
20 1D00394 and 395 will be made public, reclassified as public. Those
21 two will remain confidential.

22 Go ahead -- I'm sorry, Madam Court Officer, bring the witness
23 in, please.

24 [The witness takes the stand]

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

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1 continue.

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

3 Q. Mr. Covey, I asked you earlier this morning some questions about
4 the final JIC meeting, and I wanted to follow up by asking you of the
5 relationship between General Ceku and Mr. Thaci.

6 Did you perceive Mr. Thaci to be General Ceku's boss?

7 A. Did I perceive Mr. Thaci to be General Ceku's boss?

8 Q. Correct.

9 A. Absolutely not.

10 Q. When you say "absolutely not," why are you so sure?

11 A. They seemed, in my observation, to be very correct with each
12 other. I do not clearly recall direct exchanges between them,
13 certainly never in the form of one giving the other direction, and
14 there always seemed to be a great reserve. It was rare, in our
15 experience, that they were, in fact, in the same space.

16 Q. You did witness them once in the same space -- at least once --

17 A. Yes.

18 Q. -- and that was at the JIC -- final meeting there with
19 General Clark, I should say?

20 A. Yes.

21 Q. Did you see General Ceku consulting with Mr. Thaci?

22 A. No.

23 MR. MISETIC: If we could go, please, to Exhibit P880, please.

24 Q. Mr. Covey, are you familiar with the letter that's on your
25 screen?

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1 MR. MISETIC: And if we could show the bottom as well, please.

2 THE WITNESS: Yes.

3 MR. MISETIC:

4 Q. It's a letter purported to have been sent by Hashim Thaci,
5 General Commander of the UCK, to Bernard Kouchner, pursuant to the
6 agreement on demilitarisation of the UCK of 21 June 1999, made
7 between COM KFOR and UCK, requesting to enable some command personnel
8 to "legally belt arms." Do you recall the letter?

9 A. I do.

10 Q. Did you perceive Mr. Thaci at the time to be the general
11 commander of the KLA?

12 A. I did not. We did -- I can speak for UNMIK. We -- UNMIK did
13 not regard him as the commander.

14 Q. Did you ever a conversation, subsequent to this letter, with
15 Mr. Thaci about the letter?

16 A. No, I did not.

17 Q. Did Mr. Thaci ever follow up, to your knowledge, with UNMIK
18 about this request?

19 A. No. May I comment on that?

20 Q. Please.

21 A. As diplomats and bureaucrats, we're very familiar with the duty
22 to carry a bucket occasionally for -- to serve some interest. And it
23 appeared to us at the time, immediately upon receipt, and in my mind
24 I feel I discussed this with Bernard Kouchner, that this was -- he's
25 making a gesture. It seemed that for some reason it was in his

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1 interest to at least submit the letter.

2 He did not accompany it with any comments that lent urgency to
3 it. He did not return to it in other exchanges. He did not follow
4 up. He did not try to leverage his cooperation on other issues to
5 get traction on this issue. That behaviour over the ensuing weeks
6 confirmed for us that it was just carrying a bucket to execute a task
7 that somehow served some other interest.

8 Q. Did UNMIK ever respond to this letter to your knowledge?

9 A. Not to my knowledge. In fact, I think I can say quite clearly,
10 because we were in such full agreement, that this was outside -- this
11 was beyond the pale of anything we would agree to. In fact, it was
12 not ours to do. This was basically a KFOR matter. But, no, we did
13 not respond.

14 Q. Thank you. Turning to a different topic. What was your
15 understanding at the time of your service in Kosovo of the date that
16 the conflict between the KLA and Serb forces ended?

17 A. Our understanding was that the conflict formally ended with the
18 agreement of the Serbs to withdraw, which I believe was signed on
19 20 June. I can't quite do that from memory. But there was a
20 document and that document having been executed, that that ended the
21 conflict in a formal sense.

22 MR. MISETIC: If we could, Mr. Court Officer, please have on the
23 screen P02563 at PDF page 24, which is ERN page SPOE00000772, please.
24 And if we could just first show the first page so that the witness
25 knows what the document is.

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1 Q. This is a report to the Security Council by the
2 Secretary-General dated 12 June 1999, pursuant to paragraph 10 of
3 Security Council Resolution 1244.

4 MR. MISETIC: And now if we could go to page 24.

5 Q. And in paragraph 88 at the top, the Secretary-General reports --
6 well, first, before I ask that question. The reports that the
7 Secretary-General would submit to the Security Council, did UNMIK
8 have any involvement in the preparation of those reports?

9 A. Yes. UNMIK would generally prepare its own report which would
10 become feedstock for the Secretary-General's reports.

11 Q. So if we look at paragraph 88, it says:

12 "A particularly acute human rights problem in Kosovo is
13 uncertainty about the whereabouts of family members who have gone
14 missing during the conflict. Abductions have also occurred after the
15 conflict ended."

16 And this is dated 12 July 1999. Is it correct, in terms of what
17 your understanding was at the time, that the conflict in Kosovo had
18 ended before 12 June 1999?

19 A. Yes, that is my understanding.

20 MR. MISETIC: And, Mr. Court Officer, if we could please have on
21 the screen Exhibit 1D00254, please.

22 THE WITNESS: If I could --

23 MR. MISETIC:

24 Q. Please.

25 A. Just as a footnote. We always spoke of our work as

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1 post-conflict.

2 Q. Thank you. Mr. Covey, this is an UNMIK regulation that was
3 issued on 21 December 2000. You were still in your post at this
4 time; is that correct?

5 A. Yes.

6 MR. MISETIC: If we could please go to paragraph 1.5 -- before
7 we do that, I'm sorry, let me just read the title for the record and
8 so you're oriented. It's an UNMIK regulation on the benefits for war
9 invalids of Kosovo and for the next of kin of those who died as a
10 result of the armed conflict in Kosovo. And if we could go to
11 paragraph 1.5, please.

12 Q. The regulation says:

13 "For the purpose of the present regulation, the armed conflict
14 in Kosovo is deemed to have occurred between 27 February 1998 and
15 20 June 1999."

16 MR. MISETIC: And if we could now have on the screen
17 Exhibit 1D00255, please.

18 Q. And this is a regulation issued in 2006, so after your time in
19 Kosovo, on the resolution of claims relating to private immovable
20 property, including agricultural property and commercial property.

21 MR. MISETIC: And if we could please go to page 2 of this
22 document, to paragraph 3.1.

23 Q. The regulation says:

24 "The Kosovo Property Agency shall, through the Executive
25 Secretariat, have the competence to receive and register and, through

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1 the Property Claims Commission, have the competence to resolve,
2 subject to the right of appeal to the Supreme Court of Kosovo, the
3 following categories of conflict-related claims involving
4 circumstances directly related to or resulting from the armed
5 conflict that occurred between 27 February 1998 and 20 June 1999."

6 Now, Mr. Covey, was it UNMIK's determination that the armed
7 conflict in Kosovo ended on 20 June 1999?

8 A. Yes.

9 Q. Were you aware of any armed clashes between the KLA and Serbian
10 troops after 20 June 1999?

11 A. I am not aware of any clashes that could be considered combat.

12 Q. Are you aware of any clashes between --

13 A. No, but I don't exclude the possibility that there was some
14 friction, but nothing that was brought to our attention.

15 Q. Were you aware of any combat casualties among KLA or Serbian
16 troops after 20 June 1999?

17 A. No.

18 Q. Were any cities or towns in Kosovo besieged by combatants after
19 20 June 1999?

20 A. No -- I should say, not that I am aware of.

21 Q. Were any roads in Kosovo blocked by combatants after 20 June
22 1999?

23 A. Not that I am aware of.

24 Q. Were any heavy weapons fired in combat in Kosovo after 20 June
25 1999?

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1 A. Again, not that I am aware of.

2 Q. Are you aware of any civilians fleeing a combat zone or any
3 civilian casualties caused by fighting between the KLA and Serbian
4 forces after 20 June 1999?

5 A. Not that I am aware of.

6 Q. Are you aware of any UN Security Council statements or
7 resolutions that express any concerns about an ongoing armed conflict
8 in Kosovo after 20 June 1999?

9 A. No. No.

10 Q. Thank you, Mr. Covey.

11 MR. MISETIC: I'd now like to turn to Exhibit P01980, please.

12 Q. Mr. Covey, as you can see on the screen, this is an outgoing
13 code cable from Mr. Kouchner, dated 21 July 1999, concerning
14 political meetings.

15 MR. MISETIC: And if we could go to the next page, please, in
16 section I.

17 Q. You can read that. It says it's a summary:

18 "Thaci re-stated his goal of politicising the UCK. He wanted to
19 help building a democratic, multiparty Kosovo. Rugova was not
20 willing to do that. He was a product of the old communist days.
21 Thaci renewed his demand for a leading role of the UCK in the Kosovo
22 Police Service. He reacted cautiously to the SRSG's proposal to
23 enlarge the [KTC] adding one member from a party close to Rugova's
24 LDK."

25 MR. MISETIC: Now, if we could go down to section 1, please.

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1 Here it's reported that Mr. Kouchner:

2 "The SRSG stressed that it was important that Thaci commit
3 himself to a democratic, multiparty Kosovo. Some of UCK's current
4 actions were unhelpful, like 'Government ministers' issuing 'decrees'
5 with 'official' seals ..."

6 And then if we go to the next paragraph:

7 "Thaci agreed. He wanted to normalise life, integrate people
8 into civil life, get students into [universities] etc. For this,
9 democratic institutions had to be established. He did not want to
10 have a monopoly over political and social life. Lasting democracy in
11 Kosovo could only be achieved if the entire Balkans were free,
12 democratic, and had open borders. The SRSG agreed. But to get
13 stability in the Balkans it was important to 'win' in Kosovo."

14 Now, Mr. Covey, were you present for this meeting.

15 A. Yes.

16 Q. And do you recall where it took place?

17 A. Yes, it took place at Mr. Thaci's residence.

18 Q. Now, in section 1 here, Mr. Kouchner says he told Mr. Thaci that
19 he should commit to a democratic, multiparty Kosovo, and in response,
20 Mr. Thaci is reported to have agreed, saying he wanted democratic
21 institutions to be established, and noting that he did not want a
22 monopoly on power. Was it your understanding that Mr. Thaci had, in
23 fact, made the commitment at this meeting to a democratic multiparty
24 Kosovo?

25 A. To be fair, I think we could say he stated his commitment. It's

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1 hard to read hearts in that kind of situation, and this was the
2 beginning of getting to know him.

3 Q. Understood. Thank you.

4 MR. MISETIC: If we go to the next page, under section 3.

5 Q. It's reported that:

6 "Thaci said ... it had been a mistake that Rugova had not
7 participated at the first KTC. Kosovo did not belong to a particular
8 party and should not be allowed to be held hostage by any singular
9 group. The SRSG agreed. The work at the KTC would continue. But it
10 was important to get Rugova in."

11 Now, do you recall there being an issue with trying to get the
12 LDK and Mr. Rugova to participate in the KTC?

13 A. Your question concerns specifically Mr. Rugova's participation?

14 Q. Yes.

15 A. Yes. Rugova at that point was absent entirely from Kosovo for
16 reasons we did not at the time fully understand, leaving his LDK
17 colleagues in some considerable confusion and indecision.

18 Q. And is what is recorded here consistent with your recollection
19 of Mr. Thaci saying that Kosovo should not be allowed to be held
20 hostage by any singular group?

21 A. Yes. To be fair, at the time it sounded slightly ironic because
22 the antipathy towards Rugova that was expressed didn't seem fully
23 consistent with a fully democratic process. So this was part of
24 feeling out how much of this animosity was directed at the single
25 individual or was it that he really wanted to clear the way for

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1 whatever party he might eventually represent to take the lead. We
2 considered it part of the jockeying. It became -- all of this became
3 clearer later as people really thought through their interests.

4 Q. Thank you.

5 MR. MISETIC: If we go to section 5 of the document.

6 Q. This is the discussion on policing. And here it says:

7 "Thaci underlined that it was essential to quickly establish the
8 Kosovo Police Service (KPS). In line with the UCK Undertaking on
9 Demilitarisation and Transformation the UCK should be favoured when
10 creating the KPS. It would be a good idea to include an UCK expert
11 in UNMIK's selection commission.

12 "The SRSG said that he understood Thaci's point. It was not a
13 technical but a political question to which a political solution had
14 to be found. Something had to be offered to the UCK fighters, partly
15 in the police, partly outside of it. Covey added: there was no need
16 for special agreements for the UCK: experience from police
17 departments of developed countries showed that outside applicants
18 from armed services stood a very good chance. But it would be a
19 mistake if the UCK focused exclusively on the police."

20 Now, do you recall this discussion at that meeting?

21 A. Yes, I do. It reflected my experience in Bosnia where I was
22 involved to some extent in the effort to create a community-based
23 police force to replace the former Yugoslav police. The key
24 difference being the police of the former Yugoslavia were there to
25 protect the state, and the community policing that we aimed for would

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1 be police to protect the public, a fundamental difference. It
2 actually turned out to be quite successful in Bosnia, but,
3 importantly, because it meant that individuals applied to and were
4 vetted and accepted individually. It was not a unit transfer.

5 And what I was trying to get across there, and in subsequent
6 exchanges with Kosovars, was that a KLA soldier could, in fact, be
7 well qualified to become a police cadet and could succeed and make a
8 good living and have a respectable social profile, and that is very
9 important to what, perhaps we might discuss later, is called DDR, the
10 whole process of disarming, disbanding, and reintegrating personnel
11 from former fighting forces.

12 Q. And as part of DDR, and here we see it recorded that
13 Mr. Kouchner said that "something had to be offered to the UCK
14 fighters, partly in the police, partly outside of it," was that
15 important for the DDR?

16 A. That would come under the heading of R, reintegration.

17 Q. Okay. Thank you very much for that.

18 MR. MISETIC: And then if we go to the "Conclusion."

19 Q. And here it's recorded:

20 "In his first intensive discussion with the SRSG Thaci tried to
21 present himself as a multiparty democrat. He might mean it. But it
22 is still unclear if he could rally the rest of the UCK behind him.
23 To keep the UCK on the road to democratisation it will be important
24 to manage a smooth reintegration of its ex-combatants into civilian
25 life. For that we will have to convince Thaci (and, more

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1 importantly, the more radical elements in the UCK) that there are
2 more important posts in civilian life than just the police service."

3 Do you recall Mr. Kouchner acknowledging to Mr. Thaci that it
4 was important to integrate former KLA fighters into the police force?

5 A. Yes.

6 Q. And the note says that it was more important -- or, sorry, is it
7 correct that it was unclear to UNMIK whether Mr. Thaci had the
8 influence to rally the rest of the KLA behind him on the road to
9 democratisation?

10 A. Yes, definitely.

11 Q. And note says it was "more important" to convince some of the
12 "more radical elements in the UCK." Do you know who the "radical
13 elements" refers to?

14 A. I have never had a good layout of what the military would call
15 the order of battle of the KLA that made clear exactly who was in
16 charge of what in which region and reported to whom. A great deal of
17 our understanding of the internal life of the KLA came from KFOR,
18 which was primarily charged with implementing the understanding. I
19 had regular contacts with the KLA at all levels and with whom the KLA
20 obviously preferred to speak. They had no interest in really dealing
21 directly with UNMIK. So can I just make a note that we're not
22 relying on casual conversations.

23 From the very first day that we were in Kosovo, Kouchner and I,
24 we had a regular meeting with Mike Jackson at his headquarters, at
25 what is called film city on the hill, for just a general exchange of

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1 information and with no particular agenda. And General Mike would
2 provide a rundown of what he had learned and intended to do, and
3 Kouchner would provide likewise. Mostly a matter of Kouchner saying
4 what he needed in the way of support from KFOR.

5 So there were not, let's say, subject matter briefings on here
6 is the KLA and their current attitudes, but it was a subject of daily
7 discussion back and forth, even though I could not now attempt to
8 give you a rundown of the KLA personalities.

9 Q. Thank you.

10 MR. MISETIC: Mr. Court Officer, if we could please have on the
11 screen DHT05440 to DHT05442, please.

12 Q. And this is an outgoing code cable from Mr. Kouchner on 26 July
13 1999 concerning meetings with the LDK.

14 MR. MISETIC: And if we could go to the next page, please.

15 Q. In the summary, it says:

16 "The LDK and the parties of the LDK-close 'Parliament' insist
17 that they be given more seats in the Kosovo Transitional Council."

18 MR. MISETIC: And if we could scroll down, please. Sorry, in --
19 yes, scroll down to the "SRSG said ..."

20 Q. There is a point there that says -- it discusses a meeting,
21 first of all, let me just say, a meeting on 22 July --

22 MR. MISETIC: If we could scroll back up just a little bit,
23 please.

24 Q. A meeting that the SRSG had on 22 July with 15 person-strong LDK
25 presidency, and then a dinner he had with Mr. Alush Gashi, a member

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1 of the Presidency. On 25 July, he met with Mr. Ajeti, Mr. Kurteshi,
2 and Mr. Gjergj Dedaj, president of the Liberal Party. The meetings
3 focused on the role of the LDK and the composition of the Kosovo
4 Transitional Council.

5 And then if we can scroll down to the bottom bullet point, it
6 says:

7 "The SRSG said that he would try to change the composition of
8 the Council," referring to the KTC. "But it was important for the
9 LDK to understand that the political realities in Kosovo had changed
10 over the last 15 months. The LDK no longer was the only big
11 political force. They had also signed the Rambouillet agreement as
12 an equal together with three other factors (UCK, LBD, and the
13 independents). That was making it difficult to put the initial," if
14 we can go to the next page, "composition of the KTC upside down. But
15 he was determined to give the LDK and the parties around it an
16 additional third seat."

17 Now, you discuss in paragraph 44 of your witness statement the
18 agreement at Rambouillet among the KLA, LDK, and LBD to create a
19 Provisional Government of Kosovo. Did UNMIK use that Rambouillet
20 agreement as a basis to allocate seats in the KTC?

21 A. Let's note carefully that Security Council Resolution 1244
22 overtook anything that was agreed at Rambouillet, whatever its status
23 of -- the United Nations legally assigned UNMIK to be the
24 administrator of that entity. That said, Sergio De Mello, as the
25 interim SRSG, had to find some basis on which to assemble a vaguely

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1 representative group of people to work with, hopefully, that would
2 provide representation across the political landscape of Kosovo. It
3 came as no surprise that he sort of built it on sort of the rough
4 construction of Rambouillet. In no way did we regard that as somehow
5 a template that we were required to follow, but it was a good place
6 to start, but it was not -- we didn't feel bound by it. But, yes, it
7 was a -- it was a useful first draft.

8 Q. Thank you.

9 MR. MISETIC: If we could now turn to Exhibit P00743.2.

10 Q. Mr. Covey, this is an OSCE report titled "As Seen, As Told"
11 about the human rights situation in Kosovo, including in the time
12 period after the entry of NATO and UNMIK into Kosovo. And you can
13 see the foreword there at the top of the page was written by the
14 SRSG, Mr. Bernard Kouchner, and this was published in November 1999.

15 MR. MISETIC: And if we could please turn to a portion of
16 Mr. Kouchner's foreword. This is at page SITF000001534, which is
17 page 2. Oh, maybe not. Sorry. To the paragraph that -- no, that's
18 not the right one. Yes, that's it. The paragraph that begins "We
19 are deeply concerned ..."

20 Q. It says:

21 "We are deeply concerned about the situation of minorities. A
22 close look at the trend in crime shows a clear improvement. A drop
23 from 50 murders during each of the first weeks to three murders last
24 week cannot be ignored. Of course, each and every crime is one too
25 many. But things are changing. It is not fair to make comparisons

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1 with the situation before or during the war. At that time, and for
2 at least a decade, there was a systematic policy of apartheid, a
3 sub-human status, or at least a sub-community status for Albanians in
4 Kosovo/Kosova. This is no longer the case today. Perhaps it may
5 seem just as bad today for the Serbs or Roma who live in fear, who
6 cannot move about freely or have to find a way to protect their
7 children, but it is no longer a matter of a policy. All the parties
8 in Kosovo/Kosova, all leaders, Serbs and Albanians, have stated their
9 positions in favour of a multi-ethnic society and co-existence among
10 all communities. The crimes we see are the acts of individuals. No
11 political party has claimed responsibility for them. Their
12 representatives in the Kosovo Transitional Council have condemned
13 these abuses every time, and they themselves have expressed their
14 concern over these acts of intolerance. We cannot exclude the
15 possibility of double talk, but we cannot presuppose it either."

16 First, is what Mr. Kouchner wrote here consistent with your
17 impressions of the situation in Kosovo in the summer and fall of
18 1999?

19 A. Very much so, yes.

20 Q. Is his assertion that the crimes that were being committed were
21 no longer a matter of policy consistent with what you and
22 Mr. Kouchner and UNMIK were concluding at the time?

23 A. Certainly with regard to UNMIK, but by extension, the emerging
24 consensus among the figures who would become the JIAS, the Joint
25 Interim Administrative Structure. Yes.

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1 Q. Now here he says or he writes here that:

2 "... all leaders, Serbs and Albanians, have stated their
3 positions in favour of a multi-ethnic society and co-existence among
4 all communities."

5 Do you know if Mr. Thaci is one of those leaders that he's
6 referencing here?

7 A. I would include him in that, yes.

8 Q. He goes on to say:

9 "Their representatives in the Kosovo Transitional Council have
10 condemned these abuses every time, and they themselves have expressed
11 their concern over these acts of intolerance."

12 Do you know if Mr. Thaci is one of people who is referenced here
13 as having condemned the abuses and expressing their concern over acts
14 of intolerance?

15 A. The reference to consistent expressions of the KTC, we have to
16 make a footnote here. In the first KTC meeting, which would have
17 been mid-July, the 16th or somewhere around there, just after we
18 arrived, there were such attitudes expressed. The second meeting was
19 after the killings at Gracko. And -- and, I'm sorry, I'm blanking on
20 the date, but that would have been soon after. Can you remind me the
21 date of Gracko?

22 Q. If there's no objection from the Prosecution -- yeah, I believe
23 it's 22 July.

24 A. Okay. So it was very shortly after the first meeting of the
25 KTC. And at that meeting, Kouchner had hoped to elicit a statement

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1 by the KTC as a group, as a whole, condemning the killings and
2 expressing the need for non-violence, et cetera, and was unable to
3 obtain that. None of those present at that second KTC was willing to
4 sign on to such a statement. At which point, the Serb
5 representative, Bishop Artemije, Trajkovic, and the others, walked
6 out, effectively sinking the KTC as a functional body for that
7 period.

8 I would note that those who declined to participate in such a
9 statement included Veton Surroi, a great human rights advocate, but
10 it also included Mr. Thaci. We were puzzled, and I remained puzzled
11 for some time, especially as I learned over time statements he had
12 made previously and immediately after that KTC expressing the very
13 sentiments we wished the KTC to express. We never really understood
14 that.

15 So I have to qualify that sentence that suggested that the KTC
16 had been entirely consistent. But I think except for that instance,
17 as far as I know, Mr. Thaci generally had expressed exactly the
18 sentiments that we had hoped the KTC would in that second meeting.

19 Q. Thank you. Just to follow up on that Gracko KTC meeting. Do
20 you recall whether any Kosovo Albanians representatives had agreed to
21 make such a statement or --

22 A. No, none of those attending that meeting agreed to make such a
23 statement, but Mr. Thaci made a statement soon after that in his own
24 name.

25 Q. Okay. Thank you very much.

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1 A. Will we have an opportunity to talk about the risk of making
2 such statements?

3 Q. We will get to that --

4 A. Okay.

5 Q. -- in a minute. Let me just try to hit one more topic before
6 our 11.00 break.

7 A. Please.

8 MR. MISETIC: If we could please go to DHT04827 to DHT04838,
9 please. And if we could please go -- this is the now defunct online
10 regional bulletin called the IWPR Balkan Crisis Report. But if we
11 could go to page DHT04829, please. You can see the date 20 September
12 1999. And if we could go, please, to the paragraph that begins
13 "Meanwhile ..." at the bottom, I believe. Yes.

14 Q. It says in the article, now this is September:

15 "Meanwhile the KLA leadership itself has disintegrated into a
16 number of parties. The most noteworthy is the Party of Democratic
17 Unity (PBD), led by Bardhyl Mahmuti, the former KLA political
18 representative for Western Europe, which has managed to attract the
19 support of several well-known and respected KLA field commanders.

20 "Hashim Thaci, prime minister of Kosovo's Interim Government -
21 not recognised by UNMIK - has also announced that he will form his
22 own political party, without giving details. Last week Thaci visited
23 the village of Prekaz, where he met Rifat Jashari, the only surviving
24 brother of the family of Adem Jashari, whose sacrifice is recognised
25 by the Kosovars as the flash point where the war of liberation

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1 began."

2 If we can go to the next page, please, to the paragraph that
3 begins:

4 "Support from the Jashari family would be a powerful advantage
5 in any election. Thaci also met the KLA's Drenica zone commander in
6 an attempt to confirm local support for his party in the making - but
7 it also the division between Thaci and Mahmuti, who has supporters of
8 his own, within segments of the KLA. Yet these new would-be
9 political players have no clear aim or political agenda yet."

10 My question to you is: You, as the deputy SRSG, were you aware
11 at the time that the KLA itself had, as this article says,
12 disintegrated into various political factions?

13 A. We were aware that there was not a clear consensus among former
14 KLA senior individuals. This -- yeah, I can leave it at that.
15 We're -- yeah, we were aware there was not a consensus. We did not
16 really know with the degree of exactitude that this reporter pretends
17 to have about who is for whom. Reporters do tend to try to read more
18 into tea leaves than history supports, so we wouldn't have taken the
19 specifics of this report very seriously, but we were aware that there
20 was not a consensus among the former KLA officers.

21 Q. But the report says that Mr. Thaci went to the KLA Drenica zone
22 commander in an attempt to confirm support for his party. Is that
23 consistent with your understanding of the type of relations that
24 Mr. Thaci had with the KLA?

25 A. Not really. That is -- I would not have expected him to be --

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1 we would have expected a budding politician to be meeting and
2 greeting constituents. But if I had read this at the time, I would
3 have been a bit surprised that he was lobbying individual commanders,
4 and especially this particular commander was a pretty tough guy.

5 Q. Thank you.

6 MR. MISETIC: Mr. President, we tender this document into
7 evidence.

8 PRESIDING JUDGE SMITH: Any objection?

9 MS. IODICE: No, Your Honour.

10 PRESIDING JUDGE SMITH: Just the page or the entire document?

11 MR. MISETIC: The entire document.

12 PRESIDING JUDGE SMITH: I'm sorry?

13 MR. MISETIC: The entire document.

14 PRESIDING JUDGE SMITH: DHT0437 to 438 is admitted.

15 MR. MISETIC: It's 04827 to 4838, Mr. President.

16 PRESIDING JUDGE SMITH: What?

17 MR. MISETIC: Is that what you said?

18 PRESIDING JUDGE SMITH: I have 437 to 438.

19 MR. MISETIC: It should be 4827 to 2838, I believe. I'm sure I
20 misspoke, Mr. President.

21 PRESIDING JUDGE SMITH: All right. It's admitted.

22 THE COURT OFFICER: Your Honours, DHT04827 to DHT04838 will be
23 assigned Exhibit 1D00404, and it's classified as public. Thank you,
24 Your Honours.

25 PRESIDING JUDGE SMITH: [Microphone not activated]. We have a

1 half-hour break scheduled for right now. We will reconvene at
2 25 minutes before the hour of 12.00. Please do not speak with anyone
3 about your testimony outside the courtroom, as I stated before you
4 began.

5 So you may leave the courtroom now.

6 THE WITNESS: Thank you, Your Honour.

7 [The witness stands down]

8 PRESIDING JUDGE SMITH: We're adjourned until 11.35.

9 --- Recess taken at 11.04 a.m.

10 --- On resuming at 11.35 a.m.

11 PRESIDING JUDGE SMITH: Mr. Misetic, you had something you
12 wanted to tender?

13 MR. MISETIC: Yes, a mea culpa from me. I forgot to tender a
14 document that I had put to the witness, and I am fully aware that
15 we're supposed to do that at the time, so I apologise to the Court.

16 PRESIDING JUDGE SMITH: Go ahead.

17 MR. MISETIC: DHT05440 to DHT05442, which is an UNMIK cable
18 concerning a conversation that Mr. Kouchner had with LDK
19 representatives.

20 PRESIDING JUDGE SMITH: You are correct that it has not been
21 tendered. Is there any objection to that?

22 MS. IODICE: No, Your Honour.

23 PRESIDING JUDGE SMITH: DHT05440 to 05442 is admitted.

24 THE COURT OFFICER: And it will be assigned Exhibit 1D00405,
25 classified as confidential. Thank you, Your Honours.

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1 MR. MISETIC: It can be public.

2 PRESIDING JUDGE SMITH: It can be reclassified as public.

3 Madam Court Officer, you can bring the witness in.

4 [The witness takes the stand]

5 PRESIDING JUDGE SMITH: All right. Mr. Covey, we will continue
6 with the examination by Mr. Misetic.

7 Go ahead.

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

9 Q. Welcome back, Mr. Covey.

10 A. Thank you.

11 Q. Were you aware in the summer and fall 1999, and, indeed, into
12 the winter of 1999 -- of 1999-2000, whether Mr. Rugova was continuing
13 to hold himself out as the president of Kosova?

14 A. That doesn't -- not in a meaningful way. Not at -- it's -- I
15 don't have any strong recollection of that, no.

16 Q. All right. We'll move on, then.

17 MR. MISETIC: Can we please have on the screen DHT00883 to
18 DHT00883.

19 Q. Mr. Covey, do you recognise what this is an image of?

20 A. It appears to be the first KTC meeting.

21 Q. And can you identify the persons in this photo?

22 MR. MISETIC: Can I ask him actually to use the marker on the
23 screen.

24 THE WITNESS: Okay.

25 MR. MISETIC:

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1 Q. And as you identify people, if you can put a number next to
2 them.

3 A. Okay. I think this is Sergio De Mello. This is, of course,
4 Kouchner.

5 Q. So 1 is de Mello, 2 is Kouchner.

6 A. And this would be General Mike.

7 Q. 3 is General Jackson.

8 A. Bishop Artemije. I think this must be Mr. Trajkovic. This
9 would be Mr. Thaci. And this would be me.

10 Q. Okay. So, for the record, you've put a 0 next to yourself, a 3
11 by General Sir Mike Jackson, a 4 next to Bishop Artemije, a 5 to
12 Mr. Trajkovic, and a 6 next to Mr. Thaci.

13 MR. MISETIC: Mr. President, I'd ask that we have a screen
14 capture of this, and I tender it into evidence.

15 PRESIDING JUDGE SMITH: Any objection?

16 MS. IODICE: No, Your Honour.

17 PRESIDING JUDGE SMITH: The screenshot will be admitted. Please
18 assign a number.

19 THE COURT OFFICER: Your Honours, the screen with the markings
20 will be assigned Exhibit 1D00406. And it was classified as public.

21 MR. MISETIC: That's fine. Thank you.

22 Q. Mr. Covey, I now would like to turn to the topic of the Joint
23 Interim Administrative Structures, or the JIAS.

24 MR. MISETIC: And if we could please turn to DHT05457 to
25 DHT05458, Mr. Court Officer.

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1 Q. And, Mr. Covey, you can see on the screen that this is an
2 outgoing code cable from Mr. Kouchner to, amongst others, the
3 Secretary-General Kofi Annan, dated 16 November 1999.

4 MR. MISETIC: And if we could look at the first bullet point on
5 this page. Sorry, first let me start.

6 Q. The first paragraph says:

7 "As tasked by the SG, I had talks with the main Kosovo-Albanian
8 political leaders, Thaci, Rugova, and Qosja, between 12 and 15
9 November, on the issue of involving the people of Kosovo more
10 directly in the UNMIK administration, thus making our administration
11 more effective and accepted by the population.

12 "In the discussions, all leaders accepted:

13 "My special role as SRSG, thus as legislative authority and
14 ultimate decision-maker. It was clear, therefore, that I would not
15 participate directly in any joint administrative structure."

16 Is what is stated here consistent with your contemporaneous
17 understanding of the approach that Albanian leaders, including
18 Mr. Thaci, took with respect to the SRSG and his powers?

19 A. Yes, it is.

20 Q. Thank you.

21 MR. MISETIC: Mr. President, I tender this cable into evidence.

22 PRESIDING JUDGE SMITH: Any objection?

23 MS. IODICE: No, Your Honour.

24 PRESIDING JUDGE SMITH: DHT05457 to 05458 is admitted and will
25 be assigned an exhibit number.

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1 THE COURT OFFICER: Yes, Your Honour. Thank you. It will be
2 assigned Exhibit 1D00407, and it's classified as confidential.

3 PRESIDING JUDGE SMITH: Must this remain confidential?

4 MR. MISETIC: No, it can be public.

5 PRESIDING JUDGE SMITH: All right. This can be reclassified as
6 public.

7 MR. MISETIC: Just one second, please.

8 Mr. Court Officer, if we could please have on the screen
9 DHT05754 to DHT05760, please.

10 Q. Mr. Covey, this is another code cable from Mr. Kouchner to the
11 Secretary-General of the UN.

12 MR. MISETIC: If we can scroll down a bit.

13 Q. Point 2 says:

14 "Upon this approval the agreement was signed this morning by the
15 three Kosovo-Albanian party leaders Thaci (PPDK), Rugova (LDK), Qosja
16 (LBD) and witnessed and accepted by me."

17 MR. MISETIC: And if we can turn the page, please.

18 Q. And do you recognise what this document is?

19 A. Yes.

20 Q. And what is it?

21 A. This is the agreement to join in -- join together as the Joint
22 Interim Administrative Structure.

23 Q. Thank you.

24 MR. MISETIC: Mr. President --

25 THE WITNESS: I'm sorry, I have to note that this is a little

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1 emotional. This was a huge milestone to --

2 MR. MISETIC:

3 Q. Why was it huge for you?

4 A. All right. We're at risk of getting into classroom mode. But
5 bear in mind the peacekeeping, peacemaking is the business of turning
6 the Clausewitz principle upside down. Clausewitz said, "War is
7 politics by other means." For us, peacemaking is -- the politics of
8 peacemaking is war by other means because initially - initially -
9 when the conflict is formally ended, nothing has been resolved.
10 Whatever it was that drove the parties into conflict, those interests
11 remain unsatisfied, generally, and the only way to go forward is to
12 get the former conflicting parties to reassess what they thought were
13 their interests. And here we have the -- the evidence that that has
14 happened.

15 Q. Thank you, Mr. Covey.

16 MR. MISETIC: Mr. President, a document very similar to this has
17 been admitted as 1D400, but this is a lesser-redacted version, and we
18 would like to tender this document as well, the lesser-redacted
19 version.

20 PRESIDING JUDGE SMITH: Any objection to the lesser-redacted
21 version?

22 MS. IODICE: No. If it could maybe be .1 of that exhibit so
23 that it's clear?

24 MR. MISETIC: That's fine with us.

25 PRESIDING JUDGE SMITH: We will attach it to the other exhibit

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1 by .1, then.

2 MR. MISETIC: Yes, so it's 1D400.1, I believe.

3 THE COURT OFFICER: Thank you, Your Honours. I will confirm
4 that DHT05754 to DHT05760 will be assigned Exhibit 1D00400.1, and it
5 is classified as confidential.

6 MR. MISETIC: It can be public.

7 THE COURT OFFICER: It can be public. Thank you.

8 PRESIDING JUDGE SMITH: It'll be reclassified as public, then.

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

10 Mr. Court Officer, I'd like to play a video now, which is
11 DHT00930 to DHT00930. If we could please play the video.

12 [Video-clip played]

13 "[Indiscernible] Rambouillet.

14 "Yeah, Rambouillet is coming again. Okay. You have to sign,
15 and I'll be the last one, as a witness. Historic.

16 "Historic, yeah.

17 "Congratulations.

18 "Congratulations.

19 "Well done.

20 "Thank you."

21 MR. MISETIC: Thank you. Thank you, we can stop the video.

22 Q. Mr. Covey, do you recognise what that event depicted in the
23 video was?

24 A. That was the signing of the JIAS.

25 Q. And were you present?

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1 A. Yes.

2 Q. Does the video accurately reflect the signing as you recall it?

3 A. Yeah, minus the -- the tears.

4 Q. Thank you.

5 MR. MISETIC: Mr. President, I tender the video as DHT00930 to
6 DHT00930.

7 PRESIDING JUDGE SMITH: Any objection?

8 MS. IODICE: No, Your Honour.

9 MR. MISETIC: Oh, I'm sorry. I do have to add something. The
10 transcript has been admitted by the Panel as 1D00396, and we would
11 just ask that the video be added as .1 to that number.

12 PRESIDING JUDGE SMITH: That will be what we do. Thank you very
13 much.

14 THE COURT OFFICER: Can I have the exhibit number that you
15 mentioned on the record again, please?

16 MR. MISETIC: 1D00396. And it can be public.

17 PRESIDING JUDGE SMITH: So this would be 396.1.

18 MR. MISETIC: Thank you.

19 Mr. Court Officer, if we could please have on the screen
20 DHT05449 to DHT05450, please.

21 Q. Mr. Covey, this is an outgoing code cable from Mr. Kouchner to
22 UN New York, dated 18 December 1999, titled "Reactions to the
23 15 December Agreement on the Joint Interim Administrative
24 Structures." And if we stay on the first page of this document,
25 third paragraph from the top, it says:

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1 "The radical party LKCK (National Movement for the Liberation of
2 Kosovo) on 14 December left the so-called 'Kosovo Interim
3 Government ...' of Mr. Thaci when it became evident that Thaci
4 accepts the Agreement and consequently the dissolution of the 'KIG'.
5 Many officials of the 'KIG' are also unhappy with the Agreement since
6 they lose their positions, titles, and status that derived
7 therefrom."

8 My first question to you is does this inscription correspond to
9 your contemporaneous understanding of Mr. Thaci's willingness to
10 dissolve the Provisional Government of Kosovo or KIG as it's referred
11 to in this memo?

12 A. In general it corresponds. Yes.

13 Q. Thank you.

14 MR. MISETIC: Mr. President, I tender this code cable into
15 evidence as well.

16 PRESIDING JUDGE SMITH: Objection?

17 MS. IODICE: No, Your Honour.

18 PRESIDING JUDGE SMITH: DHT05449 to 05450 is admitted.

19 THE COURT OFFICER: It will be assigned Exhibit 1D00408, and
20 it's classified as confidential.

21 MR. MISETIC: It can be public.

22 PRESIDING JUDGE SMITH: Reclassify it as public.

23 MR. MISETIC: Thank you.

24 Mr. Court Officer, if we could please have on the screen
25 DHT05680 to DHT05686, please.

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1 Q. And you'll see this is an outgoing code cable again from
2 Mr. Kouchner to UN New York, dated 2 February 2000, concerning a
3 meeting with Mr. Donnelly of the UK Foreign Office.

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

5 Q. And at the top, it says those present for this meeting included
6 "PDSR Covey." Do you see that?

7 A. Yes.

8 Q. Do you recall being present at a meeting with Mr. Brian Donnelly
9 of the UK Foreign Office on 28 January 2000?

10 A. Yes, though I confess it's not vivid.

11 Q. Thank you. If we stay on this page and scroll down to the
12 second paragraph, it purports to reflect what you said about the
13 establishment of the JIAS. Specifically, it states the following:

14 "PDSR," which the memo identifies as you, "stated that, in some
15 ways, it was still 1989 in Kosovo: when the other Communist states
16 had started on the road to reform, the Balkans had gone to war. In
17 part because the Kosovo population had not experienced the reform
18 process, many of them had a profound distrust of official
19 institutions and a reflexive inclination to build parallel
20 structures."

21 Does what is written here reflect, or refresh your recollection
22 about, your positions about the situation in Kosovo in early 2000?

23 A. Yes. And I would add as a footnote that in some ways I would
24 have been drawing on my experience in Berlin and the reunification of
25 Germany, where Western Germany had benefitted from 30 years or more

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1 of very energetic reform, especially since the 68ers and all the
2 student turmoil, and Eastern Germany had not. They had been schooled
3 that all the sins of the Third Reich had been inherited by the West
4 and it would -- and Hitler had persecuted the communists. And,
5 therefore, that kind of intellectual and social and political reform
6 that the West had gone through had just simply not happened in
7 Eastern Germany, and it then comes as no surprise that the strength
8 of the far right, the skinheads, the issues of violence against
9 minorities in the eastern part of Berlin persisted.

10 Q. And --

11 A. So I -- that -- okay. I don't mean to detour.

12 Q. So what were you trying to then say in the context of Kosovo
13 about it still being 1989?

14 A. That they had -- other communist states had undergone reform
15 processes of various kinds, so their own revolution and so on. But
16 Kosovo had simply gone from, in effect, an occupation, then a war,
17 and then, boom, they are left to try to create something without much
18 having developed since 1989 when the -- when their autonomy was
19 revoked.

20 Q. And you said they had a -- "they," meaning the population of
21 Kosovo, "had a profound distrust of official institutions and a
22 reflexive inclination to build parallel structures." What did you
23 mean by that?

24 A. After all, up until 1989, and then afterwards, they had
25 basically administered themselves through parallel structures, and

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1 the whole -- much of what we would regard as normal state services
2 were provided through those parallel structures, everything from
3 education to garbage collection. So, yes, they were habituated to
4 parallel structures accomplishing what the society needed.

5 Q. Thank you.

6 MR. MISETIC: Mr. President, I tender this document into
7 evidence, DHT05680 to DHT05686, and it can be public.

8 PRESIDING JUDGE SMITH: Any objection?

9 MS. IODICE: No, Your Honour.

10 PRESIDING JUDGE SMITH: DHT05680 to 05686 is admitted.

11 THE COURT OFFICER: And it will be assigned Exhibit 1D00409, and
12 it's classified as public.

13 MR. MISETIC: Thank you.

14 Mr. Court Officer, could we please have on the screen DHT05687
15 to DHT05730, please.

16 Q. And you'll see that this is a 28 February 2000 cable from
17 Mr. Kouchner to UN New York. Subject is a "Draft Periodic report of
18 the Secretary-General on UNMIK." Point 1 says:

19 "As discussed, please find attached a draft of the upcoming
20 periodic report of the Secretary-General on UNMIK."

21 I had asked you earlier today whether UNMIK had a role in
22 preparing these reports. Is what's stated in point 1 how the
23 Secretary-General reports were prepared?

24 A. Yes. And you'll note the -- in the second sentence of paragraph
25 2 reflected the concern that UNMIK had that other interests might

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1 fiddle with the content of the report in New York.

2 Q. So if I understand correctly, you on the ground would prepare
3 the report for the Secretary-General, and then he would submit it
4 to -- to whom? The General Assembly? The --

5 A. To the best of our ability, that's the way we wanted it to work.

6 Q. Thank you.

7 MR. MISETIC: If we could turn to page DHT05688, please, the
8 next page, under paragraph 3.

9 Q. The report states:

10 "Three major Kosovo Albanian rival political parties are now
11 working together in a new cooperative relationship in the Interim
12 Administrative Council (IAC) and the Joint Interim Administrative
13 Structure ... These political parties (effectively the Rambouillet
14 signatories) are the Democratic League of Kosovo (LDK) of
15 Dr. Ibrahim Rugova, the party coalition of United Democratic Movement
16 (LBD) of Mr. Rexhep Qosja and the Party for Democratic Progress of
17 Kosovo (PPDK) of Mr. Hashim Thaci. At the same time, all Kosovo
18 Albanian parties are preparing for eventual municipal elections in
19 the course of the year."

20 Does this description correspond to your recollection of the
21 political situation in Kosovo in February 2000?

22 A. Yes. Yes. Thank you.

23 MR. MISETIC: And if we go to the next page, please. If we go
24 to paragraph 12.

25 Q. It states -- and you can read that towards the middle of the

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1 paragraph, where it says:

2 "All parallel Kosovo Albanian bodies ..."

3 Do you see that?

4 A. Yes.

5 Q. "All parallel Kosovo Albanian bodies declared that they ceased
6 to exist on 31 January. The so-called 'ministries' of the
7 self-proclaimed 'Interim Government' officially stopped their work on
8 31 January. However, on 31 January, the so-called 'Parliament'
9 postponed the decision on its future and the so-called 'Government of
10 the Republic of Kosovo' of 'Prime Minister' Bukoshi announced that it
11 would only 'suspend' its work. However," and if we turn the page,
12 please, "on 2 February, Dr. Rugova, the LDK president, and the
13 presidency of the so-called 'Parliament' authoritatively declared
14 that all of their structures had ceased to exist on 31 January. Two
15 days later, Mr. Bukoshi made a similar announcement. However, for
16 many Kosovo Albanians, it has been difficult to get used to the
17 dissolution of the parallel structures. For a number of persons who
18 were engaged in the parallel structures, alternative employment is
19 scarce."

20 I had asked you earlier about Dr. Rugova holding himself out as
21 president. Does this refresh your recollection about the LDK also,
22 when you arrived in Kosovo, had parallel structures that they were
23 operating?

24 A. Yes.

25 Q. And were you familiar at all with Mr. Bukoshi having his own

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1 parallel government?

2 A. Yes, it was somehow in the background. It was less of a concern
3 or it seemed less of a concern than the LDK structures.

4 MR. MISETIC: Mr. President -- oh, sorry, we have one more thing
5 to deal with in this document.

6 If we can go to page 7 which is DHT05694.

7 Q. And I won't read it out loud, but if you can read paragraph 27,
8 and if you could tell me whether that is consistent with your
9 understanding of how the process of demilitarisation played out.

10 A. This is the kind of information that would have been provided to
11 us by KFOR. And, yes, that's the way I would have recalled it at the
12 time.

13 Q. But this is information that you would then compile and send on
14 to the Secretary-General --

15 A. Yes.

16 Q. -- as the report of the Secretary-General --

17 A. Yes.

18 Q. -- or proposed report?

19 A. Yes.

20 Q. Thank you.

21 MR. MISETIC: Mr. President, I tender --

22 THE WITNESS: And if I can add, it's information that we would
23 want to be sure was included in that report.

24 MR. MISETIC: Yes, thank you.

25 Mr. President, I tender this document, DHT05687 to DHT05730.

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1 PRESIDING JUDGE SMITH: Any objection?

2 MS. IODICE: No, Your Honour.

3 PRESIDING JUDGE SMITH: DHT05687 to 05730 is admitted. It will
4 be assigned a number.

5 THE COURT OFFICER: It will be assigned with Exhibit 1D00401,
6 and it's classified as confidential.

7 PRESIDING JUDGE SMITH: You said 01. Do you mean 10?

8 THE COURT OFFICER: That's correct, Your Honour. I will repeat
9 it: 1D00401.

10 MR. MISETIC: No.

11 PRESIDING JUDGE SMITH: No, 10.

12 THE COURT OFFICER: 410, my apologies. I'll do it again then:
13 1D00410.

14 MR. MISETIC: Correct.

15 THE COURT OFFICER: Thank you, Your Honours.

16 PRESIDING JUDGE SMITH: Thank you.

17 MR. MISETIC: And it can be public, Mr. President.

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

20 MR. MISETIC: Thank you.

21 Mr. Court Officer, if we could please have DHT05537 to DHT05541
22 on the screen, please.

23 THE COURT OFFICER: My apologies, if we can have the ERN once
24 again or repeat it?

25 MR. MISETIC: Yes. DHT05537 to DHT05541.

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1 PRESIDING JUDGE SMITH: I believe you had a different -- a 0 in
2 on both of those. It's 055, you said originally, 307 to 055401.

3 MR. MISETIC: That is then my mistake. I apologise.

4 PRESIDING JUDGE SMITH: Just 37 and 41.

5 MR. MISETIC: Yes.

6 PRESIDING JUDGE SMITH: Correct? All right.

7 MR. MISETIC: It's DHT05537-DHT05541. Thank you.

8 PRESIDING JUDGE SMITH: Got it. Thank you.

9 MR. MISETIC:

10 Q. Mr. Covey, this is -- it's titled "June 5 Report of the
11 Secretary-General on the United Nations Interim Administration
12 Mission in Kosovo." And then it says it's the "Excerpt on KPC." Do
13 you see that?

14 A. Yes.

15 MR. MISETIC: And then if we can go to page 4 of this document,
16 which is DHT05540. And if we go to paragraph 4, "The concerns of
17 last year ..."

18 Q. It says:

19 "The concerns of last year that the whole KLA might slide into
20 opposition and ultimately into conflict with the international
21 community now seem remote under present circumstances. Circumstances
22 in this region are, however, volatile. We continue to hold concerns
23 about Mitrovica. We know that extremists have accused KPC leaders
24 and other Albanian political figures who support the concept of
25 'giving up too soon'. Ceku, Thaci, and others have been called

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1 traitors for permitting the demilitarisation of the KLA before
2 Mitrovica and the rest of north Kosovo had been 'liberated'. Had the
3 KPC not provided a framework for the bulk of the ex-KLA, those forces
4 definitely would have been drawn into the conflict, with grave
5 consequences for the rest of Kosovo. Instead, it was KPC leaders who
6 participated with the international community in calming the
7 situation, putting their personal prestige on the line."

8 My first question is does this paragraph align with your own
9 recollections and views of what transpired in Kosovo in 1999?

10 A. Absolutely.

11 Q. Okay. My next question is were you aware -- or would you have
12 expected General Ceku, Mr. Thaci, and others being called traitors
13 for permitting the demilitarisation of the KLA?

14 A. It's not unexpected. As we -- as mentioned before, making the
15 peace is not an act or just a meeting, it's a process, and it goes
16 forward individual by individual as they rethink the interests that
17 had initially propelled them into conflict. Not everybody reassesses
18 their interests at the same time or in the same way or at all. There
19 are always some who fall off the wagon and become snipers. And we've
20 seen it over and over again in other conflicts. In the Middle East,
21 the Palestinians, in Lebanon, in -- it is, unfortunately,
22 commonplace.

23 For that kind of criticism to arise, it has to be anticipated
24 and dealt with. So the direct answer to your question is no, not at
25 all surprised to see that statement.

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1 Q. And further in the paragraph, it states that the creation of the
2 KPC provided a framework for the bulk of the ex-KLA, and that:

3 "Had the KPC not provided [that] framework for the bulk of the
4 ex-KLA, those forces definitely would have been drawn into the
5 conflict, with graves consequences for the rest of Kosovo."

6 A. Yeah.

7 Q. Can you explain a bit about how the KPC played a role in
8 incorporating ex-KLA and diffusing the situation?

9 A. It's -- I had -- it is a widely understood fact of peacemaking
10 that a huge initial challenge is simply soaking up excess young male
11 energy, and that applies to any peacekeeping operation anywhere.
12 That left without a sense of purpose or means of financial and social
13 support, former combatants will almost inevitably become a problem
14 for the peacekeepers.

15 So in the first instance, the KPC served the purpose you
16 described simply by absorbing the former combatants, as we see was
17 not done in Iraq, with drastically different outcomes. So that alone
18 may have been the biggest single factor. But the statements by Ceku
19 and others relevant to the KPC -- Mr. Thaci was not part of the KPC
20 structure. But the statements by Ceku and others involved in the KPC
21 also helped, also provided some guidance to other members of the KPC
22 who might have been inclined to mouth off, but it sort of kept things
23 in line.

24 Q. Thank you.

25 A. Am I answering your question?

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1 Q. Yes, you are. Thank you very much for that.

2 MR. MISETIC: Mr. President, I tender DHT05537 to DHT05541.

3 PRESIDING JUDGE SMITH: Any objection?

4 MS. IODICE: No, Your Honour.

5 PRESIDING JUDGE SMITH: DHT05537 to 05541 is admitted.

6 THE COURT OFFICER: And it will be assigned Exhibit 1D00411,
7 classified as confidential.

8 MR. MISETIC: It can be public.

9 PRESIDING JUDGE SMITH: Reclassified as public, please.

10 MR. MISETIC: Thank you.

11 Q. Mr. Covey, in paragraph 80 of your witness statement, you note
12 that Mr. Thaci on multiple occasions took positions that would in
13 "many other post-conflict settings" be seen as "tantamount to
14 betrayal or have been punished quite severely politically." Did
15 Mr. Thaci's position with respect to demilitarisation of the KLA
16 potentially pose a dangerous position?

17 A. Absolutely, in the terms we were earlier describing. But
18 equally, some of her -- his statements about avoiding attacks on
19 minorities, and so on, that he had made much earlier exposed him to
20 similar risks.

21 Q. And why is that?

22 A. Because at some point the people who are reassessing their
23 interests come to find that they have less to fear from their former
24 adversaries than from their former friends who have not stayed with
25 the parade.

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1 Q. Thank you.

2 MR. MISETIC: Mr. Covey, if we could please have -- sorry.

3 Mr. Court Officer, if we could please have DHT05562 to DHT05562 on
4 the screen, please.

5 Q. Mr. Covey, this purports to be an organigramme of the JIAS
6 institutions. Do you see that?

7 A. Yes.

8 Q. And does this organigramme correspond to your recollection of
9 what the structure of JIAS institutions was?

10 A. Yes.

11 Q. Thank you.

12 MR. MISETIC: Mr. President, I tender DHT05562 to DHT05562.

13 PRESIDING JUDGE SMITH: Any objection?

14 MS. IODICE: No, Your Honour.

15 PRESIDING JUDGE SMITH: DHT05562 to 05562 is admitted.

16 THE COURT OFFICER: It will be assigned Exhibit 1D00412, and
17 it's classified as confidential.

18 MR. MISETIC: Thank you.

19 Q. Mr. Covey, you see on the screen --

20 PRESIDING JUDGE SMITH: Does that need to be --

21 MR. MISETIC: Oh, I'm sorry.

22 PRESIDING JUDGE SMITH: -- confidential?

23 MR. MISETIC: No, it does not. I apologise.

24 PRESIDING JUDGE SMITH: Reclassified as public.

25 MR. MISETIC:

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1 Q. Mr. Covey, if you see on the screen there, there is a circle
2 with dotted lines -- a circle composed of dotted lines that says
3 "'Rambouillet Three,' LDK (Rugova), PPDK (Thaci), LBD (Qosja)," with
4 an arrow pointing to the Kosovo portion. Do you see that?

5 A. Yes.

6 Q. Earlier you testified that the Rambouillet agreement among
7 Messrs Rugova, Thaci, and Qosaj remained in the background. Is it
8 correct what this organigramme says, that even into 2000, the
9 Rambouillet -- what's referred to here as the "Rambouillet Three"
10 agreement continued to play a role in the background?

11 A. It continued to lurk in the background.

12 Q. Thank you.

13 A. I wouldn't say it played an active role, but it made it easier
14 for people to understand and for some easier to accept. But it was
15 not a one-to-one -- we were not -- this is not a successor to the
16 PGoK, the Rambouillet agreement. It simply is an image in the
17 background.

18 Q. Thank you.

19 MR. MISETIC: Mr. Court Officer, if we can please have on the
20 screen DHT01310 to DHT01310.

21 Q. And, Mr. Covey, as you see on the screen, this is an OSCE
22 Situation Brief from 28 June 1999.

23 MR. MISETIC: And if we could scroll down, please -- or go to
24 the next page. I apologise.

25 Q. It says -- it's headlined "Kosovo News, Domestic Reactions."

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1 And I appreciate that this is before you came to Kosovo, but I would
2 still like to hear your comments on what the brief states. It says
3 the following:

4 "In Mitrovica, Kosovo Albanian leader, Hashim Thaci, reportedly
5 diffused a potentially violent confrontation on Saturday when he
6 stopped hundreds of people marching into the Serb-held side of the
7 town.

8 "Mr. Thaci persuaded the crowd to retreat. 'We want to solve
9 our problems peacefully,' he said.

10 "He was accompanied by the UN special envoy for Kosovo,
11 Sergio Vieira de Mello, who said the march 'would be a disaster' if
12 it proceeded."

13 Are the statements attributed to Mr. Thaci in this report
14 concerning interethnic violence consistent with the types of
15 statements Mr. Thaci made after your arrival in Kosovo?

16 A. Yes, they certainly are. Can I just add --

17 Q. Yes.

18 A. -- that we did not experience the record in an entirely linear
19 fashion. Time and events did not stop just when we arrived. It
20 didn't just pull the parties together and give us an exact briefing
21 of what they had done. Many of these things we learned only over
22 time. In some cases months, even years, after. So when I say today
23 this is consistent with it, in no way do I claim to have been
24 familiar with it at that moment or were we briefed on it earlier when
25 we arrived.

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1 In fact, I'm impressed to see that Mr. Thaci's record goes back
2 to this time, and that we cannot entirely take credit for having
3 transformed his views, but that there was clearly a process already
4 underway.

5 Q. Thank you.

6 MR. MISETIC: Mr. President, I tender DHT01310 to DHT01310.

7 PRESIDING JUDGE SMITH: Any objection?

8 MS. IODICE: No, Your Honour.

9 PRESIDING JUDGE SMITH: DHT01310 to DHT01310 is admitted.

10 THE COURT OFFICER: That will be assigned with Exhibit 1D00413.
11 If we can clarify the classification, please.

12 MR. MISETIC: It needs to remain confidential at the request of
13 the Rule 107 provider.

14 Mr. Court Officer, if we could please have on the screen
15 DHT03000 to DHT03001-ET and the Albanian version DHT03000 to
16 DHT03001. In the Albanian, I believe it's in the right-hand column
17 at the top.

18 Q. And this is a news article from 26 July, so four days after the
19 Gracko incident, and it says:

20 "PGK," Provisional Government of Kosovo, "condemns murders in
21 Gracke of Lipjan."

22 It says it's an "Attempt to obstruct the stabilisation process,"
23 is the title.

24 The first paragraph says:

25 "Regarding the murder in Gracke of Lipjan, the Provisional

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1 Government of Kosovo has issued a statement: 'Unidentified attackers
2 killed 14 (fourteen) citizens of Serb nationality in Lipjan. The
3 Provisional Government of Kosovo condemns this grievous crime and
4 expresses deep condolences to the victims' families.'"

5 And if we scroll down to the fourth paragraph:

6 "'The Provisional Government of Kosovo calls on Kosovo citizens,
7 especially those of the Serb community, to look ahead to the future
8 and build their welfare together with others in a free and democratic
9 Kosovo. Kosovo has embarked on its unreserved journey of peace,
10 stability, and prosperity for all its citizens.'"

11 Now, you had earlier discussed statements that Mr. Thaci had
12 made concerning the Gracko incident. Is this statement of the
13 Provisional Government of Kosovo consistent with your understanding
14 of the types of statements that Mr. Thaci made at the time of the
15 incident?

16 A. Yes. Even though it's not attributed directly to Mr. Thaci,
17 it's consistent with the kinds of things he was saying, yes.

18 Q. Yes.

19 MR. MISETIC: Mr. President, I tender DHT003000 to DHT003001 in
20 both the Albanian and the English.

21 PRESIDING JUDGE SMITH: Any objection?

22 MS. IODICE: There are two articles. There's a second article
23 on the second page that was not addressed, so maybe only the first
24 page should be admitted.

25 MR. MISETIC: That's fine with us.

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1 PRESIDING JUDGE SMITH: Would that be 3001? Is that the page?

2 MR. MISETIC: It's 3000, I believe.

3 PRESIDING JUDGE SMITH: Okay. So DHT03000 is admitted plus the
4 Albanian.

5 THE COURT OFFICER: It will be admitted with 1D00414, and it's
6 classified as public. Thank you, Your Honours.

7 MR. MISETIC: Actually, I'm now advised that the second page
8 also has information. Could we turn to the second page, please.
9 Yes. If we could scroll down in the Albanian version as well so the
10 accused can follow.

11 I apologise, Mr. President. I wasn't aware that this was behind
12 it.

13 Q. It says -- this is now dated 24 July, and the title is --
14 Mr. Thaci's saying "We will not allow anarchy to prevail in Kosovo,"
15 and it concerns a visit by a group of American congressmen and
16 senators led by Mrs. Tillie Fowler at the Provisional Government of
17 Kosovo.

18 My first question is do you have any recollection of a
19 delegation of senators and congressmen coming to Kosovo towards the
20 end of July?

21 A. Not specifically, but we had a number of delegations, and I will
22 admit that things were a bit of a blur that early on. So I assume I
23 would have had some knowledge of it. But they may not have visited
24 UNMIK.

25 Q. Thank you.

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1 MR. MISETIC: And if we go down to the third paragraph.

2 Q. It says:

3 "Talking about the ... murder of 14 Serb citizens in the
4 vicinity of Lipjan, Mr. Thaci said that this is happening due to a
5 vacuum created as a consequence of delays in establishing the police
6 force. This act has worried us, and we will not allow anarchy to
7 prevail in Kosovo."

8 Is that consistent with your recollection of how Mr. Thaci
9 treated such incidents of violence against ethnic minorities?

10 A. The statement of "we will not allow anarchy," yes.

11 Q. Thank you.

12 A. The criticism of the establishing of the police is an easy and
13 common complaint that is made in the initial days of a peacekeeping
14 mission. We had exactly the same problem and heard very much the
15 same complaints even from NATO in the early days of the Bosnia
16 exercise.

17 Q. Well, just as a factual matter, at this time, 24 July 1999, were
18 there, in fact, delays and problems in establishing police forces?

19 A. Absolutely. Most of the existing police force had been Serbs.
20 The Kosovar Albanians had largely been squeezed out of the police
21 force. The OSCE was leading efforts to create a police academy that
22 was moving quickly, they were beginning to take -- or identify
23 applicants, but that would take months even though they did it in
24 record speed, and the supply of international police officers was
25 very slow in coming. So there was a real problem with fielding

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1 police. Not to mention that KFOR was largely -- I would say
2 effectively forbidden from performing police activities, law
3 enforcement activities.

4 Q. Thank you.

5 MR. MISETIC: Mr. President, I now propose to add this page to
6 the just admitted Exhibit 1D00414.

7 PRESIDING JUDGE SMITH: Any objection?

8 MS. IODICE: No, Your Honour.

9 PRESIDING JUDGE SMITH: The additional page can be added to
10 1D00414.

11 THE COURT OFFICER: Thank you, Your Honours. In that case,
12 DHT03000 to DHT03001, English version, and associated Albanian
13 version, will be assigned Exhibit 1D00414, and it's classified as
14 public. Thank you, Your Honours.

15 MR. MISETIC: Thank you very much.

16 If we could please have, Mr. Court Officer, on the screen
17 DHT05746 to DHT05753, please.

18 Q. And, Mr. Covey, you see on the screen this is another code cable
19 from Mr. Kouchner to UN New York, 28 December 1999, concerning the
20 third meeting of the Interim Administrative Council. If you look at
21 the "from" line, you see initials there?

22 A. Yes, I --

23 Q. Do you recognise the initials?

24 A. It has me signing -- or initialling for Kouchner.

25 Q. Thank you. Would that indicate that you read or -- or

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1 participated in preparation?

2 A. Yes, yes.

3 MR. MISETIC: If we could go to the second page of this
4 document, please, DHT05747. And this is now the minutes of the
5 28 December 1999 meeting. And if we can go to section 2(a).

6 Q. There it says:

7 "Mr. Covey offered for discussion an enlarged ... list of
8 Administrative Departments."

9 Does that refresh your recollection of whether you attended the
10 meeting?

11 A. Yes.

12 Q. And did you attend?

13 A. Yes.

14 MR. MISETIC: If we move to page 3, please, DHT05748.

15 Q. There is a point (d) titled "Any other business," and in the
16 second paragraph it states as follows:

17 "Short conclusions of the meeting were agreed. Mr. Thaci
18 proposed that these conclusions also include a strong condemnation of
19 the violent attack in Vitina on 27 December."

20 Does Mr. Thaci's proposal for a strong condemnation by the IAC
21 of a violent incident in Vitina correspond to your recollection of
22 Hashim Thaci's response to such violence?

23 A. Yes, but I don't -- I can't claim to recall what's the specifics
24 of the attack on Vitina.

25 Q. Yes, thank you.

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1 MR. MISETIC: Mr. President, I tender this document into
2 evidence, DHT05746 to DHT05753.

3 PRESIDING JUDGE SMITH: Objection?

4 MS. IODICE: No, Your Honour.

5 PRESIDING JUDGE SMITH: DHT05746 to 05753 is admitted.

6 THE COURT OFFICER: This will be assigned Exhibit 1D00415, and
7 it's classified as confidential.

8 MR. MISETIC: It can be public.

9 PRESIDING JUDGE SMITH: Reclassified as public.

10 MR. MISETIC: Thank you.

11 Mr. Court Officer, could we please have on the screen DHT05588
12 to DHT05588, please.

13 Q. And this is a briefing note, "Visit of SRSG Sergio Vieira de
14 Mello," 12 July 1999, to the Kosovo Polje Roma School. Do you see
15 that?

16 A. Yes.

17 Q. Immediately to the right of that, in handwriting, it says
18 "Mr. Kouchner, Mr. Covey." Do you know why it would say that?

19 A. Well, we would arrive in three days, and clearly someone is
20 setting things aside to pass along to us on arrival.

21 Q. Thank you. Do you have any recollection right now having read
22 this note at the time?

23 A. No. I have to say that we were trying to swim in a whirlpool,
24 drinking from the firehose, whatever metaphor you choose. This is
25 the kind of thing that I would have faced somewhere buried in a stack

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1 of a yet-to-read memos at 11.00 or 12.00 at night on a 16-hour day.

2 I don't have a clear recollection of this memo, but it's consistent
3 with the kinds of things we were briefed.

4 Q. When you look at the handwriting there, could you make out what
5 it says underneath your name, "Mr. Kouchner, Mr. Covey ..."

6 A. Oh, it seems to say "On arrival."

7 Q. And what do you --

8 A. "For information" or "for file." And the S initial, I don't
9 know who that would -- yeah, I don't know who that would be.

10 Q. So is it -- how do you interpret the words "Mr. Kouchner,
11 Mr. Covey, on arrival"?

12 A. That they had for us a huge stack of material that had been
13 generated that they could hand off and feel that part of their job
14 had been done by passing the baton.

15 Q. Understood.

16 A. I'm not sure I'm answering your question.

17 Q. Yes, you are.

18 A. Okay.

19 Q. You absolutely did. Thank you. I'd like to read a part of this
20 note related to the relations between Roma and ethnic Albanian
21 populations in Kosovo. And the second paragraph says:

22 "A large portion of the Roma lived in and among ethnic Albanian
23 villages, sending their children to Albanian schools but politically
24 supporting the Serb authorities in Kosovo. Due to this disparity,
25 the Roma are especially reviled by ethnic Albanians who feel very

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1 much betrayed. In the area of Pristina, in particular, the Roma were
2 recruited in large numbers by the VJ and MUP, sometimes under duress
3 but often times voluntarily, to fill the vacuum left by the
4 deployment of forces to border areas and other hotspots. Roma
5 support of Serbs and participation in their activities against the
6 ethnic Albanians is vividly remembered.

7 "It is unclear how many Roma have been expelled from their homes
8 and settlements, however, many pockets of displaced Roma are being
9 discovered throughout the province. Often times, Roma are expelled
10 or threatened not necessarily by known neighbours but those who have
11 been displaced themselves or who return to find their houses burned
12 and destroyed and move into other strange neighbourhoods where
13 tensions can flare more easily. Thus, the threat of persecution in
14 itself seems to be enough to precipitate flight with the current
15 atmosphere of ethnic tension that is so widespread in Kosovo today."

16 Mr. Covey, does the description in those two paragraphs of the
17 tensions between the ethnic Albanian population and the Roma
18 population accord with your recollection of what you may have
19 understood to be the situation in July 1999?

20 A. When you say it that way, yes, but I'd also note that almost
21 everybody found some excuse for persecuting the Roma.

22 Q. And what do you mean by that?

23 A. Well, you could -- you could sweep your arm across Europe and
24 almost everywhere they are in a bit of a bind for whatever is the
25 local reason for being unhappy with the presence of Roma. But my

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1 recollection is that the Serbs were happy to instrumentalise the Roma
2 where they could, but they were not their friends.

3 Q. Yes. Now, would you have any reason to dispute what's written
4 here in handwriting, that this document may have been provided to you
5 and Mr. Kouchner on your arrival, whether you read it or not?

6 A. No, I wouldn't dispute it. And it's a little academic for me to
7 add footnotes to it.

8 Q. Okay. Thank you.

9 MR. MISETIC: Mr. President, I tender this document into
10 evidence, DHT05588 to DHT05588.

11 PRESIDING JUDGE SMITH: Objection?

12 MS. IODICE: No, Your Honour.

13 PRESIDING JUDGE SMITH: DHT05588 to 05588 is admitted.

14 THE COURT OFFICER: And it will be assigned Exhibit 1D00416, and
15 it's classified as confidential.

16 MR. MISETIC: It can be public.

17 PRESIDING JUDGE SMITH: Reclassified as public, please.

18 MR. MISETIC: Thank you.

19 Mr. Court Officer, could we please have on the screen
20 SITF40000637 to 40000639, please.

21 Q. And, Mr. Covey, you see that this is an outgoing facsimile,
22 dated 24 June 1999, from the SRSG Sergio Vieira de Mello to UN
23 New York. If we look at numbered paragraph 1, and you can start with
24 the first sentence:

25 "As I have mentioned in frequent telephone conversations, I am

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1 increasingly worried that the rate at which staff and other support
2 is being provided to the operation is not keeping pace with the
3 rapidly evolving events and emerging needs on the ground. I believe
4 we are approaching a point where in the absence of extraordinary
5 measures to allow for the immediate deployment of additional staff,
6 UNMIK's immediate and longer term effectiveness will be undermined."

7 If we go to the last sentence:

8 "Apart from staffing, civilian police is another area of
9 particular concern ..."

10 Now, what's written there, does that correspond to your
11 understanding of UNMIK's staffing shortages in June 1999 before you
12 became the DSRSG?

13 A. Yes. And it was still pretty much the case when we arrived in
14 July.

15 MR. MISETIC: And if we scroll to the very last point in the
16 document, which is on page 3. Sorry, it should be paragraph 8, so
17 the last page then. Yes, thank you. Thank you.

18 Q. He writes:

19 "A related urgent need is for civilian police. KFOR have
20 reiterated on numerous occasions that their ability to stop theft,
21 looting, to handle detainees and even prevent isolated murders is
22 very restricted. If the emerging atmosphere of lawlessness is
23 allowed to prevail for another month pending the arrival of civilian
24 police, it will be hard to reverse."

25 Does this paragraph correspond to your understanding of the

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1 staffing shortages of civilian police in June 1999 before you became
2 the DSRSG?

3 A. Yes. To all practical purposes there were no civilian police.
4 There were a few people who would eventually form the nucleus of a
5 police department, but the hundreds that would be needed to provide
6 rudimentary policing were still months and months away.

7 Q. And does what is reflected here about the situation in June
8 1999, did that staffing shortage of civilian police still exist when
9 you arrived at your post in July 1999?

10 A. Yes.

11 Q. Thank you.

12 MR. MISETIC: Mr. President, I tender SITF40000637 to 40000639.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MS. IODICE: No, Your Honour. It can be public.

15 PRESIDING JUDGE SMITH: SITF40000637 to 40000639 is admitted and
16 is reclassified as public.

17 THE COURT OFFICER: Thank you, Your Honours. It will be
18 assigned with Exhibit 1D00417. I'll say it again, 1D00417. It's
19 classified as public. Thank you, Your Honours.

20 MR. MISETIC: Thank you very much.

21 Mr. Court Officer, could we please have on the screen DHT05436
22 to DHT05437, please.

23 THE COURT OFFICER: If I may ask for the ERN again, please.

24 MR. MISETIC: I'm sorry. DHT05436 to DHT05437.

25 Q. Mr. Covey, you see on the screen that this is an outgoing code

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1 cable, dated 4 August 1999, from Mr. Kouchner to UN New York. The
2 subject is "Daily sitrep for 3 August 1999."

3 MR. MISETIC: And if we scroll down to the second point on this
4 page, paragraph number 2, under the heading "Civil Administration."

5 Q. He writes:

6 "Three newly appointed judges (ethnic Albanians) resigned in
7 Prizren in protest at being asked to apply pre-24.03.1999 laws. It
8 appears that their decision is not based on a coordinated political
9 move, but rather on personal views."

10 Do you know what the position of ethnic Albanian judges was with
11 respect to application of the pre-24 March 1999 laws?

12 A. Yes.

13 Q. And what is your understanding of their position?

14 A. Once the -- their preference would have been to apply the law as
15 codified before 1989, when Serbia revoked the relative autonomy of
16 Kosovo and at that point insisted that the laws of Serbia would apply
17 in Kosovo.

18 It was not a matter, as we understood it, of whether one code
19 called for the death sentence and another did not, or whether
20 business law was more up to date in one rather than other. It was
21 simply that the post-1989 law was regarded as an instrument of
22 occupation and degradation. So the judges felt -- they thought that
23 the post-1989 law was repugnant, but they also feared that if they
24 could themselves stomach it, they might still put themselves or their
25 families at risk.

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1 And so either for their -- either as a kind of legal judgment,
2 as a political judgment or as a personal fear, we lost every Kosovar
3 jurist as a result of this. It was a major bone of contention with
4 the legal adviser in New York.

5 Q. And who was that? Do you recall?

6 A. Hans Corell, and he was applying a well-known tenet of
7 international law that in an occupied territory the law that should
8 be applied would be that immediately preceding the occupation. As
9 for instance in the West Bank, though it's not honoured, you could go
10 back to the British mandatory law would be the law that should be
11 applied.

12 In this case, we advised New York, including Hans Corell, that
13 it was not practical and that it -- and without a judiciary, UNMIK's
14 mission would fail. That we already were warehousing prisoners in
15 jails that were woefully inadequate, with no ability to bring those
16 accused to trial.

17 This persisted for months with this standoff until, I think,
18 December of that year when it came to a head in a meeting with Kofi
19 Annan and foreign ministers of the Contact Group, I think in Türkiye,
20 a meeting called for a different purpose, but this was on the
21 sidelines, when it was finally resolved. But it was a very, very
22 difficult issue for UNMIK. I went back to New York myself to plead
23 the case with Hans Corell, and I believe Kouchner did the same on a
24 different trip of his own, and we were getting nowhere dealing
25 directly with the legal adviser. It took Kofi Annan to overrule him.

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1 Q. Thank you, Mr. Covey. If I could show you another portion of
2 this document. It's paragraph 5 concerning policing.

3 Now, in this paragraph it says:

4 "The recruitment process for the Kosovo Police Service is
5 advancing at a satisfactory speed. 17.000-18.000 applications have
6 already been returned, including 3.000 from UCK members. The problem
7 of United Nations civilian police officers ... who do not meet the
8 minimum requirements to fulfil their tasks remains a major concern as
9 it could have negative implications for the performance and
10 credibility of the UN civilian police component."

11 Do you recall an issue with UN civilian police officers not
12 meeting minimum requirements to fulfil their tasks?

13 A. A bit of context. The civilian police would be provided by
14 supporting nations - everybody from the United States, Germany, the
15 UK, et cetera - but also anybody else in the United Nations who had
16 police that they might offer. In the developed world, the process
17 seemed to go slowly. Police officers are not necessarily eager to go
18 to a difficult place and do a difficult job. And in some
19 underdeveloped, less developed areas, the process seemed to go faster
20 if only because the pay might be better or the opportunities for
21 advancement might be better.

22 So the folks we got from less developed nations were not
23 necessarily well-schooled in modern police technique, were not
24 necessarily deeply committed to ethical policing, and so on and so
25 forth, and I don't want to get into which nations, and, in fact, I

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1 may not clearly recall which ones. But we had a number of instances
2 of officers behaving in odd way -- either not responding to things
3 they should have or making demands that were unbecoming to a police
4 officer.

5 So, yes, it was a problem.

6 Q. Thank you.

7 A. But -- yes.

8 Q. And if we could go to paragraph 6, please. Here, he writes:

9 "UN civilian police patrols in Pristina are expected to start
10 within the next two weeks. However, the absence of detention
11 facilities could hamper the effectiveness of their work. Resolution
12 of this is an urgent matter."

13 And I believe you just mentioned the issue of --

14 A. Yes, the -- there was a log jam that -- it was not that there
15 were no arrests being made yet. We had a workaround with the British
16 forces, specifically in Prishtine, following a model they had created
17 in Northern Ireland where a military patrol, which by law was
18 forbidden to perform strictly law enforcement duties, would be
19 accompanied by a single police officer, often just trailing the unit,
20 and if something occurred that seemed to require an arrest, they
21 would bring the police officer forward to do the necessary formality
22 and take -- cart the person off to the jail and continue patrolling.

23 That provided something of a workaround for some weeks, so the
24 jails were filling up. And -- so we would have -- if -- we needed to
25 resolve the -- what we called the rule number 1 fiasco in order to

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1 clear the jails and process them through the courts.

2 Q. Thank you.

3 MR. MISETIC: Mr. President, I tender this document, DHT05436 to
4 DHT05437, and it can be public.

5 PRESIDING JUDGE SMITH: Any objection?

6 MS. IODICE: No, Your Honour.

7 PRESIDING JUDGE SMITH: DHT05436 to 05437 is admitted and
8 reclassified as public.

9 THE COURT OFFICER: Thank you, Your Honours. That will be
10 admitted as Exhibit 1D00418. Thank you, Your Honours.

11 PRESIDING JUDGE SMITH: All right. Mr. Covey, it's time for our
12 lunch break.

13 THE WITNESS: Thank you, Your Honour.

14 PRESIDING JUDGE SMITH: We will be an hour and a half. You will
15 be back here at 2.30. Please enjoy your lunch break --

16 THE WITNESS: Thank you.

17 PRESIDING JUDGE SMITH: -- and do not discuss your case with
18 anyone outside the courtroom.

19 THE WITNESS: Thank you, Your Honour.

20 [The witness stands down]

21 PRESIDING JUDGE SMITH: We're adjourned until 2.30.

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

23 --- On resuming at 2.31 p.m.

24 PRESIDING JUDGE SMITH: Please bring the witness in,
25 Madam Court Officer.

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1 [The witness takes the stand]

2 PRESIDING JUDGE SMITH: We have about two hours left, but we
3 will take a break after one hour, like we did this morning, for ten
4 minutes.

5 THE WITNESS: Thank you, Your Honour.

6 PRESIDING JUDGE SMITH: Go ahead, Mr. Misetic.

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

8 Q. Welcome back again, Mr. Covey.

9 MR. MISETIC: Mr. Court Officer, if I could please have on the
10 screen DHT05550 to DHT05552, please.

11 Q. And this is an UNMIK Interoffice Memorandum. It has a date on
12 it, it's hard to see, but 27 October, and then there's a stamp of --
13 it looks like a receipt stamp of 28 October 1999. And if we look at
14 the first page, we can see that it is from Mr. Jari Lohi, Head of the
15 Penal Management Section, and in CC there, you see it has Jock Covey.
16 Do you see that?

17 A. Yes.

18 Q. If we look at the first page -- sorry, the first two paragraphs
19 on the first page, if we scroll down, are not very legible. But if
20 we move to that third paragraph, it states the following:

21 "As we have explained previously, the Department will be unable
22 to assume control of any prison until such time as we are properly
23 equipped and confident that we can fund operations of a penal
24 institution properly. The plans that have been formulated to date
25 have all had specific target dates that have had to be rescheduled

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1 over issues over which we have no direct control. Therefore, in
2 light of our inability to resolve these various questions and
3 requirements, the Department is not in a position," if we can go to
4 the next page, "the Department is not in a position to offer a
5 specific date for the takeover of any prison facility until certain
6 preconditions have been satisfied."

7 My first question to you is do you recall anything about this
8 issue or having received this memorandum?

9 A. I don't recall the memorandum specifically, but I am well
10 acquainted with the general issue.

11 Q. And were there any difficulties with the takeover of prison
12 facilities in Kosovo?

13 A. Yes, there was -- there were few facilities to start with, and
14 they were not well equipped nor very well staffed, and it took time
15 to get that right.

16 Q. Thank you.

17 MR. MISETIC: Mr. President, I tender the document into
18 evidence, DHT05550 to DHT05552, and it can be public.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MS. IODICE: No, Your Honour.

21 PRESIDING JUDGE SMITH: DHT05550 to 05552 is admitted and will
22 be public. Please assign a number.

23 THE COURT OFFICER: Thank you, Your Honours. The number will be
24 1D00419. And as mentioned, it's going to be public. Thank you,
25 Your Honours.

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1 MR. MISETIC: Thank you.

2 Mr. Court Officer, could we please have on the screen DHT05959
3 to DHT05959.

4 Q. Mr. Everts [sic], this is an OSCE memorandum, dated 2 August
5 1999, about a meeting in Ferizaj/Urosevac between the LDK and KLA.

6 MR. MISETIC: And if we could go to the -- scroll down, please.

7 Q. The memo states as follows:

8 "The LDK has complained about being excluded by the KLA from any
9 leadership role of meaning. On 17 June there was a meeting between
10 the LDK and the KLA, which the LDK stated had not been productive.
11 On 22 June an HR team met with the President of the LDK in Ferizaj at
12 which he requested OSCE to organise a meeting between the two groups
13 and try and resolve their differences. The request was approved by
14 OSCE and the meeting scheduled for 02 Aug. 99.

15 "Action Taken

16 "The meeting proceeded on schedule at 10.00 ... today. Present
17 included KLA, LDK, LBD and other interested individuals. It quickly
18 became apparent that the problem was not that the KLA would not
19 communicate with the LDK but that it was about whom should control
20 what in the municipality and who should be present at the meeting.
21 The KLA appealed to the LDK to be part of the leadership of the
22 municipality but were informed by them that they could not be active
23 in the community without consultation with their political
24 committee."

25 We can stop there, and I'll wait for the interpreters to finish.

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1 Now, were you aware, Mr. Covey, of any difficulties that the LDK
2 had in the summer of 1999 in terms of their ability to make decisions
3 concerning their political positions in Kosovo?

4 A. As a general matter, they were -- they seemed nearly paralysed
5 by the absence of Rugova from the country. I'm not aware of this
6 specific -- I was not at the time aware of this specific issue. And
7 it appears that OSCE was trying to handle it on their own or at least
8 facilitate on their own. But the LDK generally was having some
9 difficulty organising itself.

10 Q. Thank you.

11 MR. MISETIC: Mr. President, I tender this document into
12 evidence, DHT05959 to DHT05959.

13 PRESIDING JUDGE SMITH: Objection?

14 MS. IODICE: Yes, Your Honour. The witness didn't comment on
15 the document, and he didn't seem to have any recollection of this
16 event.

17 MR. MISETIC: I believe he provided context about the issues
18 generally with the LDK in making decisions.

19 PRESIDING JUDGE SMITH: DHT05959 to 05959 is admitted. The
20 objection is overruled. It is marginally relevant but admitted.

21 THE COURT OFFICER: It will be assigned Exhibit 1D00420, and
22 it's currently classified as confidential.

23 MR. MISETIC: It can public.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 THE COURT OFFICER: Thank you.

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1 PRESIDING JUDGE SMITH: Sorry, reclassified as public.

2 MR. MISETIC: Thank you.

3 Q. Mr. Covey, that concludes my direct examination.

4 MR. MISETIC: Mr. President, that concludes my direct
5 examination. Thank you very much.

6 PRESIDING JUDGE SMITH: All right.

7 Mr. Dixon.

8 MR. DIXON: Thank you, Your Honours. I have no questions.

9 PRESIDING JUDGE SMITH: Mr. Roberts -- I'm sorry, Mr. Tully.

10 MR. TULLY: No problem [Microphone not activated]. Sorry.

11 We've no questions for the witness. Thank you.

12 PRESIDING JUDGE SMITH: Mr. Ellis.

13 MR. ELLIS: We have no questions either at this time,
14 Your Honour.

15 [Trial Panel confers]

16 PRESIDING JUDGE SMITH: It appears I was wrong, Mr. Covey. We
17 are finished now with today because we have to wait for
18 cross-examination tomorrow based upon an issue.

19 So we thank you for being with us today. We hope you can rest
20 this afternoon and this evening. We'll see you tomorrow morning at
21 9.00, and with any luck we will finish with you tomorrow.

22 THE WITNESS: Yes, Your Honour.

23 PRESIDING JUDGE SMITH: All right. Thank you for being with us.
24 Do not speak about this case with anybody outside the courtroom.

25 THE WITNESS: Thank you.

1 PRESIDING JUDGE SMITH: Thank you. Good evening.

2 [The witness stands down]

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 [Private session]

5 [Private session text removed]

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12 [Open session]

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

14 PRESIDING JUDGE SMITH: We're adjourned until 9.00 a.m.

15 tomorrow.

16 --- Whereupon the hearing adjourned at 2.56 p.m.

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