

1 Wednesday, 27 March 2024

2 [Open session]

3 [The accused entered the courtroom]

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

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

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

10 PRESIDING JUDGE SMITH: We are ready to continue with the  
11 evidence of W04147.

12 Madam Court Officer, please -- well, I'm sorry, don't get him  
13 yet.

14 Mr. Ellis -- well, let me give the floor to the Court Officer so  
15 that she can straighten out some of the exhibits from yesterday.

16 Go ahead.

17 THE COURT OFFICER: Thank you, Your Honours. First, yesterday,  
18 at the end of the hearing, counsel for Mr. Krasniqi tendered two  
19 pages from DJK00751 to DJK00763. Those pages are DJK00755 and  
20 DJK00756, and those pages will be assigned Exhibit 4D43,  
21 Your Honours, together with the English translations of them.

22 Now, the second matter, Your Honours. Yesterday, at 11.20, the  
23 Prosecutor conveyed an e-mail to everyone regarding Exhibit P93. And  
24 further to that, Your Honours ruled the transcripts to P93 can be  
25 added and replaced. So if I can just place the numbers on the

1 record.

2 Transcript with ERN 061427-12-TR Revised 2 will be added to  
3 Exhibit P93, and that will be assigned Exhibit P93-TR.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 THE COURT OFFICER: P93-TR.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 THE COURT OFFICER: Or, apology, AT. That is an Albanian  
8 version of the transcript. Then for the English version with  
9 061427-12-TR Revised 2-ET will be Exhibit P93\_ET.

10 And then 061427-12-TR Revised 2-ST will be Exhibit P93\_SRP.

11 Thank you, Your Honours, for the opportunity to clarify.

12 PRESIDING JUDGE SMITH: Those three exhibits will be admitted as  
13 numbered.

14 Yes.

15 MR. FERDINANDUSSE: Thank you. I have one other housekeeping  
16 matter to raise.

17 PRESIDING JUDGE SMITH: All right.

18 MR. FERDINANDUSSE: Yesterday, the Veseli Defence added a video  
19 to the presentation queue. From the description, we understand that  
20 the video was taken in April 1999. We have difficulty seeing how the  
21 witness could meaningfully comment on it given his earlier testimony  
22 that he had not seen Mr. Veseli before June 1999.

23 So I've two questions with regard to this. The first is I think  
24 it would be good, to avoid interruption when the video is being  
25 played, that the line of questioning is explained before the video is

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1 played.

2 And the second question pertains to your order 1847. If the  
3 video is played to ask questions pertaining to the credibility of the  
4 witness, then we would ask that your direction to clearly state the  
5 case on that is done also prior to playing the video and in the  
6 absence of the witness. Thank you.

7 PRESIDING JUDGE SMITH: Thank you.

8 Anything else?

9 All right. Now, Madam Court Usher, you may bring the witness  
10 in.

11 [The witness takes the stand]

12 THE WITNESS: Thank you.

13 PRESIDING JUDGE SMITH: Good morning, Mr. Byrnes.

14 THE WITNESS: Good morning, Your Honour.

15 PRESIDING JUDGE SMITH: We will continue with your testimony.

16 This is the cross-examination by the Krasniqi Defence. Mr. Ellis has  
17 the floor.

18 Go ahead, Mr. Ellis.

19 MR. ELLIS: Thank you, Your Honour.

20 WITNESS: SHAUN BYRNES [Resumed]

21 Cross-examination by Mr. Ellis: [Continued]

22 Q. Good morning, Mr. Byrnes.

23 A. Good morning, sir.

24 Q. I think just so you know where we are, I have less than half an  
25 hour left this morning.

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1 We finished off yesterday looking at a document, which was  
2 P00864, which was an OSCE note of a meeting on 23 January about the  
3 release of five elderly Serb civilians from Likoc. And it's clear  
4 from that document that this release took place on 23 January.  
5 That's right, isn't it?

6 A. Yes, sir.

7 Q. And there was nothing in that document to suggest that the local  
8 commander was unwilling to release the five Serbs. That's right what  
9 from we saw, isn't it?

10 A. I don't have the document in front of me.

11 MR. ELLIS: It was P00864, please.

12 Q. And I think what I had in mind is perhaps the second page of the  
13 document and the second paragraph there. What that records is the  
14 local commander saying that the prisoners would be released and, in  
15 fact, could have been released yesterday, but he wanted to release  
16 them with the OSCE to show they'd been treated well.

17 That's what it says, isn't it?

18 A. Yeah, I don't believe I was present for this event.

19 Q. And there was no mention that you've seen in this document of  
20 Mr. Krasniqi or the General Staff, was there?

21 A. There was no mention of what?

22 Q. Mr. Jakup Krasniqi or the General Staff and anyone from the  
23 General Staff in this document.

24 A. I've read it and I agree with that.

25 Q. It's right, isn't it, that before the nine KLA fighters were

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1 returned, you telephoned Mr. Krasniqi to ask where the handover  
2 should take place?

3 A. I don't remember.

4 Q. Do you remember it being Mr. Krasniqi who suggested it should  
5 take place in Likoc?

6 A. No, I don't.

7 Q. Did you see how Mr. Krasniqi arrived in Likoc that day?

8 A. No, I don't remember that.

9 Q. Were you present when short statements were made with the nine  
10 fighters there and I think with some people from the media there that  
11 day?

12 A. What I can tell you, sir, is I was present. I remember greeting  
13 the prisoners. I remember the media being present. I don't,  
14 however, remember any statements being made, but that was 25 years  
15 ago.

16 MR. ELLIS: Could I have on screen, please, 007893, which I  
17 think has been admitted as P00515\_ET.16. If we could scroll down.

18 Q. Sorry, I was just allowing you a moment to see that document.  
19 It continues over the page, if we could go over.

20 Do you recall Mr. Krasniqi giving that statement on the occasion  
21 of the release of the --

22 A. No, I don't.

23 MR. FERDINANDUSSE: Objection, Your Honour. If we look at the  
24 date on the top of the first page, I think that is misleading.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

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1 MR. ELLIS: Could we go down, please.

2 Q. Well, do you recall Mr. Krasniqi giving a statement in Drenica  
3 on the occasion when the nine KLA fighters were released or returned  
4 to them?

5 A. I really don't.

6 Q. And I'm going to put it to you that what happened on that day  
7 was Mr. Krasniqi was driven to Likoc for the release, he made a short  
8 statement, and he drove away again. That was his involvement that  
9 day.

10 A. That was his what?

11 Q. That was his involvement on that day, sorry.

12 A. Okay.

13 Q. I think I saw you nodding, but do you agree with that or you  
14 just don't recall either way?

15 A. I just don't remember. It makes sense, but I don't remember.

16 Q. Okay. So it's possible but you don't remember?

17 MR. FERDINANDUSSE: Objection, Your Honour. Asked and answered.

18 PRESIDING JUDGE SMITH: He said he did not remember. He didn't  
19 say it's possible he did not remember. Maybe that was a slip of your  
20 tongue, but anyway he's asked and answered that question already.

21 MR. ELLIS: Thank you, Your Honour. It was a slip of the  
22 tongue. I think I'm tiring faster than the witness and everyone  
23 else.

24 Q. Witness, what I'm putting to you is that Mr. Krasniqi did not  
25 know about the detention of the five Serbian civilians, and it was

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1 not him that ordered Mr. Lushtaku to let them go that day, if anyone  
2 did. That's what I'm putting to you, sir.

3 Now, you in preparation for your statement and for your evidence  
4 this week, you've been through a number of the code cables that you  
5 wrote at the time or that you reviewed at the time, haven't you?

6 A. Yes.

7 Q. You weren't shown any cable that addresses the release of the  
8 five Serb civilians, were you?

9 A. This particular incident?

10 Q. Yeah.

11 A. I don't recall.

12 Q. And you were shown a number of Mr. Krasniqi's writings and draft  
13 books by the Prosecution as well, weren't you?

14 A. Yes.

15 Q. And none of those writings or draft books refer to the five  
16 elderly Serbs, do they?

17 A. From what I recall reading, you're right.

18 Q. And I'm going to put it to you it's not in his writings because  
19 he wasn't involved in that particular incident, sir. That could be  
20 right, couldn't it?

21 A. Yes.

22 Q. I'm going to move on to a different topic now, Witness.

23 MR. ELLIS: Could we have on screen, please, P01069. And could  
24 we go, please, to paragraph 20 on page 075334.

25 Q. This is one of your cables from the time, and it's identifying

1 serious information gaps for the KLA; correct?

2 A. Yes.

3 Q. In particular, your observation was that they had little access  
4 to television or to newspapers; correct?

5 A. Yes.

6 Q. And you say you found in many KLA leaders ignorance not only  
7 about world affairs but also what's happening in Prishtine or  
8 elsewhere in Kosovo. That's what you observed at the time, isn't it?

9 A. Yes.

10 Q. And your assessment was that the lack of information seriously  
11 impeded the KLA leadership's ability - and it continues over the  
12 page, I think - to react quickly to its political environment. So  
13 the lack of information was hampering them, wasn't it?

14 A. That was our assessment. Whether that was a correct assessment,  
15 I can't judge. But let me -- may I add just another sort of factoid,  
16 if you will?

17 Q. Sure.

18 A. Because of our assessment, this assessment, we -- KDOM  
19 established a practice that whenever one of our members rotated out  
20 to Belgrade or to Skopje for a little R&R or to do some reporting  
21 because we had no classified information, we would -- they would  
22 purchase, usually at a local Intercontinental Hotel or a major  
23 western European newspaper, particularly from Germany, and we would  
24 bring them back to Kosovo. And the next time we saw the UCK  
25 leadership, we would provide those newspapers to them. They'd never



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1 requested us to do that, but it was clear that it was -- they  
2 appreciated it. And it was an effort -- it was an effort to close  
3 the information gap.

4 Q. It was something that you felt it useful to do --

5 A. Yes.

6 Q. -- because they didn't have access to that elsewhere?

7 A. Yes. I wasn't directed to do it by Washington. We just did it.

8 Q. But in the case of the KLA, it would be wrong to assume that  
9 somebody in the General Staff necessarily knew what somebody in a  
10 zone or brigade had done elsewhere in Kosovo? That's the reality,  
11 isn't it?

12 A. What's the question?

13 Q. The question is one can't assume that a person in the  
14 General Staff would necessarily know what a person in a brigade or in  
15 a zone had done somewhere else in Kosovo.

16 A. That's a hard question to answer. I wasn't -- I wasn't on the  
17 General Staff.

18 Q. Very well.

19 A. But ...

20 Q. Can I perhaps show you another cable.

21 MR. ELLIS: It's P01068. The paragraph 18, please, on page  
22 116698.

23 Q. Have you had a chance to see that, Witness?

24 A. What paragraph?

25 Q. 18.

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1 A. Okay. I've read it.

2 Q. Thank you. And for context, this is the cable written after the  
3 release of the Tanjug journalists and the LDK activists.

4 Now, Mr. Bashota was somebody that you've confirmed you had a  
5 good relationship with; correct?

6 A. Yes.

7 Q. And you asked him if the KLA was holding any additional  
8 hostages; correct?

9 A. Yes.

10 Q. And his response was that so far as he was informed the KLA were  
11 not holding further hostages but he would check. That's right, isn't  
12 it?

13 A. Yes.

14 Q. And there were occasions when you asked Mr. Bashota something  
15 and he didn't know and he had to go away and check. That's right,  
16 isn't it?

17 A. That's right. That's correct.

18 Q. But, of course, what you wouldn't know is what he had to do  
19 behind the scenes to try and get information after your  
20 conversations; correct?

21 A. That's right.

22 Q. Could we go, please, now to your statement, which is P01066 at  
23 paragraph 121.

24 Have you had a chance to look at that --

25 A. I have.

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1 Q. -- paragraph, sir? Thank you. It's right, isn't it, that the  
2 case of this particular Serb journalist in August 1998, to your  
3 knowledge, still hasn't been resolved --

4 A. That's right.

5 Q. -- today? Now, this doesn't, I think, identify a specific  
6 meeting at which you say you raised it with the troika. That's  
7 right, isn't it?

8 A. That's right. But let me add, I raised it with the troika many  
9 times.

10 Q. When we see in your statement that something's raised with the  
11 troika, that could be a meeting on a particular date when all or some  
12 of them were there or it could be by a telephone call, couldn't it?

13 A. Yes.

14 Q. And I think you had telephone contact with Mr. Bashota,  
15 Mr. Buja, and also with Mr. Krasniqi? You had telephone contact with  
16 all three, didn't you, on different occasions?

17 A. Primarily Mr. Bashota, yes.

18 Q. And if there was a meeting with the troika with all of them  
19 present, we would expect to see that reflected in your diary and also  
20 probably in a code cable summarising the meeting; correct?

21 A. Correct.

22 Q. Now, you also mentioned on Monday morning, when prompted by the  
23 Prosecutor, that you thought you saw one or two Serb prisoners in  
24 Likoc in the fall of 1998. Do you recall mentioning that?

25 A. Yes.

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1 Q. And I think your evidence was that the troika may have been  
2 there because usually when you went to Likoc it was for an important  
3 meeting. Do you recall saying that?

4 A. Yes.

5 Q. But you don't have a specific recollection of who it was from  
6 the KLA you saw on that day. That would be fair, wouldn't it?

7 A. At this -- I don't in my head, I don't recall what -- what's  
8 written in my calendar.

9 Q. But if there was a meeting with the troika in Likoc, we would  
10 see that written in your calendar?

11 MR. FERDINANDUSSE: Objection, Your Honour. Asked and answered.

12 PRESIDING JUDGE SMITH: Overruled.

13 Go ahead.

14 THE WITNESS: Presumably, yes. I mean, I tried to -- that was a  
15 practice I tried to maintain.

16 MR. ELLIS:

17 Q. And you will have guessed that the reason I'm asking that is I  
18 don't see a meeting with the troika in Likoc itemised in the autumn  
19 of 1998. So could it be it was somebody else there on that  
20 particular occasion?

21 A. Yes.

22 Q. And I'm finishing up now, Witness. It's right, isn't it, that  
23 you stayed in contact with Mr. Krasniqi after the conflict ended?

24 A. I did, and also with several other members of UCK.

25 Q. Is it right that you've met Mr. Krasniqi's family --

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1 A. Yes.

2 Q. -- Witness? In your interactions with Mr. Krasniqi, he was  
3 somebody you thought was reasonable and that you trusted, wasn't he?

4 A. Yes.

5 Q. He wasn't somebody you thought was involved in crimes, was he?

6 A. I did not -- no, I did not think of him as somebody involved in  
7 crime.

8 Q. I'm grateful.

9 MR. ELLIS: Nothing further, Your Honours.

10 PRESIDING JUDGE SMITH: Thank you, Mr. Ellis.

11 Mr. Emmerson.

12 Witness, Mr. Emmerson from the Veseli Defence will be asking you  
13 questions now.

14 Cross-examination by Mr. Emmerson:

15 Q. Mr. Byrnes, as you've just been told, my name is Mr. Emmerson,  
16 Ben Emmerson --

17 A. Could you --

18 Q. Oh, you can't hear?

19 A. I don't hear you well. If you could speak ...

20 Q. Maybe we'll have to change microphones. Can you hear me now?

21 A. Yes, sir.

22 Q. Thank you. As you've just been told, my name is Emmerson, and  
23 I'm representing Kadri Veseli in these proceedings. I want to ask  
24 you some questions about your knowledge or the extent of your  
25 knowledge in relation to Mr. Veseli, first of all.

1 MR. EMMERSON: Can we please bring up the -- it is a document  
2 which is on our queue but not yet admitted. It's 116181 to 116182.  
3 Q. Now, this is a note of a telephone call on 13 October of last  
4 year between Mr. Ferdinandusse and yourself, with some others on the  
5 call, concerning a question that the Prosecution had been directed to  
6 ask of you.

7 And if we can focus in on paragraph 3, please. We see that  
8 Mr. Ferdinandusse informed you, that's the number for your -- your  
9 cypher at that stage, that he had been directed by the Court to make  
10 an inquiry of you. And we see in the second sentence that he asked  
11 you whether you had "personal knowledge of Kadri Veseli's external  
12 intelligence activities between November 1998 and the end of the  
13 war," and you stated that you did not.

14 And so I'm not going to be asking you in any detail about your  
15 knowledge of the external activities -- intelligence activities of  
16 Mr. Veseli but about what you are able to say. May I just check that  
17 you understood the question external intelligence activities to mean  
18 activities outside of Kosovo relating to other intelligence services?  
19 Was that the question you understood you'd been asked?

20 A. I didn't really understand what he was -- what he was  
21 specifically referring to. But that makes sense.

22 Q. So when you said you didn't know, you didn't understand the  
23 question or you did?

24 A. I understood it to -- I understood it to mean collecting  
25 intelligence from his post in Albania.

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1 Q. Collecting intelligence outside of Kosovo, not --

2 A. Yes.

3 Q. -- interacting with other intelligence agencies?

4 A. Yes.

5 Q. So were you asked at all whether Mr. Veseli's role involved  
6 liaising with the foreign intelligence agencies of other countries?  
7 Was that question asked to you?

8 MR. FERDINANDUSSE: Objection, Your Honour. It is clear that  
9 the note diligently reflects the direction of Your Honours in  
10 decision 1847. Decision 1847 has set out a procedure relating also  
11 to potentially necessary -- a potentially necessary position from the  
12 Rule 107 provider. I will read it. It:

13 "Directs the SPO to: (i) enquire as soon as practicable with  
14 [the witness] whether the witness has personal knowledge of  
15 Mr. Veseli's external intelligence activities between November 1998  
16 and the end of the war; (ii) if that is the case, to verify with the  
17 Rule 107 Provider whether such topics fall within the scope of issues  
18 in relation to which [the witness] has been authorised to testify."

19 If we're now going to reopen that topic and try to enter it from  
20 the side, then I think we need to follow proper procedure with regard  
21 to the Rule 107 provider.

22 MR. EMMERSON: Your Honour, given that indication in advance,  
23 and of course, I won't be going behind the Rule 107 procedure, I'm  
24 just establishing that the witness understood the question and that  
25 it was conveyed in relation to the issue that it was directed to. In

1 other words, not simply that Mr. Veseli was external but also that it  
2 was liaised with external intelligence agencies. And if he didn't  
3 understand the question, then we'll have to go through the 107  
4 procedure again.

5 PRESIDING JUDGE SMITH: I think that is a bit beyond the scope  
6 of the question as was addressed by the note, so I'll sustain the  
7 objection. You can re-ask it. Maybe make it more focused on exactly  
8 what was in the note.

9 MR. EMMERSON: Yes. Just to be clear, the words "external  
10 intelligence activities" as put is ambiguous as to what "external"  
11 means, and clearly the witness doesn't understand that, so I'm trying  
12 to clarify what it was he thought he was being asked.

13 PRESIDING JUDGE SMITH: You'll have to ask him more questions  
14 then.

15 MR. EMMERSON: Exactly.

16 PRESIDING JUDGE SMITH: You'll have to ask him more questions  
17 but not that question. I'm not sure that he didn't understand.

18 MR. EMMERSON: Very well. But may I clarify that question?

19 Q. You said a moment ago you didn't quite understand what it was  
20 you were being asked. Going back to an answer you gave a few moments  
21 ago --

22 PRESIDING JUDGE SMITH: Excuse me, could you just ask him what  
23 he thought he understood about it.

24 MR. EMMERSON: Yes. Okay.

25 Q. What did you think you understood when you were asked the



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1 question whether you had personal knowledge of Kadri Veseli's  
2 external intelligence activities between November 1998 and the end of  
3 the war? What did you think you were being asked?

4 A. Whether he was collecting intelligence in Albania, where I was  
5 told he was working --

6 Q. Yes.

7 A. -- on Serbian activities directed against UCK.

8 And if I may, let me add the following. I did not know  
9 Mr. Veseli. I had never met him. And in point of fact, I had no  
10 idea what he was doing. There were rumours that he was somehow  
11 involved in intelligence activities. But go beyond that -- let me  
12 ask a question of the --

13 PRESIDING JUDGE SMITH: Witness, just hold on.

14 THE WITNESS: Sure.

15 PRESIDING JUDGE SMITH: I think he's adequately answered what he  
16 thought -- what he understood, and I think you can move on to more  
17 questions.

18 MR. EMMERSON: Very well. Very well.

19 Q. In relation -- or in answer to a question from Mr. Ellis earlier  
20 on today, I think you said, in connection with the reasons why you  
21 might have been in Skopje, one of the things you observed, I think  
22 you said you had --- "we," that is KDOM, "had no classified  
23 information"; is that correct?

24 A. We had no classified -- we held no classified information while  
25 we were in Prishtine. In Skopje, we could use the embassy where we

1 were able to hold any classified information that we generated.

2 Q. I see. Carrying on in that paragraph, it records that you  
3 stated that you never met Mr. Veseli until right after NATO came into  
4 Kosovo in June 1999, and I'll come back to the circumstances of that  
5 meeting in just a moment.

6 And it goes on that you -- we -- you, I'm sorry, you had heard  
7 Veseli's name a couple of times, that you also stated that in the  
8 following years you'd had conversations with UCK people when you were  
9 in Kosovo, often as a member of the board of the American University  
10 of Kosovo. And you've mentioned the various people -- or some of the  
11 various people you spoke to during that time. One of them, I think,  
12 was Sokol Bashota --

13 A. That's correct.

14 Q. -- who you became quite close to.

15 A. That's correct.

16 Q. And one of them was, as you just confirmed, Mr. Krasniqi, and  
17 presumably there were others; is that right?

18 A. Yes.

19 Q. And you continue that you -- and this is just over the page.  
20 You heard that Mr. Veseli had not been in Kosovo during the conflict  
21 but had instead been in Albania, although you didn't have any direct  
22 knowledge of that.

23 A. That's correct. May I add that my recollection when I was  
24 serving in -- as US KDOM, we heard of Mr. Veseli. He was a very --  
25 he remained a very mysterious figure because we were also told, or at

1 least there were broad hints, that he was very close to Hashim Thaci  
2 and that they had been close friends from their days in the Prishtine  
3 University student movement in the early 1990s. And, finally, that  
4 he was a very respected figure in the ranks of the UCK. But that was  
5 it. No one was willing to talk about what his functions and  
6 responsibilities were.

7 Q. And --

8 A. I hope that helps.

9 Q. Precisely so. And that's presumably something you would regard  
10 as unsurprising if he was involved in --

11 A. Yes.

12 Q. -- intelligence?

13 A. Yes.

14 Q. Yes. But importantly, it was your understanding, and you  
15 mentioned it twice already, that he was conducting his activities  
16 from Albania; correct?

17 A. Yes.

18 Q. In terms of the first occasion that you met him, and I'm just  
19 looking at some of your previous statements here, it's right that you  
20 first met him, I think, in person shortly after the entry of KFOR; is  
21 that right?

22 A. Yes, sir.

23 Q. And I think you met him in Prishtine at a big meeting, where  
24 Ambassador Walker was present, General Mike Jackson, the head of KFOR  
25 British forces, and other prominent KLA members were present?

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1 A. Yes, sir.

2 Q. You didn't think, when you were describing this meeting, that  
3 Mr. Thaci was present?

4 A. I don't remember.

5 Q. Very well. But it was then that you met Mr. Veseli, and it was  
6 a very short, simple handshake; is that right?

7 A. That's right. He actually -- what I remember is he actually  
8 came up and introduced himself to me.

9 Q. How did he introduce himself?

10 A. He introduced himself as, "I'm Mr. Veseli."

11 Q. He didn't explain his role to you or describe himself as  
12 anything?

13 A. I don't remember, but I -- I don't think so.

14 Q. Now, I want to ask you about an answer that you gave when you  
15 were being questioned by Mr. Misetic on the 25th of this month,  
16 that's a couple of days ago.

17 At page 13650, this is for the reference, and line 8,  
18 Mr. Misetic asked you, in relation to a portion of one of the  
19 diplomatic telegrams we've seen:

20 "... am I correct that what this means is that you understand  
21 that it was the contact with Washington that then set off this effort  
22 to create a more vertical KLA structure?"

23 And you replied at line 11:

24 "I -- I talked to this topic earlier when I made the comment in  
25 response to your question about the General Staff serving as the

1 UCK's foreign ministry. My understanding was that they -- as I'd  
2 said earlier, that they had decided in Switzerland to send people  
3 back to Kosovo, including people like Hashim Thaci, Kadri Veseli, and  
4 others, to set up a UCK headquarters, a General Staff if you will,  
5 and try to organise the UCK, which was at that time just a collection  
6 of regional militias, if you will, and to serve as the UCK's  
7 leadership's diplomatic element, to serve as that element of the UCK  
8 leadership to interface with the international community ..."

9 Do you remember saying that?

10 A. I do.

11 Q. You included Mr. Veseli's name in that. Why did you describe  
12 Mr. Veseli as somebody who was part of what you understood to be the  
13 foreign ministry liaising with the international community? What  
14 made you describe him in that way, if you can help us?

15 A. Because what I understood was that he was in that group of  
16 people who had been working in the diaspora, primarily in Switzerland  
17 - Xhavit Haliti was another one; there were several others - who the  
18 LPK leadership decided to send back to the region and to seize the  
19 opportunity to provide leadership, political leadership to the -- to  
20 these various regional militias.

21 And also, I think, and this is our analysis, it may be wrong --

22 Q. But this is the KDOM -- US KDOM's analysis?

23 A. This is US KDOM's analysis. And that the second task we  
24 believed was to try to form out of these various militias a coherent  
25 military, coherent army, that they would then be able to control as

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1 well as represent to the international community.

2 Q. As a coherent army?

3 A. As a coherent army and as a coherent political force.

4 Q. Yes. Judging from the whole of your evidence, would it be fair  
5 to say you think they never actually achieved the construction of a  
6 unified army?

7 A. Yes.

8 Q. Thank you. Would it be correct to say you consider that it  
9 remained largely a group of disparate militias in different zones  
10 headed by zone commanders who were only, to a very limited degree,  
11 under the direction and control of the General Staff?

12 A. Yes. Let me add that -- and this is again my analysis, and it's  
13 perhaps enriched or enhanced by what I learned after the war from  
14 people who knew more than I did.

15 Q. Yes.

16 A. Locals who knew more than I did. The various zones, let's call  
17 them militia zones now, had differing relationships with UCK  
18 Central Staff. And much of the quality of those relationships was  
19 dependent on resources. And in particular, I was told and some of my  
20 colleagues were told on several occasions by the zone commanders,  
21 like Ramush Haradinaj and Mustafa Remi up in Llap, that they had  
22 their own resources. They had funding coming in from donors. I  
23 don't know who they were, where they were, but they had funds coming  
24 in, and they had sources of weapons.

25 In Llap zone in particular, Remi said, and his deputy,

1 Nuredin Ibishi told us, that they were buying weapons from a JNA  
2 colonel in Nis. Some of the other zones did not apparently have that  
3 ability either by their geographic location or lack of funding from  
4 donors.

5 Q. Could I --

6 A. And so -- and so, if you will, the rich zones had less -- had  
7 more independence from the General Staff.

8 Q. Well, I wanted, if I may, to look at that in more detail with  
9 you zone by zone in a moment --

10 A. Sure.

11 Q. -- or two. But what you basically described is a dual function  
12 that you thought this group, included Mr. Veseli who you named in  
13 that passage, were sent, if you like, to the region to achieve. One  
14 of them was to try to impose some kind of central coordinative  
15 structure. Is that fair?

16 A. Yes.

17 Q. Which was done -- you say never achieved, but highly variable  
18 between different zones?

19 A. I would say by March 1999 it remained, an American expression, a  
20 work in progress.

21 Q. Yes. By the time of the bombing, you're --

22 A. Yes.

23 Q. [Overlapping speakers] ... that? Yes, exactly. And we'll look  
24 at each zone, as I say, or a number of them, and the various problems  
25 in a moment or two.

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1 But the other function, you say, was to interface with the  
2 international community.

3 A. Other function of UCK General Staff? Yes.

4 Q. One aspect of that was to present the KLA as more unified and  
5 more organised and stronger than in reality you thought it was; is  
6 that correct?

7 A. I'm chuckling. Yes, of course.

8 Q. So, for example, they would exaggerate the number of forces  
9 compared to your assessment of the reality of the strength of the  
10 KLA; correct?

11 A. Yes.

12 Q. They would --

13 A. That was our judgment.

14 Q. They would purport in documents and representations to be more  
15 organised than they were; is that correct?

16 A. Yes, that was our judgment.

17 Q. And they would create the impression of a vertical structure  
18 when none existed? A vertical command structure.

19 A. Yes, but I repeat it was a work in progress. There were -- I  
20 think -- again, my analysis at the time, and I stick with it now,  
21 that there were some elements of that vertical structure, in fact, in  
22 place, but it was not complete by any means.

23 Q. You say "some elements." You mean in some places there were  
24 some elements?

25 A. Yes, with --



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1 Q. Sure.

2 A. With some zones, there was a closer operational relationship --

3 Q. Yes.

4 A. -- than other zones had.

5 Q. Yes. But by the time of the bombing, the NATO bombing, you  
6 had -- it was important, obviously, for the KLA, would you agree, to  
7 persuade the international community that they were a sufficiently  
8 coherent force to be able to receive military and other support;  
9 correct?

10 A. Correct. And I would add political support because they had  
11 political aspirations for the -- relating to the post-war period.

12 Q. Yeah.

13 A. And we saw that reflected in the conversations -- the ongoing  
14 conversations that the UCK leadership had with Ambassador Hill and  
15 Ambassador Petritsch.

16 Q. And that, of course, associated with the notion that there would  
17 be political support for the creation of an independent Kosovo?

18 A. Absolutely.

19 Q. Now, if it's right then, and I'm focusing on the external role,  
20 liaising with the international community, and if you're right that  
21 Mr. Veseli had an intelligence role based outside of Kosovo, as a  
22 matter of principle, without commenting on anything from your actual  
23 knowledge, what would you expect his role to be in relation to the  
24 international community if he had an intelligence function?

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

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1 speculation.

2 PRESIDING JUDGE SMITH: Overruled.

3 You can answer the question if you know.

4 THE WITNESS: I do not have concrete knowledge, so what I say  
5 is, in effect --

6 MR. EMMERSON:

7 Q. Informed opinion; is that fair?

8 A. I would expect that Mr. Veseli, if he had contact with foreign  
9 intelligence organisations while he was in Albania, he was feeding  
10 them information about developments in the UCK because they were  
11 hungry for it. Washington was hungry for it. They're asking us for  
12 constantly what we knew. And perhaps he was getting information from  
13 them, but that I don't know.

14 Q. Thank you for that. Can we turn now to the success or otherwise  
15 and the variability in the independence of the different zones, the  
16 subject I said I was going to come back to.

17 First of all, you've described at various points the KLA as a  
18 sort of double-headed institution, an institution with two heads. I  
19 think it appears in some of your statements, and I think you  
20 mentioned it in your evidence. But can I just ask you some questions  
21 to try to nuance what that reality really was.

22 A. Of course.

23 Q. So, first of all, we know that at the February period, there was  
24 a rebellion by a number of the zone commanders against the position  
25 taken by the KLA delegation to Rambouillet; correct?

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1 A. Yes, sir.

2 Q. And nobody in the KLA delegation was themselves at that time a  
3 zone commander, were they?

4 A. Yes.

5 Q. But I think, just to be clear, nobody was, so the answer is --  
6 yeah.

7 A. That's what I remember.

8 Q. Yeah. And you've told us that that group that left from Kosovo  
9 had you with them on the aeroplane primarily for security reasons.

10 A. Yes.

11 Q. Mr. Veseli was not among that group of people, was he, who --

12 A. No.

13 Q. -- flew with you? No.

14 A. No.

15 Q. But he was at Rambouillet, wasn't he, because he came from  
16 somewhere else? He wasn't part of the delegation, but he was there,  
17 wasn't he?

18 A. I -- I don't remember that --

19 Q. Well --

20 A. -- that he was.

21 Q. Well, we'll look at one of the diptels --

22 A. Okay.

23 Q. -- in which it's recorded --

24 A. Okay.

25 Q. -- that he was there as an adviser to the delegation. Do you

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1 remember that? We'll look --

2 A. Well, let me say I was effectively at Rambouillet for a day and  
3 a half. And I don't remember -- I hadn't met him up to that point.

4 Q. No.

5 A. I don't remember seeing him. And the only event I participated  
6 in was when the French foreign minister, I think it was Védrine,  
7 opened the proceedings --

8 Q. Yes.

9 A. -- gave a speech, and then they adjourned.

10 Q. So I'm not suggesting that you met him.

11 A. Right.

12 Q. But there is a record in one of your KDOM diplomatic telegrams  
13 of the fact that he was one of the advisers --

14 A. Okay.

15 Q. -- but not part of the delegation at Rambouillet, so presumably  
16 KDOM knew that.

17 A. If it was in our -- if it was in one of our cables, I would  
18 stand by that. But that might -- could that have been a cable from  
19 embassy Paris?

20 Q. No, it's a cable from KDOM.

21 A. Okay.

22 Q. We'll look at it. It's one of the cables we've looked at. So  
23 we'll go back to that.

24 A. Okay. Sure. I just don't -- I just don't remember that.

25 Q. To save time, I want to work through the cables

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1 chronologically --

2 A. Okay.

3 Q. [Overlapping speakers] ... I want to ask you, but it's in the  
4 cable of -- just give me a moment. It's in -- the date is -- give me  
5 a second. Of the three cables we have, it's the last in time, and it  
6 is -- sorry, do forgive me. Yeah, it's 10 March 1999, but we'll come  
7 to that.

8 So the end result, if you can help me on this, at that time of  
9 the breakdown in communications or breakdown of consensus between the  
10 zone commanders and those who were at Rambouillet, amongst those who  
11 opposed and withdrew negotiating authority from the delegation were,  
12 if you can correct me if I'm wrong, first of all, Sylejman Selimi who  
13 was, in fact, the former zone commander of the Drenica zones but at  
14 that time the chief of staff of the General Staff; is that right?

15 A. Who?

16 Q. Sylejman Selimi.

17 A. I assume you mean that at that time he became chief of staff.

18 Q. He had been formerly the zone commander --

19 A. Yeah, for --

20 Q. -- for --

21 A. -- Drenica.

22 Q. -- Drenica and was replaced by Sami Lushtaku.

23 A. Yes, sir.

24 Q. Both of whom opposed the proposal to reach a negotiated  
25 settlement at Rambouillet; correct?

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1 A. Yes.

2 Q. Ramush Haradinaj opposed it, correct, for the whole of the  
3 Dukagjin zone?

4 A. Very much so.

5 Q. And that was important because Dukagjin zone being adjacent to  
6 the western mountains of Kosovo and the weapon flow coming in from  
7 Albania through the Dukagjin zone meant that he largely had the  
8 capacity to control and distribute weapons to various KLA zones,  
9 didn't he? It wasn't just -- sorry, I see you nodding, but could  
10 you -- for the transcript --

11 A. You nailed it.

12 Q. Yeah. So Mr. Haradinaj's zone really ran right along the edge  
13 of the mountains through which the smuggling paths were used to bring  
14 all weapons, pretty much, into Albania -- into Kosovo from Albania.  
15 So if he didn't want weapons to go somewhere, they didn't go  
16 somewhere; correct?

17 A. That's right.

18 Q. And you know, don't you, that he was particularly supplying  
19 weapons to those he thought were independent of the General Staff,  
20 like Remi?

21 A. That I didn't know, but it makes sense.

22 Q. You met him at all or you didn't meet him?

23 A. Haradinaj?

24 Q. Yeah.

25 A. I never -- I never met him until after the war. I talked to him

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1 on the satellite telephone on a number of occasions, but I actually  
2 never met him face-to-face until after the war.

3 Q. But you knew enough about him to be clear in your opinion that  
4 this was, as you said, amongst the most independent of the  
5 General Staff?

6 A. Yes. And I need to add, I knew enough about him thanks to the  
7 effort of a US Marine Corps major who headed the outstation that we  
8 established in the Pec/Peje region.

9 Q. That's in the Dukagjin zone for the purposes --

10 A. Yes. And to use his expression -- he got to know Haradinaj very  
11 well, and to use his expression, through a thousand -- drinking a  
12 thousand cups of tea.

13 Q. Yeah.

14 A. But that's where -- that's where my real knowledge of Haradinaj  
15 came at that -- up to that point.

16 Q. Did your field colleague give you an idea of how Haradinaj  
17 regarded his relationship with the General Staff?

18 A. I don't recall. But he did -- he did stress Haradinaj's fierce  
19 independent spirit.

20 Q. Independent of what?

21 A. Doing what he wanted to do.

22 Q. Independent of external command and control --

23 A. Yes.

24 Q. -- is that what you're saying?

25 A. That's what --

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1 Q. Yes.

2 A. That's what he understood.

3 Q. Did he ever report to you the use of the word "tourists" to  
4 describe the General Staff because they were outside Kosovo at that  
5 time? You've heard that expression?

6 A. This is the first time.

7 Q. Very well. But in one of your notes, you say there was quite a  
8 lot of FARK officers -- or, I'm sorry, former JNA officers in his  
9 zone; correct?

10 A. Yes.

11 Q. And some of them originally had entered as FARK; is that  
12 correct?

13 A. Yes.

14 Q. Tahir Zemaj and his brigade. And there had been a conflict, I  
15 think, between Haradinaj and Tahir Zemaj. Do you know about that?

16 A. I know there was a conflict.

17 Q. Yes. And it was a conflict that blew up over the summer, during  
18 the Serbian summer offensive; is that correct?

19 A. That's what we understood.

20 Q. Did you know that Tahir Zemaj had relieved Haradinaj for a time  
21 of command of the zone?

22 A. No, I didn't.

23 Q. But you did know, didn't you, because you said it in your  
24 documents, that Haradinaj and the Dukagjin zone operated essentially  
25 on a clan-based system of loyalties?



1 THE INTERPRETER: Interpreter's note that the speakers are  
2 kindly requested to pause between question and answer. Thank you.

3 MR. EMMERSON: Apologies. Apologies.

4 Q. Let me repeat the question. You did know, didn't you, that in  
5 the Dukagjin zone, to a greater extent perhaps than others, it being  
6 deep in the countryside border region with Albania, *besa*, as you  
7 called it, meant, in that instance, a very defined system of  
8 loyalties built on the clan structure that had existed for centuries;  
9 correct?

10 A. Yes. And let me add that the clan structure and the clan system  
11 was much stronger in western Kosovo. And there were -- there was a  
12 very powerful rivalry between the clan to which Haradinaj belonged,  
13 and I apologise, I cannot remember the name of the other clan, but it  
14 was the clan that was centred on Pec/Peje. And that was a rivalry  
15 that extended back for decades.

16 Q. Or even longer.

17 A. Even longer.

18 Q. Yeah.

19 A. Yes.

20 Q. And we're just about to break, because we take a break at 10.00.  
21 But can you explain to the Judges when you say it's very much a  
22 clan-based society in the western regions of Kosovo, in the deep in  
23 the country, in a sentence, can you confirm, first of all, the  
24 relevance of the *Kanun* of Leke Dukagjini? Because I presume the  
25 *kanun* you must be --

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1 A. The relevant?

2 Q. The *kanun* to loyalties in that area. And it's a huge question,  
3 but perhaps could you just answer it in a sentence, the role that you  
4 think that may have played?

5 A. That will be difficult in one sentence.

6 Q. We don't need to go into it in detail, it's just to ...

7 A. The -- the *Kanun* of Leke Dukagjini was a medieval document  
8 created by Leke Dukagjini and it was a document that laid out the  
9 principles by which Albanians should live by.

10 Q. That will do for now. Thank you very much.

11 PRESIDING JUDGE SMITH: We'll take a ten-minute break, Witness.

12 Please join the --

13 THE WITNESS: Okay.

14 PRESIDING JUDGE SMITH: -- Court Usher to be escorted from the  
15 room.

16 [The witness stands down]

17 PRESIDING JUDGE SMITH: We're adjourned for ten minutes.

18 Oh, yes, Ward?

19 MR. FERDINANDUSSE: I just wanted to say I owe you some  
20 information for housekeeping on the confidential or public status of  
21 exhibits. I can do that at any time that's convenient.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 We'll take up Mr. Ferdinandusse's --

24 MR. EMMERSON: I'm so sorry --

25 PRESIDING JUDGE SMITH: -- caution that he made before we

1 started on your -- it's a video --

2 MR. EMMERSON: A video.

3 PRESIDING JUDGE SMITH: -- that he intends -- we'll take that up  
4 at the time you want to use it.

5 MR. EMMERSON: Yes, it's at the very end of my questioning.

6 PRESIDING JUDGE SMITH: That's fine.

7 MR. EMMERSON: And it will --

8 PRESIDING JUDGE SMITH: We'll take that --

9 MR. EMMERSON: -- depend on the answers that the witness gives  
10 prior to that, so --

11 PRESIDING JUDGE SMITH: I wasn't ignoring you, Ward. I just  
12 want you to -- I want to do it at the time that it's right.

13 MR. EMMERSON: Yes. And just to be clear, I can say now it's  
14 not in any sense being deployed to challenge the witness's  
15 credibility. It's in the light of the answers that he's given to  
16 certain questions I want to put it into context. Thank you.

17 PRESIDING JUDGE SMITH: Thank you.

18 We're adjourned now for ten minutes.

19 --- Break taken at 10.03 a.m.

20 --- On resuming at 10.13 a.m.

21 PRESIDING JUDGE SMITH: You can bring the witness in.

22 I'm sorry, Mr. Ferdinandusse, if you would do your list at this  
23 time.

24 MR. FERDINANDUSSE: Thank you, Your Honour. You asked me to  
25 express a position about the status of Defence Exhibit 1D00118. That

1 should remain confidential due to provider restrictions.

2 And then there are some SPO exhibits that can be reclassified as  
3 public. It is the entire range of P01067 to P01082. It is P01086 as  
4 well as the Albanian and English version of that exhibit, all three  
5 versions. And it is P01087 as well as the Albanian and English  
6 version.

7 So these are all the exhibits that can be reclassified as  
8 public.

9 PRESIDING JUDGE SMITH: They will be reclassified as public.  
10 Madam Court Officer, do you need anything else on that?

11 THE COURT OFFICER: No, Your Honours. All clear. Thank you.

12 PRESIDING JUDGE SMITH: Thank you.

13 Yes, Mr. Ellis.

14 MR. ELLIS: Your Honours, just taking the moment to clarify one  
15 of the loose ends from yesterday. There was an exhibit which was  
16 marked for identification, which was DJK00746, because we hadn't put  
17 the date on the English translation. A new version has been provided  
18 and disclosed, so I would ask that that now be admitted.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 DJK00746 is already admitted. This is a substitute; is that  
21 correct?

22 Madam Court Officer, will it be substituted for that, or do you  
23 need a new number?

24 THE COURT OFFICER: No, Your Honours. The number assigned, I  
25 believe, was 4D39 MFI. And we just need a clarification whether the

1 status should be changed from MFI to admitted.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 4D39 is admitted, then.

4 Madam Usher, you may bring the witness in.

5 MR. TULLY: Your Honour, just while that's happening, I have a  
6 matter that's not related to this witness that I'd like to be heard  
7 on at the appropriate time, maybe the end of the day or before break,  
8 if that's okay. Thank you.

9 PRESIDING JUDGE SMITH: Mr. Emmerson, is it possible to be  
10 finished by 11.00? I'm not saying you have to be. I'm just  
11 wondering if we can.

12 MR. EMMERSON: By 11.00, I think I'll have had just about an  
13 hour, or slightly over, an hour and ten minutes, so I would expect to  
14 go on beyond that, certainly.

15 PRESIDING JUDGE SMITH: That's all right. Thank you. Just  
16 trying to keep track --

17 MR. EMMERSON: I'm certainly aiming to be finished by the lunch  
18 adjournment.

19 [The witness takes the stand]

20 PRESIDING JUDGE SMITH: All right, Witness. Mr. Emmerson will  
21 continue with his cross-examination.

22 MR. EMMERSON:

23 Q. So, Mr. Byrnes, we were discussing the sort of extent of  
24 independence and rebellion that was manifest in the breakdown at  
25 Rambouillet between the negotiating group and those on whose behalf

1 they were purporting to negotiate. And I just want to go through it.  
2 We've already dealt with the Drenica zone. The Drenica zone  
3 leadership withdrew their support; correct? Ramush Haradinaj, you've  
4 told us, most vociferously against, and withdrew his support. Remi,  
5 Mr. Mustafa, withdrew his support; correct?

6 A. That's what I understand.

7 Q. Drini, who was a FARK appointee in the Pashtrik zone, what was  
8 his position?

9 A. I'm not sure. I heard -- I knew him -- I knew him well and I  
10 considered him a moderate, but others considered him a radical. And  
11 there's reporting that I read in our preparation for this experience  
12 that he had been one of the zone commanders vigorously opposed to --  
13 I -- I don't know --

14 Q. Yes.

15 A. I didn't talk to him then. I don't know what his --

16 Q. We'll look at Drini in a little more --

17 A. Sorry?

18 Q. Sorry. We'll look -- I've got the wrong microphone again.  
19 We'll look at Drini in a little --

20 A. Okay.

21 Q. -- bit more detail. But as you say, you've come across  
22 information that he was part of the rebellion.

23 The Nerodime zone was commanded by Shukri Buja at the time.

24 A. Yeah.

25 Q. He was part of the rebellion?

1 A. I never heard that, and again I don't know. But I would point  
2 out that he was the younger brother of Rame Buja, who was a moderate  
3 and who was a member of the Rambouillet delegation.

4 Q. Which made his position more complicated but he was part --

5 A. Yeah.

6 Q. He was nonetheless part of the group of commanders, I suggest,  
7 that withdrew the consent for the negotiations to continue.

8 A. And you know that?

9 Q. I'm suggesting it.

10 A. I don't know that.

11 Q. And, lastly, Rrahman Rama in the Shala zone. Can you say, to  
12 your knowledge, what his position was?

13 A. What I've seen in the cables.

14 Q. Which was?

15 A. Which was he opposed the --

16 Q. He opposed. So, I mean, essentially out of what were then still  
17 seven zones, because there'd been attempts to reduce them to three,  
18 but the members of the General Staff completely failed to achieve  
19 that; correct?

20 A. Yes.

21 Q. They tried but they failed because the commanders wouldn't  
22 cooperate with any kind --

23 A. Yes.

24 Q. -- of reorganisation.

25 A. You can -- we can all guess why.

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1 Q. Because?

2 A. Because they'd lose powers.

3 Q. Exactly. So amongst those five of the seven zones, they were  
4 all unwilling to give their authorisation to the members of the  
5 General Staff and others who comprised the KLA negotiating group at  
6 Rambouillet; correct?

7 A. Yes, but that was over -- that was over the substance of the  
8 agreement, not the consolidation of UCK [Overlapping speakers] ...

9 Q. No, I'm sorry. I'm sorry. Absolutely. That was over the  
10 negotiating process and the notion that --

11 A. Yes.

12 Q. -- there would be a resolution. Anything short of armed  
13 violence resulting in a complete independence they were not prepared  
14 to negotiate over; correct.

15 A. Yes, sir.

16 PRESIDING JUDGE SMITH: Could I ask both of you to pause just a  
17 bit between your questions. It's going faster and faster.

18 MR. EMMERSON: I do apologise.

19 THE WITNESS: Sorry.

20 MR. EMMERSON:

21 Q. So we have a situation where, as you say, an attempt which you  
22 are aware of or a plan to try to reduce seven zones to three  
23 completely failed because the zone commanders were not into it;  
24 correct?

25 A. Yes.



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1 Q. They weren't taking instructions from the General Staff about  
2 how they should reorganise themselves?

3 A. Yes. And -- yes.

4 Q. Yes. Because, as you say, many of them were entirely  
5 independent functionally. They had their own funds, they had their  
6 own weapons, and they didn't need anything from a General Staff other  
7 than a figurehead to go and speak to the international community; is  
8 that right?

9 MR. FERDINANDUSSE: Objection, Your Honour. Asked and answered.

10 MR. EMMERSON: No, I've not --

11 PRESIDING JUDGE SMITH: Overruled.

12 You may answer the question.

13 THE WITNESS: Yes.

14 MR. EMMERSON:

15 Q. Thank you. So that's where we were in February. Now, let's  
16 look back at the position in between your arrival in, I think, August  
17 1998 and that time in February.

18 Now, leaving aside the international liaison roles for a moment  
19 and focusing on the internal attempts to restructure, you've already  
20 told us that the main plan was abandoned because the zone commanders  
21 wouldn't cooperate, the seven down to three, the consolidation at  
22 that point. You're aware, of course, that there was a major Serbian  
23 offensive over the summer which significantly routed the KLA in lots  
24 of different parts but particularly in western and central Kosovo; is  
25 that right?

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1 A. Yes, yes.

2 Q. And so when you talk about an attempt to reorganise, that was  
3 after that, to try to regroup in response to the routing that the KLA  
4 had received; correct?

5 A. Yes.

6 Q. And in the course of that routing, you've already told us that  
7 Ramush Haradinaj and Tahir Zemaj's FARK officers had had a conflict;  
8 correct?

9 A. I understood they did. I -- we knew very little about that.

10 Q. Well, that's what I was going to ask you, because you described  
11 them in your witness statement -- you've described how in Haradinaj's  
12 zone there were a lot of former JNA officers. But are you aware that  
13 those JNA officers came in with Tahir Zemaj as FARK forces and then,  
14 once it was resolved, dispersed and became members of the KLA?

15 A. No, I was not.

16 Q. There's only one document in the entirety of the evidence in  
17 this case signed by Kadri Veseli, and it is a document -- I don't  
18 need to bring it up if you know nothing about it, but let me just  
19 check with you.

20 It is a document signed between representatives of the Bukoshi  
21 FARK faction and representatives of the KLA in Albania attempting to  
22 resolve that conflict and merge the two. Were you aware of that  
23 process of agreement in Albania in October?

24 A. No, I was not.

25 Q. Do you know where Halil Bicaj was in October? The name doesn't

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1 mean anything to you? Bukoshi's side, Halil Bicaj.

2 A. Would you repeat it?

3 Q. Halil, H-a-l-i-l, Bicaj, B-i-c-a-y [sic]. Do you know where he  
4 was located?

5 A. I don't know him.

6 Q. You don't know him. Fine. So you don't know any of the ins and  
7 outs of how that particular conflict was resolved?

8 A. That's correct.

9 Q. Right. But you do know, don't you, that throughout that latter  
10 period from September onwards, within Kosovo you had areas of what  
11 you, I think, described as the KLA old guard, the people who had been  
12 fighting on the ground and been active KLA members for years and had  
13 their own paternal basis, like the Jasharis and the Haradinajs and  
14 others; correct?

15 A. Yes.

16 Q. They were the ones who you said, I think, resented the external  
17 interference by what they regarded as a bunch of students; correct?

18 A. I -- I --

19 Q. They resented external interference because they regarded it as  
20 their conflict; is that correct?

21 A. I'm not sure I would -- from what I understand, I'm not -- I  
22 don't think I would characterise it that way.

23 Q. Okay. That's fine. But you did describe to us that there were  
24 fighters who had been in Kosovo with their own command who were one  
25 group of the KLA, correct, in different zones? I mean, Haradinaj is

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1 an obvious example.

2 A. Yes.

3 Q. Then you had people like Remi who were former JNA officers but  
4 who were not operating at any time under a FARK banner as such but  
5 came in pledging *besa* to the unified KLA and ran the Llap zone.  
6 That's a second category, isn't it?

7 A. Yes.

8 Q. But those two categories in this instance, they were both  
9 independent, as you put it, fiercely independent of the  
10 General Staff; correct?

11 A. Yes, in operational matters.

12 Q. And then there was places like the Pashtrik zone where Drini was  
13 himself continuing as an officer of the FARK, loyal to the Bukoshi  
14 government; correct?

15 A. That -- that's the first -- very frankly, that's the first time  
16 I've heard him described that way.

17 Q. You didn't realise he was in a group -- part of a FARK  
18 contingent --

19 A. I did not.

20 Q. -- that took control?

21 A. I did not.

22 Q. Very well. But did you know that the simmering tensions between  
23 FARK and the old KLA were bubbling up all over the place at various  
24 times?

25 A. I knew they were bubbling up particularly in western Kosovo,

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1 which would be Pashtrik and Dukagjini zones.

2 Q. Let's look at how you put this, please.

3 MR. EMMERSON: We have to go into private session for this  
4 because it relates to an ICTY document.

5 PRESIDING JUDGE SMITH: Please, into private session,  
6 Madam Court Officer.

7 [Private session]

8 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Witness: Shaun Byrnes (Resumed) (Private Session)

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1 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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1 [Private session text removed]

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4 [Open session]

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

6 MR. EMMERSON:

7 Q. So --

8 A. Are we doing better for the translators and --

9 PRESIDING JUDGE SMITH: Just count to 3 before you answer.

10 THE WITNESS: Still got work to do. Okay.

11 MR. EMMERSON:

12 Q. The problem is me counting to 3 before I ask the next question,  
13 to be honest.

14 So just to recap. In private session, based on the document we  
15 had to deal with in private session, and I'm now saying this -- I'm  
16 inviting you to confirm this for the record in public session.  
17 You've explained that the old guard KLA strongholders who had been  
18 fighting inside Kosovo for some time resented both the incoming FARK  
19 officers initially and were in conflict with them, but also resented  
20 what they regarded as an inexperienced bunch of students from  
21 Switzerland being -- considering themselves to have a General Staff  
22 role over them; correct?

23 A. I think that's a fair recap of what our own assessment was at  
24 the time. It may have been wrong, but I think your recap is a fair  
25 one.

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1 Q. And in the meantime, they were all fighting amongst themselves,  
2 the zone commanders, until they united in opposition to the  
3 General Staff at Rambouillet and withdrew their negotiating  
4 authority; correct?

5 A. I'm not sure, Mr. Emmerson, that it's -- that they were  
6 fighting -- the term "fighting among themselves" is appropriate. I  
7 think there was --

8 Q. Yeah.

9 A. -- tension among themselves and maybe conflict, and certainly  
10 there -- certainly, as you pointed out earlier, there was unhappiness  
11 at the way weapons flowing in from Albania were being distributed.

12 Q. I'm sorry, I used the word "fighting" in a lazy form. I meant  
13 infighting --

14 A. Yeah.

15 Q. -- conflict, not open hostilities.

16 A. But -- but it's -- I think it's pretty clear that there was  
17 general agreement in opposition to the document that they -- that the  
18 KLA delegation at Rambouillet was prepared to sign.

19 Q. In your opinion, is it correct to say the more political  
20 approach of the Rambouillet delegation, recognising the reality that  
21 this needed to go through an international negotiating process, was a  
22 far more realistic way of achieving the solution of safety for the  
23 Kosovar population and an independent Kosovo than continual fighting  
24 on the ground on a straightforward military-to-military level?

25 A. Yes, I think that was a much more realistic judgment. And I

1 remember discussions with Jakup Krasniqi along those lines.

2 Q. And just pausing there. Although I introduced the ambiguity in  
3 the word "fighting," it is true, isn't it, that amongst these zones  
4 there was also disputes about who controlled what territory? There  
5 were areas of territory that two zones both believed they controlled,  
6 or two zone commanders; is that correct? Did you understand that?

7 A. Certainly in one instance that's correct. There was -- there  
8 were -- there was -- if not disputes, there was confusion over the  
9 extent of Pashtrik zone and -- or an overlap between Pashtrik zone  
10 and the Drenica zone, and particularly in the Malisheve-Rahovec area.

11 And then there was some confusion over -- and we shared it.  
12 We -- we tried to figure it out ourselves. And we did -- we asked a  
13 lot of questions: Did the Drenica zone end at the border -- at the  
14 road between Prishtine and Pec/Peje, or did it extend across that  
15 road south? That was never cleared up --

16 Q. Because --

17 A. -- to our satisfaction, and I suspect to their own satisfaction.

18 Q. And the area of the mountains south of the road as well,  
19 I think --

20 A. The area of what?

21 Q. The mountainous area south of the road I think was also in  
22 dispute; is that right?

23 A. Of that, I'm not sure.

24 Q. All right. Very well. But unto this, would you agree, chaotic  
25 situation on the ground, it proved ultimately impossible to impose a

1 unified command; correct?

2 A. Well, I wouldn't characterise it as chaotic. I think it was --

3 Q. Confusing.

4 A. It was confusing. And it, at the end of the day, probably  
5 impeded or made more difficult coherent command and control from the  
6 centre.

7 Q. So in -- I wanted to ask you about one of the answers you gave  
8 to Mr. Ellis yesterday when he was asking you about the negotiations  
9 surrounding the release of some VJ officers.

10 And I think the corrected transcript reference, which has just  
11 come through, is 13794. I'll just read the very short passage. So  
12 you're asked by Mr. Ellis, the question:

13 "And this was nothing if not a political situation that had  
14 arisen in relation to the VJ. It was a high-level discussion, with  
15 the ambassadors being involved and the General Staff being involved;  
16 correct?"

17 You replied:

18 "I regarded this as a political issue, high-level political  
19 issue.

20 "Q. So it would be the kind of issue that you would regard as  
21 something that the General Staff could deal with?"

22 And you said:

23 "Yes."

24 And the question continued:

25 "Whereas, for example, detaining a person in the field would be

1 a ... operational thing that would be dealt with lower down;  
2 correct?"

3 And you replied, and this is what I want to ask you about:

4 "Yeah, my assumption -- and, again, it's -- let me emphasise  
5 it's an assumption, that the detentions in the field were the  
6 responsibility or were done at the direction of zone commanders."

7 Now, I just want to ask you about that assumption because the  
8 answer you were giving was that people who were being detained, and  
9 you've referred to certain situations where civilians had been  
10 detained and so forth, or journalists and others, your understanding  
11 and your assessment is that those decisions were being made at zone  
12 level. Operational decisions like that were not being made at  
13 General Staff level; correct?

14 A. Yeah, at -- let me be perfectly clear here. We never had any  
15 evidence that the UCK General Staff - Thaci, Krasniqi, Rame Buja,  
16 Xhavit Haliti, others - we never had any evidence that they had  
17 directed the abduction or the capture or seizure of Serbian  
18 journalists or LDK activists. We never had any evidence of that.

19 Q. Or any civilian at all?

20 A. Or any civilian.

21 Q. Thank you.

22 A. So our -- if I can finish. Our assumption was that these  
23 actions were taken either independently by -- even by local UCK  
24 commanders or their superiors. That is, the brigade commander or the  
25 zone commanders.

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1 Q. Yes, exactly. So I was going to say it's not necessarily at the  
2 zone commander level. It could be rogue elements lower down within  
3 the local level making their own decisions; correct?

4 A. Yes.

5 Q. But it wouldn't be any higher up than the zone level is what you  
6 think?

7 A. Yes, but we didn't know that.

8 Q. Yeah.

9 A. But -- but again, we saw no evidence that the General Staff was  
10 ordering the specific abduction of this civilian or that LDK  
11 activist.

12 Q. You know the concept of command responsibility generally, I  
13 imagine?

14 A. Of what?

15 Q. Command responsibility.

16 A. Yes.

17 Q. And, obviously, it requires proof of a knowledge that something  
18 is happening on the ground and a failure to exercise operational  
19 powers on the ground to either prevent it from happening or to punish  
20 it to prevent a recurrence. You understand that --

21 A. Yes.

22 Q. -- basic principle. You would locate that at the zone commander  
23 level, wouldn't you? In other words, if anyone was responsible on a  
24 command responsibility basis for an individual or a practice of  
25 individuals being detained, it would be the zone commander?



1 MR. FERDINANDUSSE: Objection, Your Honour. Ultimate issue.

2 MR. EMMERSON: No, it's not. It's a witness --

3 PRESIDING JUDGE SMITH: Sustained.

4 MR. EMMERSON: Well, maybe I can ask the question in a different  
5 way then.

6 Q. Based on your intimate knowledge of what was going on on the  
7 ground, did you see any evidence which would support the proposition  
8 that the General Staff exercised command responsibility over  
9 detentions within the zones?

10 MR. FERDINANDUSSE: Objection, Your Honour. Ultimate issue.

11 MR. EMMERSON: Well, with respect, what's the point of having  
12 this witness here if he can't answer that.

13 [Trial Panel confers]

14 PRESIDING JUDGE SMITH: The objection's overruled.

15 Go ahead. You may answer the question.

16 Maybe you should repeat the question again --

17 THE WITNESS: Yeah, please.

18 PRESIDING JUDGE SMITH: -- Mr. Emmerson.

19 MR. EMMERSON:

20 Q. Would you like me to repeat it again? Just give me a second.

21 Based on your intimate knowledge of what was going on on the  
22 ground in Kosovo, did you see any evidence which would support the  
23 proposition that the General Staff exercised command responsibility  
24 over detentions within the zones? And may I add, by "command  
25 responsibility," I mean knowledge, operational power to prevent or

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1 punish, and a failure to exercise that. Did you see any, come across  
2 any evidence to support that?

3 A. That's very complicated, but the basic answer is no.

4 Q. Thank you. Can we move on to another topic now, which is  
5 intelligence generally.

6 You were shown by Mr. Misetic a report -- a news report of  
7 testimony given by Zoran Stijovic, the RDB chief, in the Haradinaj  
8 trial about the extent of Serbian intelligence penetration of the  
9 Kosovo Liberation Army, including the higher echelons of the  
10 organisation; correct?

11 A. Yes. Yes.

12 Q. And you expressed some surprise that the RDB had, according to,  
13 if you like, the horse's mouth, the man heading the service, had  
14 about 200 live sources within the KLA, including at the top; correct?

15 A. I was astonished.

16 Q. And you've also told us about that rather remarkable incident  
17 when Mr. Sreten Lukic was able to pinpoint houses of individuals and  
18 say "you'll find them there," because that was the quality of their  
19 intelligence; correct?

20 A. Yes.

21 Q. I think what Mr. Misetic didn't take you to was the part of the  
22 article that quotes Mr. Stijovic's explanation for the methodology,  
23 and I'll just read it to you. You don't need to take it any further.  
24 The article reads:

25 "The degree of reliability of the information depended on the

1 source and 'motivation' the person had to share it with the [RDB].  
2 The motives varied, Stijovic explained: some people sold information  
3 for money, the amounts ranging from a few thousand to tens of  
4 thousands of German Marks. Others did not agree with the Albanian  
5 policies in Kosovo. There were those, the witness admitted, who were  
6 blackmailed into collaborating."

7 And he was asked about blackmail, and he said:

8 "... Albanian society is 'extremely patriarchal' ... and immoral  
9 behaviour is not tolerated. The Service thus gather information  
10 about 'adultery, alcohol consumption or criminal activities' on the  
11 part of potential collaborators, because ... 'immoral behaviour is a  
12 great way to put people in a situation where they will act the way  
13 you want them to'."

14 Now, that is the very familiar Soviet concept of *kompromat*,  
15 isn't it?

16 A. Yes.

17 Q. Basically putting people in situations where they'd done  
18 something in private that can then be used to blackmail them;  
19 correct?

20 A. Yes.

21 Q. And if we're talking about, according to this expert on the  
22 subject, 200 people, together with the evidence of your meetings with  
23 Mr. Lukic, you're dealing with a very, very highly professionalised  
24 intelligence service on the Serbian side; correct?

25 A. Absolutely.

1 Q. And I want then to just compare that with you, if I can, with  
2 intelligence and counter-intelligence on the KLA side, because we  
3 know that, although he was in Albania, Mr. Veseli had a role in  
4 relation to intelligence.

5 My question to you is how would you assess the comparative  
6 intelligence structures inside Kosovo on the KLA side?

7 A. How would I access --

8 Q. Assess. Compared to the Serbian structures, which we've just  
9 summarised, what was the level of intelligence operation inside  
10 Kosovo on the part of the KLA?

11 A. I don't have enough information to be able to honestly answer  
12 that question.

13 Q. Except you told us that they didn't even have newspapers in  
14 certain places.

15 A. I'm sorry.

16 Q. You've told us that inside Kosovo, the people that you were  
17 dealing with didn't even have access to external news; correct?

18 A. Didn't have access to?

19 Q. To external newspapers. You used to take them from Macedonia.

20 A. That's right.

21 Q. You said, I think, that in the later stages there was emphasis  
22 of KLA trying to intercept communications.

23 A. I just -- could you speak closer to the microphone?

24 Q. Oh, is it you can't hear --

25 A. I'm sorry.

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1 Q. -- what I'm saying. I'm sorry.

2 A. I just don't hear you clearly.

3 Q. I'm asking you essentially against the background of what you've  
4 described as a highly professionalised and extensive intelligence  
5 operation --

6 A. Yes.

7 Q. -- on the Serbian side, your notes and your diptels record some  
8 attempts by the KLA to intercept communications. Are you able to  
9 make a relevant assessment of what was going on on the Kosovo side  
10 compared to what was going on on the Serbian side?

11 A. The short answer is no. The only thing I can tell you is at the  
12 end of the war, I saw at Lladrovc what appeared to be an intercept  
13 site.

14 Q. Yeah. To -- would you be able to put a month on that?

15 A. Would I be able?

16 Q. Able to put a month on that?

17 A. That would have been -- that would have been probably the  
18 meeting at June 19.

19 Q. Right.

20 A. I think it was June 19.

21 Q. Right. Thank you very much.

22 MR. EMMERSON: I'm about to turn to another topic. I see the  
23 time. Would this be a convenient moment?

24 PRESIDING JUDGE SMITH: Thank you for the warning.

25 Witness, we'll take a morning break now for a half hour.

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1 THE WITNESS: Okay.

2 PRESIDING JUDGE SMITH: You will be escorted from the courtroom.  
3 We will reconvene at 11.30.

4 [The witness stands down]

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

6 MR. FERDINANDUSSE: Your Honour.

7 PRESIDING JUDGE SMITH: Yes?

8 MR. FERDINANDUSSE: Your Honour, could I ask for a time estimate  
9 just for planning purposes?

10 MR. EMMERSON: By lunch. I'll be finished by 1.00.

11 PRESIDING JUDGE SMITH: Thank you.

12 --- Recess taken at 10.58 a.m.

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

14 PRESIDING JUDGE SMITH: Madam Court Usher, you may please bring  
15 the witness back into the courtroom.

16 [The witness takes the stand]

17 PRESIDING JUDGE SMITH: All right. Witness, we will continue  
18 with the cross-examination by the Veseli Defence.

19 Mr. Emmerson, you have the floor.

20 MR. EMMERSON: Thank you very much.

21 Q. I've had an opportunity to take some instructions about the last  
22 item of testimony that you gave about seeing an intercept site at  
23 Lladrovç on or around 19 June; is that correct?

24 A. Yes.

25 Q. So in relation to that, by then, there were KFOR -- because KFOR

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1 had entered formally on the 12th; correct?

2 A. They were what?

3 Q. KFOR entered formally on the 12th?

4 A. Yes.

5 Q. And in the area around Lladrovc, there were, I'm going to  
6 suggest to you, KFOR intelligence and advanced forces working and  
7 liaising with the KLA. Did you know that?

8 A. Yes.

9 Q. And the equipment that you saw was, in fact, KFOR intercepting  
10 communications that had been provided to the KLA. Did you know that?

11 A. No.

12 Q. Are you able to say that that's not the case, or you just don't  
13 know one way or the other?

14 A. I didn't know that.

15 Q. Very well. Thank you. I want now, if I may, to go through,  
16 quite briefly, certain passages on the three, I'm calling them  
17 diptels, that you sent back to Washington or, rather, your office  
18 sent back to Washington but do so in chronological order because the  
19 order may be relevant.

20 MR. EMMERSON: So the first one is P1069, and it's dated  
21 18 December 1998. Could we please bring that up. Could we please  
22 look at -- in the original it should be -- in the numbering on the  
23 top right-hand side it should be 75322. I'm not quite sure where the  
24 internal page numbering is. Yes, exactly.

25 Q. Mr. Misetic took you to that first paragraph. Can we just look

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1 at paragraph 6, briefly.

2 "The KLA is taking advantage of the uneasy truce in Kosovo to  
3 try to gain control over its units."

4 So we're now in -- on 18 December, during that reorganisation  
5 process. You observe:

6 "It remains organised into seven zones, most of which have a  
7 military and political commander, over which there is a General Staff  
8 ... which we estimate consists of ten to fifteen people. The GHQ,  
9 according to GHQ contacts, is seeking to create a clear vertical  
10 military chain of command and thereby permit the GHQ to exercise firm  
11 control over its military commanders. However, the GHQ is meeting  
12 resistance and the reorganisation is reportedly far behind schedule -  
13 opposition is coming from commanders like Ramus Haradinaj, the Decane  
14 zone chief, who do not want to give up the independence of action  
15 they enjoyed during the summer, when the KLA began to organise itself  
16 and the GHQ was located abroad and was under the control of the  
17 diaspora. (Haradinaj was a thorn in the side of the GHQ even when it  
18 was in Albania throughout most of the summer, according to KLA  
19 sources. They claim that he violated GHQ orders by attacking Decane  
20 and seeking to cut off the Pec-Decane road early this summer. In  
21 November, he violated GHQ orders by regularly attacking Serbian  
22 police patrols east of Decane.) According to a GHQ officer, the GHQ  
23 seeks to replace Haradinaj, in part because he is not taking orders  
24 and apparently in part because he is also a member of FARK ..."

25 Well, that last comment I think you'd now accept was an error.



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1 Haradinaj was never a part of FARK; correct?

2 A. Yes.

3 Q. But otherwise is that passage correct?

4 A. Otherwise what?

5 Q. Otherwise, is that passage correct?

6 A. I wrote that and I should stand by it, but I frankly -- what I  
7 remember -- I don't remember entirely this. I do remember that he  
8 caused problems by his efforts to cut off the road between -- it was  
9 really between Pec/Peje --

10 Q. And Decani.

11 A. -- Decan and Prizren. Gjakove and Prizren. I don't frankly  
12 remember -- and maybe it's 25 years, but I don't remember hearing  
13 that the GHQ sought to replace him.

14 Q. No. Very well. That probably is connected to the FARK comment.  
15 Would you agree?

16 A. Yeah, and --

17 Q. There seems to be some --

18 A. -- that would make sense.

19 Q. -- confusion about that.

20 A. Yeah. And I wrote this cable. I just don't remember --  
21 remember that, but ...

22 Q. No. I'm going to suggest to you that was inaccurate.

23 A. Yeah.

24 Q. And, indeed, the conflict was resolved in October in Albania as  
25 between Tahir Zemaj in that region who was FARK and Ramush Haradinaj

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1 who was not.

2 A. Yes.

3 Q. That fits better with your understanding --

4 A. Yes.

5 Q. -- now. Thank you. If we can just turn over to --

6 PRESIDING JUDGE SMITH: Once again, be careful not to talk over  
7 each other.

8 THE WITNESS: Yes, sir.

9 PRESIDING JUDGE SMITH: A pause.

10 MR. EMMERSON: Thank you. Once again, if we can just turn over,  
11 please, to paragraph 7, which is on the top of the next page.

12 Q. This is you speaking in the present tense on 18 December. You  
13 say:

14 "The General Staff itself is relatively incoherent because it is  
15 constantly in motion and because its members rarely meet together.  
16 Indeed, most of the GHQ is currently abroad but is expected to return  
17 to Kosovo by the end of the year, according to KLA sources."

18 And then you go a little bit further down that paragraph, you  
19 talk about the efforts that have been made by them to identify  
20 members of this entity that wasn't in one place and didn't meet  
21 together but was out of Kosovo. And you identify Mr. Thaci,  
22 Mr. Selimi, Rame Buja, I think those three, but not, of course, at  
23 that stage Mr. Veseli; correct?

24 A. Yes.

25 Q. So that wasn't featuring at that stage in your intelligence.

1 MR. EMMERSON: If we can turn over, please, briefly to a passage  
2 you have been taken to by Mr. Roberts on behalf of Mr. Selimi. So  
3 this is 075330. Check we got the right one. Yes, exactly. Can we  
4 look at paragraph 14 and beneath the "confidential" marking.  
5 Exactly.

6 Q. "So according to a GHQ member," so somebody on the General Staff  
7 was providing you with intelligence; correct?

8 A. Yes.

9 Q. I'm not asking you to answer this question because there's a  
10 confidential marking above it, but do you know who that person is?

11 A. I don't remember.

12 Q. Very well.

13 "... the GHQ has recently had 'big problems' with the" -- and  
14 can you read it? Is it LVK, LF --

15 A. Yeah, LPK, LPK.

16 Q. So the General Staff was having problems with the LPK; correct?  
17 The General Staff was having problems with the LPK?

18 A. Yes.

19 Q. "... which he claimed is pressing the GHQ to adopt a more  
20 radical posture, in particular to press the Serbian security forces  
21 harder and not to cooperate with the LDK. The LPK, according to this  
22 source, will not release badly needed "--

23 I think that should be LDK -- oh, it's LPK. According to  
24 this --

25 A. It's LPK.

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1 Q. It is, right.

2 A. That's the Homeland Fund.

3 Q. Yes, exactly.

4 "... according to this source, will not release badly needed  
5 money from its 'The Homeland Calls' funds until the KLA adopts more  
6 aggressive tactics."

7 And then it goes on:

8 "Thaqi has been in western Europe, along with Rexhep Selimi and  
9 several other GHQ members, in an effort to defend the GHQ's decision  
10 to give the political track a chance and to appeal for more money."

11 And then there's a reference to Mr. Thaci approaching  
12 Mr. Bukoshi unsuccessfully for further funds.

13 Now, pausing there for a moment. We heard in Mr. Roberts'  
14 cross-examination that the reference to Rexhep Selimi being in  
15 western Europe during that period of time was an error, and I think  
16 you accepted that from him; is that correct?

17 A. Yes, sir.

18 Q. Yes. So Mr. Thaci was in western Europe, and if we delete  
19 Rexhep Selimi, with several other members. Do you know if Mr. Veseli  
20 was one of those members?

21 A. No, I do not.

22 Q. Very well. I want to move now to 4 February 1999. So we are  
23 now at or about the Rambouillet process; correct?

24 A. Yes.

25 Q. Thank you.

1 MR. EMMERSON: That is P1074. And please, it should be page 5  
2 of 13, or, on the top right, 75340. In fact, can we start on the  
3 previous page just to contextualise this, 75339.

4 Q. Can you see there, just in general terms, on that page you are  
5 describing the various roles that you have been able to identify -  
6 political, Hashim Thaci; logistics, those that you knew,  
7 Xhavit Haliti, and so forth. And it's what you knew about them.

8 And then on the bottom of the following page, the one I went to  
9 first, 5 of 13, 340 -- sorry, yes. I do apologise. If we can go to  
10 the top of that page, first of all. The second bullet point:

11 "Information/intelligence:"

12 At that stage, so we're now in February:

13 "We have been unable to identify its chief."

14 That still remained the position, did it?

15 A. At that time, yes.

16 Q. Yes. Do you remember what date it was that you flew to  
17 Rambouillet? The date on which you flew to Rambouillet?

18 A. If I had my calendar, I could tell you, but I don't.

19 Q. Very well. We'll come back to it. We have other evidence about  
20 the date. But in any event, the date on which this diptel is  
21 compiled, you didn't know then who the intelligence chief or chiefs  
22 were; correct?

23 A. Yes, sir.

24 Q. Yes.

25 If you look at the bottom of that page, please, at paragraph 6.

1 "According to General Staff officers, the General Staff recently  
2 decided against consolidating the existing seven zones into three.  
3 Our KLA sources claimed that the GHQ [had] concluded that  
4 consolidation would reduce KLA effectiveness over the near term. We  
5 suspect that zone consolidation proved to be" - over the page - "too  
6 difficult at a time" -- I'm sorry, are we there? This is towards the  
7 -- it's quite low down in the page because of the breakup. Yes,  
8 there it is.

9 "... proved to be too difficult. At a time when the new  
10 General Staff was trying to weld disparate KLA elements into some  
11 semblance of a coherent military organisation, and in particular to  
12 assert its authority over virtually independent regional military  
13 leaders, it was probably politically impossible to demand that some  
14 zone commanders turn over their troops to others. More likely, the  
15 GHQ decided to accept the existing zone structure in return for a  
16 higher degree of control over the zone commanders."

17 Is that -- that was your understanding in February 1999;  
18 correct?

19 A. That was our assessment.

20 Q. Yes.

21 A. That was our analysis based on -- we were trying to connect the  
22 dots that we had --

23 Q. Yes.

24 A. -- at that time, and that's what we concluded.

25 Q. And it's consistent with the evidence you've given today, I

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1 think.

2 A. I'm sorry?

3 Q. It's consistent with the testimony you've given in the course of  
4 my questions as to why the seven-zone structure was never reduced to  
5 three. You've already told us --

6 A. It's your microphone -- I'm sorry.

7 Q. Oh, I see. I'm sorry, I don't know why this is. But that entry  
8 is consistent with the testimony you've given here today this  
9 morning, correct, about the --

10 A. Yes.

11 Q. -- failure to carry through those plans? I'm just looking at  
12 that first full sentence in that paragraph. So KDOM's assessment,  
13 would you agree then, in February 1999, so a month or so before the  
14 NATO bombing, was that "the General Staff was trying to weld  
15 disparate KLA elements into some semblance of a coherent military  
16 organisation"; correct?

17 A. Yes.

18 Q. I mean, that is the picture as of February, that there still  
19 isn't a semblance, not even a semblance at that point, of a coherent  
20 military structure; is that right?

21 A. Yes.

22 Q. Thank you. And similarly, that it was -- the General Staff was  
23 struggling but unable "to assert its authority over virtually  
24 independent regional military leaders"; correct?

25 A. Yes.

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1 Q. And that was the overall picture you wanted Washington to have  
2 of the relative power of the General Staff over this collection of  
3 independent political -- sorry, independent military leaders  
4 throughout Kosovo. That was the overall picture you were giving  
5 then; correct?

6 A. Yes.

7 Q. Thank you.

8 A. And, Mr. Emmerson?

9 Q. Yes.

10 A. May I offer --

11 Q. Please.

12 A. -- a few comments on why -- why we reached that conclusion?

13 Q. Yes.

14 A. I know that will extend the discussion. The UCK was operating  
15 in a very difficult environment. At that point, they did not control  
16 many areas. They could not move freely on the roads. They had --  
17 our impression was they had limited or no secure communications  
18 equipment. They were communicating by the early cell phones and  
19 walkie-talkies and a few satellite telephones. And they were  
20 being -- they were under heavy pressure from the Serbian security  
21 forces.

22 As this cable noted earlier, they were moving around. The  
23 headquarters, we understood and we were told this, was not in one  
24 place. And their members, which we had not identified all of them,  
25 the members were scattered around. So it was very difficult to --



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1 from their standpoint, to pull together a coherent organisation just  
2 for those reasons, and that's why we concluded -- we reached these  
3 conclusions.

4 Q. Yes. And in particular, as far as Mr. Veseli is concerned,  
5 you're -- as far as Mr. Veseli is concerned, at this time your  
6 understanding was that he wasn't even in Kosovo. He was in Albania.

7 A. That's right.

8 Q. Thank you. And with the comment that you make about effective  
9 control to -- or the difficulties of any kind of effective control  
10 through the absence of a sophisticated secure communication make it  
11 very difficult from Albania to be doing anything operationally on the  
12 ground at the zone level?

13 A. Yes, sir.

14 Q. Would you say difficult or impossible?

15 A. If you had -- it would be impossible without secure  
16 communications equipment to discuss sensitive matters, particularly  
17 military operations, say arms shipment -- arms transfers, that sort  
18 of things, because the Serbs, as we've noted earlier, had a very  
19 effective SIGINT operation, and I think the UCK leadership understood  
20 that.

21 Q. Thank you. And then if we can just turn finally to the third in  
22 chronological order, which is 10 March 1999, so post Rambouillet. I  
23 want, if I may, just go to one or two passages in that.

24 MR. EMMERSON: Yes, I'm sorry. It's P1080. Sorry, just a  
25 moment. If we could please turn in this to page 3 of 8 at the

1 bottom.

2 Q. If we can look to the last two paragraphs. The first one  
3 doesn't bear a number, but the second one has paragraph 5, so the  
4 first one is a continuation of the previous paragraph. If I can  
5 complete that sentence from the first three -- the first three words  
6 of the sentence on the previous page are:

7 "The replacement of ..."

8 So it reads:

9 "The replacement of Azem Syla as KLA commander by Sulejman  
10 Selimi is one manifestation of that internal struggle. Furthermore,  
11 that Krasniqi and other political wing members have come to represent  
12 the KLA in the eyes of the world rankles Selimi, Remi and other young  
13 KLA founders who crave media attention. The other major issue has  
14 been what the KLA calls its 'reorganisation' but what in fact has  
15 been the leadership's effort to create an effective General Staff  
16 with genuine control over the disparate KLA formations scattered  
17 about Kosovo. This effort appears to have been only partially  
18 successful as the zone commanders clearly retain considerable  
19 operational independence."

20 So just commenting on that. This is March and now we are 14  
21 days from the NATO bombing. And KDOM's assessment then, would you  
22 agree, is that there was considerable resistance on the part of the  
23 KLA commanders to recognising the authority of the General Staff,  
24 first of all, even then? When looking at what you said, you say:

25 "... Krasniqi and other political wing members have come to

1 represent the KLA in the eyes of the world [something which] rankles  
2 Selimi," Sylejman Selimi, I imagine, "Remi and other young KLA  
3 founders who crave media attention. The other major issue has been  
4 what the KLA calls its 'reorganisation' ..."

5 But the first part of that was, even then, the zone commanders  
6 were unhappy with the way in which the General Staff appeared to have  
7 international recognition when it was them on the ground who they  
8 considered to be effectively running the war.

9 A. The last part?

10 Q. Sorry, there's a problem with my microphone. I don't know what  
11 it is.

12 A. Yeah, I'm sorry.

13 Q. But what you've said in the first part of that paragraph is  
14 that -- do you agree, is that the commanders on the ground were  
15 unhappy that the General Staff representatives in the eyes of the  
16 international community were getting recognition when, in fact, it  
17 was them who were effectively operational on the ground; is that  
18 correct?

19 A. Yes.

20 Q. Thank you. And in the second part of that paragraph, you're  
21 saying, aren't you, that although the KLA pretends that it's in the  
22 process or has been through a "reorganisation," what, in fact, has  
23 been happening is that the General Staff has tried to create -- tried  
24 to be effective and have control over what you describe as "disparate  
25 KLA formations scattered about Kosovo"; correct?

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1 A. Yes, yes.

2 Q. So they were trying but they had not succeeded; correct?

3 A. They had not entirely succeeded.

4 Q. And you go on to say the effort was only partially successful  
5 because the zone commanders clearly retained considerable operational  
6 independence. Correct?

7 A. Correct.

8 Q. And that takes us right up to the eve of the NATO bombing;  
9 correct?

10 A. May I make another quick point?

11 Q. Yes, please.

12 A. I think there was also resentment among the zone -- some of the  
13 zone commanders at the fact that the general headquarters and their  
14 leading figures were becoming very popular in Prishtine among the  
15 elites of the Albanian Kosovar society, and that society did not know  
16 who -- I think did not know who every member of the UCK General Staff  
17 was, but the journalists of both the main daily, *Koha Ditore*, and the  
18 other important newspaper, *Zeri*, were covering UCK very effectively  
19 and had very good -- very good ties and knowledge of it, and they  
20 were building up the people in the political directorate because it  
21 was the political directorate that was interfacing with the  
22 internationals.

23 And, of course, at that point, the internationals were not  
24 US KDOM or EU KDOM. The internationals were the OSCE mission, KVM,  
25 plus the EU Special Envoy Wolfgang Petritsch and the US Special Envoy

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1 Chris Hill.

2 Q. Do you know if there was also liaison going on at that stage  
3 directly with NATO, between KLA and NATO?

4 A. I heard that. I didn't know that for sure.

5 Q. But looking back now, is it something that you accept or not?

6 A. I would accept that.

7 Q. Yeah.

8 A. I suspect that was going on in Albania or in western Europe.

9 Q. And to your understanding, again, Mr. Veseli at this point was  
10 outside Kosovo performing a function related to international -- the  
11 international community?

12 A. Yes.

13 Q. Thank you. We can move on to paragraph 6. Mr. Krasniqi,  
14 Mr. Buja, Mr. Bashota, and Mr. -- you say Zupari, but you mean, I  
15 think Zyrapi, Bislir Zyrapi, "have clearly indicated that the key  
16 problem in gaining the General Staff's endorsement of the  
17 Rambouillet's accords is the question of the KLA's future. The  
18 opposition to Rambouillet of zone commanders like Remi and Lushtaku,"  
19 and we can add Haradinaj and others, "probably flows from their fear  
20 that demobilisation will cost them their hard-won power and  
21 influence. While political wing members like Thaqi, Krasniqi and  
22 Buja can count on good jobs and power ... as senior members of the  
23 Kosovo provisional government, the zone commanders stand to lose  
24 power once their troops put down their weapons. They therefore  
25 appear to be insisting that a formula be found which permits the

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

6 Now pausing there, there's quite a lot of information in that  
7 paragraph, but fundamentally, and summarising it, your -- first of  
8 all, you're describing what happened at Rambouillet as a palace coup  
9 by the zone commanders in order to displace the authority of the  
10 General Staff as its representatives in -- with the international  
11 community; correct? That's the palace coup you're referring to.

12 A. The motivation for the palace coup was -- the motivation for the  
13 palace coup was, in fact, the zone commanders' opposition to the  
14 draft text that they had seen before Rambouillet, which had been  
15 drafted primarily by Chris Hill, which would not gain Kosovo's  
16 independence but rather leave them inside Serbia though with  
17 self-governing powers and authorities.

18 And there were several zone commanders who agreed with  
19 Adem Demaci, who was a rather iconic figure in Kosovo society because  
20 of what he'd done with years -- his resilience with years in prison.  
21 They felt that they should continue the fight and that Kosovo's  
22 independence should be secured by force of arms, not by negotiations,  
23 largely because they really didn't -- they really didn't trust the  
24 international community. If you've read all the cables, you'll see  
25 some evidence of that. They were not confident that even the

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1 United States would stay the course all the way to independence. So  
2 the best guarantee of obtaining independence to drive the Serbs out  
3 of Kosovo by arm -- by weapons, fighting.

4 Q. That's what the zone commanders in that group thought?

5 A. That -- yes.

6 Q. Whereas those involved in the political negotiations realised  
7 that without American support, this quest for independence was a  
8 hiding to nothing; correct?

9 A. Yes.

10 Q. So the Americans, in effect, had the whip hand in dictating to  
11 them how to go about the process; is that correct?

12 A. It would appear to be correct, yeah, under the circumstances.

13 Q. But the General Staff individuals who were liaising with the  
14 international community were stuck between a rock and a hard place.  
15 Do you agree?

16 A. Indeed.

17 Q. Yeah.

18 A. And they understood -- I think it's fair to say that the  
19 General Staff, people like Mr. Thaci, who is a very smart fellow,  
20 understood that even more clearly after the discussions in  
21 Rambouillet and before the final meetings later in Paris where they  
22 signed the agreement.

23 Q. Can we go down to point 7 on that page, please, because this is  
24 the first time the diptels mention Kadri Veseli. And it doesn't seem  
25 clear that even then you're aware of his intelligence function

1 because there's no reference to that. It simply says:

2 "We only know that he is a member of the General Staff and  
3 served as an expert at the Rambouillet conference."

4 Correct?

5 A. Yes.

6 Q. So clearly even though you didn't meet him when you were at  
7 Rambouillet -- you are the author of this document, aren't you? This  
8 particular one --

9 A. Yes.

10 Q. -- you wrote yourself. So you knew that Mr. Veseli, although he  
11 didn't come from Kosovo to Rambouillet, had travelled separately from  
12 somewhere else to Rambouillet where he performed the advisory role in  
13 relation to the struggle that the General Staff was undergoing in  
14 trying to hold the zone commanders in check whilst meeting, if I can  
15 put it crudely, the troika and American expectations in negotiation.

16 A. Mr. Emmerson, you may be going a little too far there. I don't  
17 know, and I didn't know at the time, what his advisory role at  
18 Rambouillet was.

19 Q. No, I understand that. But you knew that the delegation,  
20 including the General Staff members on the delegation, as you agreed  
21 with me, were caught between a rock and a hard place. They were  
22 caught between uncooperative zone commanders and the demands of the  
23 American-led international community for a negotiated solution;  
24 correct?

25 A. Yes.



1 Q. And you've already explained in the document that they were  
2 having to try to mediate between those two so as to not collapse  
3 completely the unity -- apparent unity of the KLA; correct?

4 A. Yes.

5 Q. And we know from your own diptel that you were aware that  
6 Kadri Veseli -- by this time you were aware that Kadri Veseli was, if  
7 you like, on the outside of the negotiating room advising as part of  
8 the advice group. So though you didn't meet him, you knew later on  
9 that he had been there; correct?

10 A. Yes.

11 Q. Who told you? Do you remember? How did you know that? How did  
12 you know that Mr. Veseli was at Rambouillet?

13 A. I was told by one of the members of the delegation.

14 Q. By the KLA delegation or --

15 A. Yes.

16 Q. -- the American delegation?

17 A. The UCK delegation.

18 Q. Did the American delegation have advisers?

19 A. Yes.

20 Q. Do you know whether the American delegation's advisers spoke to  
21 the KLA's advisers outside the room?

22 A. I was only -- I -- let's put it this way: I assume they did.

23 Q. Exactly.

24 A. But I was not at Rambouillet for the entire process.

25 Q. No, but in terms of Mr. Veseli's role, we now know he was an

1 intelligence function. You would expect the Americans to have  
2 intelligence function advising the American delegation as well.

3 MR. FERDINANDUSSE: Objection, Your Honour. Calls for  
4 speculation.

5 PRESIDING JUDGE SMITH: Sustained.

6 MR. EMMERSON:

7 Q. Would you expect the Americans to have advisers? You told us  
8 they did have advisers.

9 A. Of course they did.

10 MR. FERDINANDUSSE: Objection, Your Honour. That calls for  
11 speculation. I think the witness has said quite clearly what he  
12 knows and doesn't know about [Overlapping speakers] ...

13 MR. EMMERSON: He said he knows -- with respect, he said he  
14 knows --

15 PRESIDING JUDGE SMITH: Ask him an open question then. Don't  
16 lead him.

17 MR. EMMERSON:

18 Q. Do you know that the American delegation --

19 PRESIDING JUDGE SMITH: Did they. Did the Americans.

20 MR. EMMERSON:

21 Q. Did the American delegation have advisers?

22 A. Of course they did.

23 Q. Thank you. And would those advisers naturally have included  
24 people with intelligence knowledge?

25 A. I don't know.

Witness: Shaun Byrnes (Resumed) (Private Session)

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1 Q. Very well. Thank you. And you don't know for a fact whether  
2 the American advisers liaised with the KLA advisers outside the room?

3 A. I wasn't there. I don't know.

4 Q. Okay. That's absolutely fine. But would you expect that they  
5 would have?

6 MR. FERDINANDUSSE: Objection, Your Honour. Calls for  
7 speculation. Asked and answered.

8 PRESIDING JUDGE SMITH: Sustained.

9 MR. EMMERSON: Very well. Just one moment, if I may.

10 Can we go into private session, please.

11 PRESIDING JUDGE SMITH: Madam Court Officer, into private  
12 session for protection of the witness.

13 [Private session]

14 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

1 [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Cross-examination by Mr. Emmerson

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24 [Open session]

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

1           PRESIDING JUDGE SMITH: Thank you.

2           MR. EMMERSON:

3           Q.    So I see on the transcript it's actually 5 June, according to  
4           Mr. Misetic's question, that the Pentagon was assessing that as the  
5           700.000-plus Albanian civilians who had been displaced, or forced  
6           out, I would suggest, to Albania, Macedonia, and Montenegro, as they  
7           returned, it was not going to be an easy experience to be in the Serb  
8           minority in those regions, and it was likely that Serbs would flee  
9           because they would be fleeing in fear of retribution; is that  
10          correct?

11          A.    Yes.

12          Q.    And that was the understanding of the Pentagon and the  
13          expectation of what would happen; correct?

14          A.    Yes. And let me add that I think much of the -- certainly my  
15          expectation was built on what we'd seen happen in Bosnia after the  
16          Dayton Agreement, and families -- people returned to areas that had  
17          been pillaged and plundered and so forth and so on. And given the  
18          scale of destruction by Serbian security forces, the looting, even  
19          the murder, the killing of farm animals, and the burning of crops, it  
20          was hard to imagine that people who'd suffered and -- those horrors  
21          and had been driven from their homes, either into the mountains or  
22          across the border into those three countries you mentioned, would  
23          come back without wanting to take revenge if they had the  
24          opportunity, particularly against Serbian neighbours who they  
25          believed had participated in these horrors or taken advantage of what

1 the Serbian security forces had done.

2 It made absolute common sense. And the international community,  
3 the KFOR people we dealt with, all expected that and all worried  
4 about that.

5 Q. Thank you. I'm going to read the answer that you gave, because  
6 Mr. Misetic asked you why did you anticipate that. You said:

7 "Primarily because the Serbian ... forces and Serbian  
8 paramilitaries for years under Milosevic's direct command had carried  
9 out brutal, brutal policies against the Albanian population, burning  
10 their villages, looting their homes, and even murdering people. The  
11 object appeared to be, and this was later confirmed when the plans  
12 for the operation ... Operation Horseshoe, were revealed, were picked  
13 up by Austrian intelligence. Milosevic's objective was to drive out  
14 a very large number of Albanians to restore a more favourable  
15 [democratic] balance that, in fact, would favour the Serbs in Kosovo.

16 "But ... again, let me emphasise Serbian policy towards the  
17 Albanians, certainly since 1989, was absolutely brutal. And we  
18 anticipated that when NATO came in, that Albanians would exact  
19 retribution, at least some of them, against the Serbs who had been --  
20 behaved so brutally towards them."

21 Now, I want to ask you just for some factual details for the  
22 sake of the record that you can help me with, if you wouldn't mind.  
23 Just to put some flesh on the late chronology, I'm concerned mostly  
24 not about the ten years before when this had been happening but the  
25 two years of the conflict. Okay?

1 First of all, there is, I think, some dispute about whether the  
2 description of Operation Horseshoe as a formal operation is accurate.  
3 Have you heard that? There's some dispute as to whether the  
4 Australian intelligence that there was a -- a formally named  
5 Operation Horseshoe?

6 A. Yes, there has been.

7 Q. There's some dispute. But there's no dispute, is there, that  
8 Serbia used the horseshoe formation from the north-east in order to  
9 proceed village by village, causing terror, mass destruction on their  
10 way, in order to force people across the borders into Albania,  
11 Macedonia, Montenegro, and the mountains in between?

12 A. That's correct.

13 Q. So whether it was called Operation Horseshoe or it's simply a  
14 systematic campaign of crimes against humanity in a horseshoe  
15 formation, it comes, in your view, to the same thing. Do you agree?

16 A. I do.

17 Q. Thank you.

18 PRESIDING JUDGE SMITH: Mr. Emmerson, I don't mean to interrupt  
19 you, but we've gone over this once before.

20 MR. EMMERSON: We have. But what I'm trying to --

21 PRESIDING JUDGE SMITH: I don't understand the purpose of --

22 MR. EMMERSON: Well --

23 PRESIDING JUDGE SMITH: -- doing it again.

24 MR. EMMERSON: Okay. But what I'm trying to do is you've had  
25 generalities before. I want to look at certain specific dates very

1 briefly along the way. And this is not for the purpose of any kind  
2 of comparative analysis. It's in order to understand in -- on a  
3 factual basis, for Your Honours' judgment, if nothing more, the dates  
4 and relative parts of the sequence --

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 Bearing in mind we're not interested in a repeat.

7 MR. EMMERSON: No.

8 PRESIDING JUDGE SMITH: But go ahead, make the comparisons you  
9 wish, but try to keep that in mind.

10 MR. EMMERSON: Yes, thank you.

11 MR. FERDINANDUSSE: Your Honour, one comment for the record.  
12 We'll soon be having discussions about the efficiency of this trial  
13 again. I will note that a number of specifics have been admitted as  
14 Defence adjudicated facts, and we will be reviewing what's being  
15 cross-examined today with those. Thank you.

16 MR. EMMERSON: All right. I bear all of that in mind.

17 Q. Can I ask you this: Following the Recak massacre, it was  
18 US State Department policy, as asserted by Madeleine Albright  
19 publicly, that from March 1998, and I'm quoting to see if you  
20 recognise this quote: "We are not going to stand by and watch the  
21 Serbian authorities do in Kosovo what they can no longer get away  
22 with doing in Bosnia." Do you remember that?

23 A. I said that?

24 Q. No, Madeleine Albright said that after the Jashari --

25 A. Yeah.

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13902

Cross-examination by Mr. Emmerson

1 Q. -- massacre.

2 A. I remember that.

3 Q. So it was clear to everyone that the United States and NATO were  
4 watching carefully and that there was a sword of Damocles hanging  
5 over Serbia, correct, during this conflict?

6 A. Yes.

7 Q. The sword of Damocles being NATO military intervention; correct?  
8 Sorry, it's for the transcript.

9 A. That's correct.

10 Q. And what that meant, obviously, would you agree, is that the  
11 Serbian campaign was initially being conducted in a manner that was  
12 thought to promote Serbian objectives without provoking direct NATO  
13 interference?

14 A. Yes.

15 Q. They were trying to -- Milosevic and his commanders were trying  
16 to balance those two objectives at the beginning; correct?

17 A. Slow escalation.

18 Q. Yes. But immediately -- as one was approaching the NATO  
19 bombing, you described already, and I won't go back to it again, the  
20 tactics that were being used, but in a very brief nutshell, JNA would  
21 surround a village and bombard it; correct?

22 A. Yes.

23 Q. They would often leave a corridor for villagers to leave. And  
24 then they would go in, not JNA, but PJP and irregular paramilitaries,  
25 so paramilitaries forces, both official and unofficial --

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13903

Cross-examination by Mr. Emmerson

1           PRESIDING JUDGE SMITH: Mr. Emmerson, these questions don't have  
2 anything to do with what this witness has testified previously or  
3 what the Prosecution has asked. This is cross-examination. It has  
4 to be relevant to the direct examination.

5           MR. EMMERSON: Well --

6           PRESIDING JUDGE SMITH: You're developing an entirely new point  
7 of view here that we've heard before. We don't need to hear it  
8 again. It has to do with what the Serbs were planning to do. He's  
9 testified extensively about all kinds of things but not that.

10          MR. EMMERSON: He has in fact testified about -- would you hear  
11 me in submissions, please?

12          PRESIDING JUDGE SMITH: [Microphone not activated].

13          MR. EMMERSON: Yes.

14          PRESIDING JUDGE SMITH: [Microphone not activated].

15          MR. EMMERSON: No, I will finish by 1.00 as I --

16          PRESIDING JUDGE SMITH: [Microphone not activated].

17          MR. EMMERSON: Yes, I'm -- I assure you I'm not wasting time.  
18 This will be brief.

19          PRESIDING JUDGE SMITH: Well, we have to decide whether you're  
20 wasting time or not.

21          MR. EMMERSON: So to just to be clear, were I --

22          PRESIDING JUDGE SMITH: Your mic is off.

23          MR. EMMERSON: This one is on, is it not? You're not hearing  
24 me?

25          PRESIDING JUDGE SMITH: Okay.

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13904

Cross-examination by Mr. Emmerson

1 MR. EMMERSON: Right, I don't really understand.

2 PRESIDING JUDGE SMITH: I'm sorry --

3 MR. EMMERSON: The witness can't hear me on this one and  
4 Your Honours can't hear me on this one. So can you hear me now?

5 PRESIDING JUDGE SMITH: Yes.

6 MR. EMMERSON: Yes, sorry. I don't know why this is.

7 The entire line of cross-examination that was being pursued and  
8 that the witness has commented on goes directly to the issue of why  
9 and to what extent when people returned they were liable, in the  
10 Pentagon's view, to take physically violent reprisals against the  
11 Serbs behind -- without the need for any KLA coordination. That's  
12 the topic. It's obviously relevant. It's central. It's an issue  
13 raised by the Prosecution in its brief. It's the issue that this  
14 witness can talk about and has already talked about.

15 And so, with the greatest of respect, cross-examination is not  
16 limited to what a witness has given in evidence in chief, it isn't  
17 and never has been. The witness is here to comment. But in any  
18 event, that topic is important. It can't be both -- with respect, it  
19 can't be both irrelevant and a subject that we've already covered.  
20 You can't be saying, on the one hand, we've already heard about this,  
21 don't waste time, and on the other hand, it's irrelevant. It can't  
22 be both. So would you mind just giving me some discretion to  
23 finish --

24 PRESIDING JUDGE SMITH: Would you just please wrap up your  
25 cross-examination because it's gone on --



1 MR. EMMERSON: As I've said to you several times, I will be  
2 finished before lunch.

3 PRESIDING JUDGE SMITH: Which has given you a lot of time --

4 MR. EMMERSON: Thank you.

5 PRESIDING JUDGE SMITH: -- and I don't think you need it.

6 MR. EMMERSON: Well, I -- again, I'll finish quicker if we don't  
7 digress. I will be finished probably in 15 minutes. So I'm not  
8 wasting --

9 PRESIDING JUDGE SMITH: You've got 15 minutes then.

10 MR. EMMERSON: It's quite -- rather important, we're in public  
11 session, that the witness is able to give you the factual dates and  
12 details that you -- so you have the information.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. EMMERSON: Well, he's --

15 PRESIDING JUDGE SMITH: You are giving the details.

16 MR. EMMERSON: I am putting the details and he is either  
17 agreeing or disagreeing. That's what cross-examination is.

18 PRESIDING JUDGE SMITH: You've got 15 minutes.

19 MR. EMMERSON: Thank you.

20 Q. During that period, as I was saying before interrupted, that was  
21 the tactic: Surround the village, bomb it, and then send in  
22 paramilitaries to kill all the livestock, burn all the houses, burn  
23 all the machinery, burn all the farming -- all means of life and all  
24 the crops; correct?

25 A. Yes.

1 Q. And there are very clear Serbian military documents, which I'm  
2 sure you've seen, which confirm that the policy was to raze the  
3 villages to the ground one after the other in that direction;  
4 correct?

5 A. Yes, sir.

6 Q. And it was your understanding, wasn't it, that that wasn't just  
7 to get the people in the village out, but to get the people in the  
8 next group of villages to leave; correct?

9 A. Yes.

10 Q. Thank you. And as we get closer to the NATO bombing, we  
11 start -- the build up starts with the Recak massacre in January;  
12 correct?

13 A. Yeah.

14 Q. And although Milosevic tried to suggest that that was a false  
15 flag operation by the KLA, in fact, it had been photographed  
16 extensively by the international media, hadn't it? The Recak -- the  
17 aftermath of the Recak massacre was broadcast globally; correct?

18 A. Yes.

19 Q. A number of internationals went to inspect; is that right?

20 A. Yes.

21 Q. And others such as Louise Arbour, the Prosecutor of the ICTY,  
22 was refused access by the Serbian authority. Did you know that?

23 A. I did.

24 Q. Thank you. So obstruction of the ICTY in investigating that.  
25 But would you agree with me that it was that massacre which hardened

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13907

Cross-examination by Mr. Emmerson

1 American attitudes towards the intervention?

2 A. It triggered it.

3 Q. It triggered it. Because Madeleine Albright then had the  
4 ammunition she needed to persuade Washington, and then ultimately  
5 NATO, to intervene; correct?

6 A. It triggered the final effort to resolve the crisis politically,  
7 which led to Rambouillet and Paris. And the fact that Milosevic  
8 would not agree to the Paris terms.

9 Q. Now, in addition to just forcing people to flee through fear,  
10 were you aware that the Serbian forces were organising trains to  
11 systematically transport ethnic Albanian civilians to the borders?  
12 Did you know that?

13 A. I knew that after the bombing had begun.

14 Q. I mean, thousands of people were forced to make their way  
15 through conflict zones in long convoys, either on foot or basic  
16 vehicles, across the border, organised and guarded by Serbian troops  
17 at gunpoint; is that right?

18 A. That's right.

19 Q. And leaving behind homes that they could never return to in the  
20 foreseeable future because they were not capable of sustaining means  
21 of life; is that right?

22 A. That's right.

23 Q. And can you tell us about the process of identity and archival  
24 cleansing? In addition to ethnic cleansing, is it right that those  
25 who were forced over the border were removed of all of their personal

1 identification documents and their vehicle registration plates and  
2 documents?

3 MR. FERDINANDUSSE: Objection, Your Honour. Compound.

4 MR. EMMERSON: Seriously?

5 PRESIDING JUDGE SMITH: Overruled. Go ahead.

6 MR. EMMERSON:

7 Q. Is it true?

8 A. Yes.

9 Q. Thank you. Is it true also that land title deeds in local  
10 authorities were all seized and destroyed and efforts made to destroy  
11 birth registers, the so-called archival cleansing?

12 A. I heard that.

13 Q. Very well.

14 A. I don't know if that was true.

15 Q. And when it became clear that NATO was potentially gearing up to  
16 intervene, were you aware of a state of affairs when Vojislav Seselj,  
17 who was then second in command to Milosevic in the political, as well  
18 as having forces on the ground, announced that if NATO intervened  
19 directly, "the Albanians of Kosovo will be no more"? Was that an  
20 expression that you heard being used?

21 A. I don't remember it.

22 Q. Do you know that as the NATO bombing began, Serbia closed the  
23 borders to Albania, Macedonian, and Montenegro so that those Kosovar  
24 Albanians that remained inside Kosovo could no longer escape?

25 A. I knew they closed the borders.

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13909

Cross-examination by Mr. Emmerson

1 Q. And the result, of course, was people couldn't get out of  
2 Kosovo; correct?

3 A. But people did get out of Kosovo and --

4 Q. After the borders were closed?

5 A. You yourself said a few minutes ago that thousands -- tens of  
6 thousands of Albanians fled into Albania --

7 Q. Yes.

8 A. -- Macedonia, and Montenegro across the borders.

9 Q. Once the borders had been closed, how was that interpreted by  
10 Washington? As effectively cutting off their retreat?

11 A. I don't know. I was not in Washington.

12 Q. Because that was the period, would you agree, of the most  
13 intense campaign against civilians?

14 A. Intensive -- our understanding -- and I was talking by satellite  
15 phone with a number of the zone commanders to try to obtain  
16 information about the situation inside. Wes Clark, commander of NATO  
17 forces, was extremely interested in that and humanitarian aspects.

18 My impression was that the Serbian campaign was intensive,  
19 campaign to remove Albanians from the province of Kosovo. It was  
20 intensive and continued for -- for the period of the bombing.

21 Q. And in one sentence, how does that relate to the evidence that  
22 you've given about the Pentagon's expectation that once KFOR entered  
23 and people returned, they would be liable to take retribution against  
24 their Serbian neighbours?

25 A. I don't understand the question, to be frank.

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13910

Cross-examination by Mr. Emmerson

1 Q. Very well. I'll move on.

2 MR. EMMERSON: I'd like, if I may, in the last five minutes  
3 remaining, to play you a short video of that period of time  
4 immediately -- well, two weeks after the bombing began, 10 April, in  
5 the valley of Baice, where a refugee column is moving from Baice  
6 towards Vucak and then on to the Berisha mountains. It's a  
7 two-minutes video, so we should have just enough time.

8 PRESIDING JUDGE SMITH: Hold on just a moment.

9 Is this what you wished to speak on?

10 MR. FERDINANDUSSE: Yes, absolutely. Given the -- the line of  
11 questioning is unclear to me. Given that we know --

12 MR. EMMERSON: I'm going to ask him if he can recognise somebody  
13 in the video.

14 PRESIDING JUDGE SMITH: Relative to what?

15 MR. EMMERSON: Relative to my client.

16 PRESIDING JUDGE SMITH: You expect him to see your client --

17 MR. EMMERSON: Correct.

18 PRESIDING JUDGE SMITH: -- in the video?

19 MR. EMMERSON: Correct.

20 PRESIDING JUDGE SMITH: All right.

21 MR. EMMERSON: So could we please call up DKV01213, please.

22 Q. It's a very short excerpt, and I'll ask you if there's somebody  
23 in that picture -- in that image you can identify. Or rather, in the  
24 light of the answers just given, ask you whether you can identify  
25 Mr. Veseli. So this is two weeks after NATO began bombing.

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13911

Cross-examination by Mr. Emmerson

1 MR. EMMERSON: Thank you.

2 Q. Just to be clear, as I said earlier on, this is a column of  
3 refugees going from Baice to Vucak in -- slightly to the west of  
4 Glogovac and towards the mountains.

5 A. To the west of where?

6 Q. If I can give you a full map --

7 A. Did you say Gjakove?

8 Q. No, it's Glogovac, isn't it. It's in the south -- it's north of  
9 Malisheve, heading into the mountains.

10 A. Oh, okay.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MR. EMMERSON: Very well. And there's no transcript or sound on  
13 it.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. EMMERSON: I'm sorry, I didn't hear you.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 It will not be shown to the public is what I'm saying.

18 MR. EMMERSON: That's fine.

19 PRESIDING JUDGE SMITH: [Microphone not activated]

20 [Video-clip played]

21 THE INTERPRETER: [Voiceover] "Today it is 8 April 1999."

22 MR. EMMERSON: I'm so sorry. There shouldn't be a transcript,  
23 Your Honour.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. EMMERSON: Can we have it played silently, please.

Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13912

Cross-examination by Mr. Emmerson

1 [Video-clip played]

2 PRESIDING JUDGE SMITH: Thank you.

3 MR. EMMERSON: [Microphone not activated].

4 Is it possible for you very briefly to return to 020 -- 0200 and  
5 have it still there, please. 02:00 -- oh. I'm told if you can  
6 slightly edge it forward until we see one individual in the screen.  
7 There we go.

8 Q. Now, I think you can probably confirm that is Mr. Veseli, having  
9 met --

10 PRESIDING JUDGE SMITH: Is it all right if he testifies rather  
11 than you, Mr. Emmerson?

12 MR. EMMERSON: Yes.

13 PRESIDING JUDGE SMITH: You're doing the testifying here.

14 MR. EMMERSON: Obviously, I have instructions, and we can all  
15 see the video. So --

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 MR. EMMERSON: -- let me put it another way.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. EMMERSON: Well, the question is does he recognise  
20 Mr. Veseli.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 MR. EMMERSON: Well, not -- with respect, the question is does  
23 he recognise Mr. Veseli. It's a simple question. What's the  
24 problem?

25 PRESIDING JUDGE SMITH: It's a leading question, far more



Witness: Shaun Byrnes (Resumed) (Open Session)

Page 13913

Cross-examination by Mr. Emmerson

1 leading --

2 MR. EMMERSON: I'm cross-examining.

3 PRESIDING JUDGE SMITH: I know you're cross-examining but you're  
4 also testifying.

5 MR. EMMERSON: There's a picture of Mr. Veseli on the screen.

6 PRESIDING JUDGE SMITH: Do you want to rephrase your question or  
7 not have the question?

8 MR. EMMERSON: Well, perhaps you'd like to --

9 PRESIDING JUDGE SMITH: I'll ask the question.

10 Did you see anybody in there that you recognised?

11 THE WITNESS: No.

12 MR. EMMERSON: Very well.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. EMMERSON: Thank you very much.

15 Q. Can I ask you this finally: Is that the sort of scene that you  
16 saw or you were aware of taking place in Kosovo?

17 MR. FERDINANDUSSE: Objection, Your Honour. Vague for lack of  
18 time period.

19 MR. EMMERSON: Very well. I have no further time to question,  
20 so I'll stop.

21 PRESIDING JUDGE SMITH: Thank you.

22 MR. ROBERTS: Your Honour, if I could just ask leave to re-cross  
23 for two questions in light of a small issue that arose in  
24 Mr. Emmerson's cross-examination? It will certainly take less than  
25 five minutes.

Witness: Shaun Byrnes (Resumed) (Private Session)

Page 13914

Further Cross-examination by Mr. Roberts

1           PRESIDING JUDGE SMITH: [Microphone not activated].

2           MR. ROBERTS: Sorry?

3           PRESIDING JUDGE SMITH: [Microphone not activated].

4           MR. ROBERTS: Relative --

5           PRESIDING JUDGE SMITH: Relative to what?

6           MR. ROBERTS: Relative to the issue of -- well, it was part of a  
7 statement that was discussed in private session, Your Honour, so I  
8 would have to respond to that in private session.

9           PRESIDING JUDGE SMITH: Two questions?

10          MR. ROBERTS: Two and a half, Your Honour.

11          PRESIDING JUDGE SMITH: All right. Go ahead.

12          MR. ROBERTS: If we can go into private session, please.

13          PRESIDING JUDGE SMITH: Into private session.

14                               [Private session]

15                               [Private session text removed]

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Witness: Shaun Byrnes (Resumed) (Private Session)

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Further Cross-examination by Mr. Roberts

1 [Private session text removed]

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19 [Open session]

20 THE COURT OFFICER: Your Honours, we're in public session.

21 PRESIDING JUDGE SMITH: Thank you.

22 Do you have any redirect, Mr. Ferdinandusse?

23 MR. FERDINANDUSSE: I do, Your Honour. And I wonder if we could  
24 do it after the break, and then I can limit it to within 15 minutes.

25 PRESIDING JUDGE SMITH: That seems reasonable. So we will break

1 for lunch now at this time. We'll be back at 2.30, and we'll  
2 continue with your questioning at that time.

3 You may go with the -- I'm sorry.

4 MR. TULLY: Just for after the witness, just to remind  
5 Your Honour I need two minutes. That's all. Thank you.

6 PRESIDING JUDGE SMITH: You may leave the room now. Thank you.  
7 No, you have to -- no, no.

8 [The witness stands down]

9 PRESIDING JUDGE SMITH: All right, Mr. Tully. You have the  
10 floor.

11 MR. TULLY: Thank you, Your Honour.

12 PRESIDING JUDGE SMITH: We are in public session.

13 MR. TULLY: Are we in public session?

14 PRESIDING JUDGE SMITH: Yes.

15 MR. TULLY: That's okay.

16 I'm just requesting leave from the Panel, on an exceptional  
17 basis, that we be permitted to supplement a reply we filed on Monday.  
18 We received disclosure of a document in a batch yesterday. The ERN  
19 is 120266-120267. It's a document that dates from January 2021  
20 and -- excuse me, December 2021 and January 2022. In that two years,  
21 it was not disclosed to the Defence. We got it for the first time  
22 yesterday, which was the day after our reply was filed in line with  
23 the judicial deadline. It's only two pages in length and concerns a  
24 contact taking place between the SPO and a family member of an  
25 upcoming witness.

1           We plainly couldn't have had it within our possession when we  
2           made our arguments. And in our view, it's relevant to the filings as  
3           it pertains directly to one of the allegations concerned in that  
4           litigation. It specifically relates to -- directly supports Defence  
5           arguments as to the relevance of that evidence as to the case against  
6           Mr. Selimi. It would be brief. The supplemental filing would be two  
7           pages, less if I can do it within the next two hours, and it won't  
8           repeat any arguments set out already in the filing [Overlapping  
9           speakers] ...

10           PRESIDING JUDGE SMITH: Filed yet today? Or tomorrow?

11           MR. TULLY: Oh, today. I hope to have it off my desk by today.

12           PRESIDING JUDGE SMITH: [Microphone not activated].

13           MR. FERDINANDUSSE: Could I take instructions from that over the  
14           break?

15           PRESIDING JUDGE SMITH: [Microphone not activated].

16           MR. TULLY: And just one other matter to make it clear,  
17           Your Honour. This has been classed as a 102(3) document. In our  
18           view, that's plainly wrong.

19           PRESIDING JUDGE SMITH: [Microphone not activated].

20           MR. TULLY: It has been filed under Rule 102(3). In our view,  
21           with the content of the document, as we believe it would be clear,  
22           this is plainly a 103 document, along with several other documents  
23           dating from back to early 2000s disclosed yesterday. That won't be  
24           part of the supplemental filing, but I just want to make it clear to  
25           Your Honours that we're not leaving that issue aside. We will deal

1 with that in an upcoming filing, but that's separate to the issue of  
2 the litigation that's preceded this one.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. TULLY: Thank you, Your Honour.

5 PRESIDING JUDGE SMITH: Mr. Ferdinandusse, you can comment on  
6 that right after the break, and we'll make a decision.

7 We are adjourned until 2.30.

8 --- Luncheon recess taken at 12.51 p.m.

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

10 PRESIDING JUDGE SMITH: Mr. Ferdinandusse, any reply now to the  
11 request by Mr. Tully?

12 MR. FERDINANDUSSE: Yes, Your Honour. If the additional reply  
13 is confined to the issue raised, we have no objection.

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 I take it no one else will raise an objection.

16 Your request for an extension until tomorrow close of business.  
17 Is that adequate?

18 MR. TULLY: Much obliged. I'm aiming for close of business  
19 today, Your Honour.

20 PRESIDING JUDGE SMITH: Well, we'll do it for tomorrow so you  
21 get it on file.

22 MR. TULLY: Thank you.

23 PRESIDING JUDGE SMITH: Thank you.

24 All right. You may bring the witness into the courtroom.

25 [The witness takes the stand]

1           PRESIDING JUDGE SMITH: Good afternoon, Witness.

2           Mr. Byrnes, we hope you had a pleasant lunch and a little rest.

3           THE WITNESS: Thank you, Your Honour. May I say something  
4 first?

5           I apologise. I was trying to make an approach to Mr. Emmerson,  
6 and my purpose was to ask him to speak a little more slowly. Mission  
7 accomplished. Thank you.

8           MR. EMMERSON: I have no more questions for the witness.

9           PRESIDING JUDGE SMITH: I know. Thank you very much.

10          So, Mr. Ferdinandusse, your redirect, if any.

11          MR. FERDINANDUSSE: Thank you, Your Honour.

12                               Re-examination by Mr. Ferdinandusse:

13          Q. Mr. Witness, I will only have a few more questions to ask. I  
14 know it's been long days. Again, my questions will only need short  
15 answers. And my first question is about your meetings with  
16 Mr. Thaci.

17               Can you hear me well?

18          A. I hear you fine.

19          Q. On Monday, counsel put to you Mr. Thaci's position that the day  
20 of 28 October 1998 was the first time that you and he had met. And  
21 after a number of questions about that topic, counsel asked you the  
22 following, and I quote from page 79 of the live transcript:

23               "So your impressions of Mr. Thaci's role in the KLA is formed on  
24 the basis of your meetings with him in late October and early  
25 November. Would that be fair?"

Witness: Shaun Byrnes (Resumed) (Open Session)

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Re-examination by Mr. Ferdinandusse

1 That was the question. And your answer was:

2 "First impressions, yes."

3 Do you recall?

4 A. Yes.

5 Q. Now, in your statements to the Prosecutor's Office, you said you  
6 met Hashim Thaci shortly after you arrived in Kosovo in August 1998.

7 Do you recall?

8 A. No, I don't.

9 Q. I will read to you what's in that passage:

10 "Shortly after I arrived in Kosovo in August 1998, I met  
11 Hashim Thaci. I had no idea who he was at the time and he declined  
12 to identify himself then, even by name, but over time, in the fall of  
13 1998, his authority became more apparent ..."

14 A. I stand corrected. Thank you.

15 Q. Are you now saying that it's your evidence that you met  
16 Mr. Thaci for the first time at the end of October?

17 A. Yes, I remember -- I remember what I said to the SPO and that's  
18 accurate.

19 Q. You remember what you said -- let me ask you once --

20 A. Okay.

21 Q. -- more. Is it your evidence that you first met Mr. Thaci  
22 shortly after your arrival in Kosovo in August 1998 or later?

23 A. Shortly after I arrived in August. But I point out I didn't  
24 know who he was, and he didn't identify himself.

25 Q. Okay. Thank you. One second, please.



1 [Specialist Prosecutor confers]

2 MR. FERDINANDUSSE: Thank you.

3 Q. My next question is about Mr. Jakup Krasniqi. Counsel for  
4 Mr. Krasniqi asked you about the distinction between moderates and  
5 radicals in the KLA. And you agreed with him that moderates  
6 supported efforts to create a unified Albanian negotiating position  
7 and contacts with the LDK, and you also agreed with him that you  
8 identified Mr. Krasniqi as one of the moderates. Do you recall that?

9 A. I do.

10 Q. Thank you. I would now like to show you a publication from  
11 15 October 1998.

12 MR. FERDINANDUSSE: I ask the Court Officer to bring up 043867  
13 in both English and Albanian versions. Thank you.

14 Q. Can you read it? I mean, is it --

15 A. I can read it on the screen, yes.

16 Q. Okay. So let me point a few things out. You will see at the  
17 top it is an exclusive column for *Zeri* by the KLA spokesperson and  
18 political representative.

19 A. Yes.

20 Q. And the title is: "The KLA will act through its legal and  
21 executive mechanisms, according to the laws of war." I will read the  
22 first few lines. I quote:

23 "It is unfortunate that this glorious war of the century, fought  
24 in these lands, fell into the blind eyes and deaf ears of our  
25 political entities, intellectuals and professionals, the numerous

1 chest-beaters, the 'Kurizi-s', 'Qafa-s', 'Dora-s' and  
2 'Dubrovnik-s' of our capital, and other small and miserable shanties,  
3 where the miserable activists pass weeks, months and years in order  
4 to cheat on the freedom-loving people."

5 MR. FERDINANDUSSE: If we now can go to the next page of the  
6 English translation. I will read from the middle of the page.

7 Q. And I quote:

8 "In short, according to the nation saviours who wanted to revive  
9 the deathly LDK-ism, the KLA came undone, it burst like a soap  
10 bubble, and, why not, it is guilty of the blood shed in our lands,  
11 all the plundering and burning committed by Milosevic's criminals.  
12 Who else but the KLA, they say, which did not follow the famous  
13 endurance path of the famous Titoist, 'the bright-minded', the  
14 trampler, Rugova, who for the sake of a residence, an accompanying  
15 suite of former-UDB agents and a Nobel Peace prize in waiting is  
16 always willing to sacrifice Kosovo's freedom and independence, always  
17 promising the naive people the biblical, heavenly 'freedom' and  
18 'democracy' of Jesus Christ."

19 And then a bit lower on the page, just above the text in bold,  
20 it reads:

21 "Certain intellectual circles in our capital are playing a  
22 special, meaningless, role at this turning point for our people, on  
23 their 'fiery' rostrums of patriotism in the tiny cafés and shanties,  
24 with their wretchedness and indecision, as well as unwillingness to  
25 sacrifice even a little for Kosovo's freedom and independence."

Witness: Shaun Byrnes (Resumed) (Open Session)

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Re-examination by Mr. Ferdinandusse

1 Have you seen this newspaper article before?

2 A. No, sir, I haven't.

3 Q. And is what I just read to you consistent or inconsistent with  
4 your impression that Mr. Krasniqi supported efforts to create a  
5 unified Albanian negotiating position?

6 A. It's inconsistent.

7 Q. Thank you.

8 MR. FERDINANDUSSE: Your Honour, I tender the document.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 Objections?

11 MR. ELLIS: Your Honour, there have been rulings in other cases,  
12 I think, on tendering articles that purport to have the words of the  
13 accused in them. But subject to that. And the witness, of course,  
14 has not seen it before and can't authenticate what is there.

15 PRESIDING JUDGE SMITH: The document will be admitted under 138.

16 MR. FERDINANDUSSE: Thank you.

17 Q. Mr. Witness, I go to my last topic --

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 MR. FERDINANDUSSE: Oh, apologies.

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 THE COURT OFFICER: Thank you, Your Honours.

22 So for ERN 043867 to 043867, Albanian and English version, it  
23 will be assigned Exhibit P1096.

24 PRESIDING JUDGE SMITH: Thank you.

25 Go ahead now, Mr. Ferdinandusse.

1 MR. FERDINANDUSSE: Thank you.

2 Q. I go to my last topic. Over the last few days, you have given  
3 us a lot of information. You have given us your understanding of the  
4 KLA's development and organisation in 1998 and 1999. Yesterday, you  
5 spoke about trying to cobble together a picture of the UCK, and this  
6 morning you spoke about connecting the dots. And to fully understand  
7 the assessments and conclusions you have shared over the last two  
8 days, I have a few questions about the information that was available  
9 to you in Kosovo at that time.

10 Did you see any written orders from the General Staff in 1998 or  
11 1999?

12 A. I vaguely recall that we saw several English translations of UCK  
13 orders, but I don't remember the substance of them.

14 Q. And was this in 1998 or 1999?

15 A. That's when I was there. This would -- it would have had to  
16 have been in 1998, 1999.

17 Q. But you don't recall what was in them?

18 A. I don't recall the substance.

19 Q. Did you see any written communications from the General Staff to  
20 the zones in 1998 or 1999?

21 A. Not that I recall.

22 Q. Did you see any written communications from the zones to the  
23 General Staff in 1998 or 1999?

24 A. You said written?

25 Q. Yes.

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Re-examination by Mr. Ferdinandusse

1 A. No.

2 Q. Did you witness any work meetings between the General Staffs and  
3 the zones in 1998 or 1999?

4 A. No.

5 Q. Did anyone tell you in 1998 or 1999 that Jakup Krasniqi had  
6 another function in the KLA than spokesman and member of the  
7 political directorate?

8 A. No.

9 Q. And during your time in Kosovo, did anyone tell you about the  
10 KLA's General Staff existing already before summer 1998?

11 A. Frankly, I don't remember. I know -- if I may, I know that  
12 certainly after [Overlapping speakers] ...

13 Q. I'm sorry, I'm limiting my questions to what you know.

14 A. The answer is no.

15 Q. Okay. Thank you.

16 A. I don't remember.

17 Q. And during your time in Kosovo, did anyone tell you about the  
18 KLA having a General Staff or a Central Staff before the year 1998?

19 A. That's a very nuanced question, and the answer is yes.

20 Q. Can you recall who told you about the KLA having a General Staff  
21 or Central Staff before 1998?

22 A. I cannot -- I cannot specifically remember. I can think of  
23 several people, but I'm -- I just don't remember exactly.

24 Q. Thank you. I will refresh your recollection that when I asked  
25 you that question last week - and I'm referring to 120250, paragraph

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Further Cross-examination by Mr. Ellis

1 10 - you said:

2 "I never heard of the term 'Central Staff of the KLA'."

3 A. That's true.

4 MR. FERDINANDUSSE: Thank you, Your Honour. These were my  
5 questions.

6 PRESIDING JUDGE SMITH: Judge Barthe has some questions.

7 Go ahead, Judge.

8 MR. ELLIS: Your Honour, I have some questions in follow up, but  
9 I can do it at the end of Judges' questions as well, as you prefer.

10 PRESIDING JUDGE SMITH: In regard to what?

11 MR. ELLIS: In regard to the questions just put.

12 PRESIDING JUDGE SMITH: No, which questions?

13 MR. ELLIS: About the document that was shown to the witness  
14 from *Zeri i Kosoves*, the new document.

15 PRESIDING JUDGE SMITH: All right. Briefly. Go ahead.

16 Further Cross-examination by Mr. Ellis:

17 Q. You were shown just now a document from an article in *Zeri i*  
18 *Kosoves*, and I think it was read out by the Prosecutor as *Zeri*, but  
19 it's right, isn't it, that as opposed to *Zeri*, *Zeri i Kosoves* was  
20 published outside Kosovo in Switzerland, wasn't it?

21 A. I don't remember. I know it was published in Prishtine.

22 Q. But *Zeri* was published in Prishtine along with *Koha Ditore* --

23 A. Yes.

24 Q. -- as the main daily papers?

25 A. Yes.

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Further Cross-examination by Mr. Ellis

1 Q. That's correct, isn't it?

2 A. Yes, that's correct.

3 Q. You hadn't seen the article before the Prosecution showed you,  
4 and therefore you wouldn't have had the opportunity to discuss the  
5 contents with Mr. Krasniqi. That follows --

6 A. That's right.

7 Q. -- doesn't it?

8 A. That's correct.

9 Q. You wouldn't know whether these are the exact words that he used  
10 or how it made it into that newspaper in that format, would you?

11 A. That's correct.

12 Q. And you wouldn't know whether this article was circulating in  
13 Kosovo in October 1998?

14 A. That's correct.

15 Q. In terms of the timing, from at least the summer 1998 there had  
16 been an intense Serbian offensive, hadn't there?

17 A. That's correct.

18 Q. And in particular, towards the end of August, do you recall that  
19 the KLA stronghold in Klecke was taken over by Serbian forces?

20 A. That's correct.

21 MR. FERDINANDUSSE: Your Honour, I have difficulty seeing where  
22 we're going in terms of the scope of redirect.

23 MR. ELLIS: I'm putting the --

24 PRESIDING JUDGE SMITH: Did Klecke have something to do with  
25 this?

1 MR. ELLIS: Yes, I'm putting the article in context in the time  
2 that it came out.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. ELLIS:

5 Q. Now, at that time, there were articles coming out from Serbia --  
6 propaganda coming out from Serbia that the KLA was defeated or on the  
7 verge of defeat. Do you recall that --

8 A. Yeah.

9 Q. -- at that time?

10 A. Yes.

11 Q. Now, 15 October 1998, if memory serves, would be shortly after  
12 the Holbrooke-Milosevic Agreement which led to a cease-fire; is that  
13 right?

14 A. What was the date?

15 Q. 15 October 1998 was the date of this article.

16 A. I thought -- I thought that agreement was 30 October.

17 Q. Oh. Well, it -- in any event, this -- 15 October is coming  
18 after that extensive Serbian offensive and those articles saying  
19 that --

20 A. Yes.

21 Q. -- the KLA was about to be defeated?

22 A. That's correct.

23 Q. Right? And at that time, a spokesman would be expected to  
24 respond, wouldn't they, to try to raise morale and encourage  
25 international support for the KLA; correct?



1 A. That makes sense.

2 MR. ELLIS: Could we have the article back on screen, please.  
3 It was 043867, I think. Can I have the second page, please. And  
4 just as the Prosecutor did, I'll just read you a passage. If we  
5 could scroll down a little. That's fine.

6 Q. "Not only the KLA was not destroyed by the enemy's continuous  
7 offensives, but it emerged stronger, more organised professionally,  
8 more enhanced and more determined to walk on the road of no return  
9 towards freedom ..."

10 Over the past few days, you've been giving us your assessment of  
11 the state of the KLA at various points in time. It's clearly an  
12 exaggeration on 15 October to say that the KLA was stronger, more  
13 organised professionally, and more enhanced, is it not?

14 A. I agree.

15 Q. And if I can show you on the final page, please. The third  
16 page, where it reads:

17 "... all those that have financial obligations, including  
18 financial and material resources, should without hesitation carry out  
19 their obligations to the war, to the future of the nation and  
20 Fatherland."

21 This is clearly a call for support for the KLA, isn't it?

22 A. Yes.

23 Q. And the reference at the very end there to:

24 "... the KLA will act through its legal and executive  
25 mechanisms ..."

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Questioned by the Trial Panel

1           As far as you're aware, on 15 October there weren't any legal or  
2           executive mechanisms available to the KLA, were there?

3           A.    Yes.

4           Q.    "Yes," you're agreeing with me?

5           A.    Yes.

6           MR. ELLIS: Thank you. I don't have anything further.

7           PRESIDING JUDGE SMITH: Thank you.

8           Judge Barthe.

9           JUDGE BARTHE: Thank you, Mr. President.

10                                 Questioned by the Trial Panel:

11           JUDGE BARTHE: Good afternoon. Mr. Byrnes, I'm here.

12           A.    Oh, sorry.

13           JUDGE BARTHE: I hope you can hear me all right.

14           A.    I can. Thank you.

15           JUDGE BARTHE: Thank you. Mr. Byrnes, I have a couple of  
16           questions for you in relation to what you told the SPO during your  
17           interview in 2018, 2019 and 2020. And for this purpose, I would like  
18           go through the written record of your statement and see if and where  
19           you can help the Panel to better understand your evidence. Is that  
20           okay?

21           A.    Of course.

22           JUDGE BARTHE: Thank you.

23           So, Madam Court Officer, could you please put Exhibit P01066 for  
24           us on the screen and go to paragraphs 23 and 24, please. Thank you.

25           Mr. Byrnes, I hope you can read. I will read it out so that you

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1 know what you, according to the transcript, or to the record, of your  
2 statement told the SPO. According to paragraph 23 of the record of  
3 your statement, you told the SPO, and I quote:

4 "When we met KLA commanders in the field, they were reticent  
5 about identifying their units. Often commanders were referred to by  
6 pseudonyms rather than full names."

7 And in paragraph 24, you said the following:

8 "The KLA had satellite phones. Eventually, U.S. KDOM received  
9 satellite phones. We used these phones to arrange visits with the  
10 KLA, sometimes in advance, and especially to coordinate high-level  
11 visits by internationals."

12 Mr. Byrnes, I would like to know, first, when and where did you  
13 see or notice that the KLA had satellite phones, if you can recall?

14 A. The only -- the only episode I can remember, and I can see in  
15 my -- I can see it in my mind's eye, was actually later than this.  
16 And that was when Mr. Krasniqi, I think -- I think it was that  
17 meeting in Likoc on, I think, 13 January 1999, where the agreement to  
18 release -- the agreement for the swap of prisoners was reached. He  
19 would -- Mr. Krasniqi would go into a side room and talk on a  
20 satellite phone with somebody to run by proposals for the agreement.

21 However, we knew they had them beforehand because we used our  
22 satellite phone to contact them on their satellite phones. As you  
23 know, satellite phones have specific numbers. But I -- that was the  
24 first time I recall seeing one.

25 JUDGE BARTHE: Thank you. That would have been my second

1 question. In paragraph 57 of your statement, you said that the  
2 operational zone commanders, KLA operational zone commanders had, I  
3 think you also confirmed that today, walkie-talkies, cell phones, and  
4 satellite phones, and you said in paragraph 57 of your statement, SPO  
5 statement, even before you arrived in Kosovo, which was on 12 August  
6 1998.

7 So my question is how do you know this? What's the basis of  
8 your knowledge that they had these phones, satellite phones, even  
9 before August 1998?

10 A. How did we know?

11 JUDGE BARTHE: Yeah.

12 A. Zone commanders or the KLA?

13 JUDGE BARTHE: Both. You can answer to both, if you want.

14 A. With respect to walkie-talkies, we knew because when we went  
15 into -- when our teams went into areas that were controlled by the  
16 UCK, we encountered checkpoints manned by regular UCK soldiers, and  
17 we would be stopped, and they would check our credentials. They  
18 wanted to see our passports. They would then use a walkie-talkie to  
19 call somebody up the chain of command to obtain -- to advise them  
20 that there was a KDOM patrol there and they wanted -- KDOM wanted  
21 access to the area to see somebody or whatever. And they -- they  
22 needed their command's permission to let us through.

23 JUDGE BARTHE: And what about satellite phones? You said, as I  
24 just read out in paragraph 57, that you had information or that you  
25 knew that they already had these phones, the operational zone

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1 commanders, before you arrived in Kosovo. So what was the basis of  
2 this knowledge?

3 A. I don't recall. I'm sorry.

4 JUDGE BARTHE: It's not a problem. I would like to move on to  
5 paragraph 26 of your statement. There you talked about meetings with  
6 General Sreten Lukic, the head of the Serbian Ministry of the  
7 Interior, MUP, police forces in Prishtine/Pristina. And you said,  
8 according to that record:

9 "He would often complain to me about the activities of the KLA.  
10 We were obligated to investigate his complaints. Often these  
11 complaints related to the killing or disappearance of Serbs. We  
12 would try to find these disappeared people and arrange for their  
13 release, when possible."

14 Mr. Byrnes, I would like to know were these -- if you can, or if  
15 you know, were these Serbs members of the armed forces or civilians?

16 A. They were civilians.

17 JUDGE BARTHE: And do you have any information that these  
18 civilians were participating in the armed conflict at the time of  
19 their arrest or disappearance?

20 A. No, I don't. Let me add, there were allegations from the UCK in  
21 those -- in those events -- in those times when we were able to  
22 identify an UCK unit that had actually abducted Serbs, and then that  
23 was not always the case, but when we -- when we were able to  
24 ascertain that Serb civilians X, Y, and Z were in the hands of UCK  
25 Unit Z, and we tried to get their release, they would always allege

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1 that these civilians had been armed and had been participate -- had  
2 basically been in conflict with the UCK. They were enemies of the  
3 UCK.

4 And let me add --

5 JUDGE BARTHE: Yeah.

6 A. -- the Serbian police handed out a lot of weapons to Serbian  
7 civilians for their self-defence. For example, in the motel where  
8 KDOM was posted and lived, the owners all had automatic weapons that  
9 they'd been provided by the police, and the neighbours did as well.  
10 And we were, on Saturday nights, exposed to automatic weapons being  
11 fired past our rooms as Serbs celebrated parties or weddings or  
12 birthdays. They were present all over the place.

13 JUDGE BARTHE: Thank you. Just to be clear on that point, did  
14 the KLA or the members of the KLA who told you that, did they tell  
15 you that these Serbs or civilians were armed or that they  
16 participated, actively participated in fighting?

17 A. They told us they were armed.

18 JUDGE BARTHE: Thank you. So these complaints by General Lukic  
19 were, according to your investigations, at least partly true. So  
20 civilians were in the hands of the KLA at the time?

21 A. Yes, there were a number of incidents. And let me add that my  
22 instructions from both Washington and our ambassador in Belgrade to  
23 whom we were formally subordinated to were to cooperate with the  
24 General Lukic and the police and do all we could to assist in helping  
25 obtain the release of abducted Serbs.

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1 JUDGE BARTHE: Thank you. And what about the allegation by  
2 General Lukic that Serbs or civilians -- Serb civilians were also  
3 killed? Did you find out that these people -- some of these people  
4 were also killed?

5 A. Yes.

6 JUDGE BARTHE: Let me move on to paragraph 28 - on the next  
7 page, please, Madam Court Officer - of your SPO statement. There you  
8 talked about spending time trying to track down what you called  
9 Kosovo Albanians who disappeared, in particular members of the  
10 Democratic League of Kosovo, LDK. And you said that such incidents  
11 were often reported by member of the LDK to you, or to KDOM. And you  
12 explained, a little bit further on, that the US believed that the KLA  
13 leadership could address incidents such as these when committed by  
14 locals. And the last sentence of paragraph 28 reads, and I quote:

15 "In September or November 1998, I brought up the issue of  
16 intra-Albanian killings and the killing of collaborators with the  
17 troika, and they flatly denied that this took place."

18 My question is simply this: Do I understand you correctly that  
19 your position was that the KLA leadership did not address incidents  
20 of disappeared or killed Albanians, in particular senior LDK members,  
21 and that they flatly -- at least the troika flatly denied that this  
22 took place in September or November 1998? Is that your evidence?

23 A. Yes. To the extent -- at that point to the extent that the  
24 troika represented the UCK leadership, yes, they did. They denied  
25 that these things had happened. Does that answer -- does that answer

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1 your question?

2 JUDGE BARTHE: Yes, yes. I just wanted to be clear on that --

3 A. Yeah.

4 JUDGE BARTHE: -- point.

5 For the next question, could we please go to paragraph 38 of  
6 your statement or of the witness statement, please.

7 Mr. Byrnes, in that paragraph, I'd like to summarise it for you,  
8 you were -- or you talked about Mr. Limaj who you said was initially  
9 resistant to complying with the October agreement, which is, I  
10 assume, the Holbrooke-Milosevic Agreement, and that you initially,  
11 you said, initially thought Mr. Limaj was a zone commander but you  
12 later found out he was not. And:

13 "His role was a bit," you said, "mysterious, but he was clearly  
14 in charge of Malisheve/Malisevo area, which is where he was from."

15 And then you continued by saying:

16 "Finally, under pressure from Mike Dean and Nick Turnbull, and  
17 from the KLA General Staff, Limaj complied with the terms of the  
18 agreement ..."

19 I would like to know, Mr. Byrnes, how do you know that the KLA  
20 General Staff had put pressure on Mr. Limaj?

21 A. Because we talked to the General Staff. We talked to the troika  
22 about this, and particularly Mr. Bashota with whom we had extensive  
23 contacts during this period and on this particular problem, and  
24 that's what he told us.

25 JUDGE BARTHE: And did he also tell you or another person tell



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1 you what the General Staff did to make Mr. Limaj comply with the  
2 October agreement?

3 A. No.

4 JUDGE BARTHE: Thank you.

5 If we could scroll, please, Madam Court Officer, a little bit  
6 further on until or to paragraph 42, please.

7 In paragraph 42 and the following, Mr. Byrnes, you made  
8 observations on the KLA structure and the General Staff. And you,  
9 among other things, said that the KLA had seven zones and a  
10 General Staff, and that you believed that the KLA General Staff by  
11 November 1998 was comprised of six departments; namely, political,  
12 information, logistics, police, justice, and operations.

13 And I would like to know now what do you mean or what did you  
14 mean when you said "information"? So did you mean or do you mean  
15 intelligence or a department for public relations or a different  
16 thing?

17 A. I meant public relations.

18 JUDGE BARTHE: Thank you. Madam Court Officer, if we could  
19 please pull up Exhibit P1069 at page 075323, paragraph 7. And I  
20 think we had that paragraph on the screen for a couple of times  
21 during the last three days.

22 There it is said - thank you - that:

23 "The General Staff itself is relatively incoherent because it is  
24 constantly in motion and because its members rarely meet together.  
25 Indeed, most of the GHQ is currently abroad but is expected to return

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1 to Kosovo by the end of the year, according to KLA sources. Several  
2 GHQ members claim that there is a chief of the General Staff but they  
3 decline to identify him. Nevertheless, we have been able to identify  
4 several GHQ members. They include Hashim Thaqi, chief of the GHQ's  
5 political directorate; Rexhep Selimi, Drenica zone political director  
6 and probable chief of the GHQ information (intelligence)  
7 directorate ..."

8 I assume that you already confirmed several times that this  
9 assumption that Mr. Rexhep Selimi was the head or the chief of the  
10 intelligence directorate within the GHQ was incorrect; right?

11 A. That's correct.

12 JUDGE BARTHE: And were you aware that the KLA at the time in  
13 1998, November 1998, as you described in paragraph 42 of your  
14 statement, had an intelligence directorate within the GHQ?

15 A. I don't remember that we were aware, but at that point, I think  
16 we assumed that there was some sort of intelligence organisation.

17 JUDGE BARTHE: Thank you.

18 Madam Court Officer, could we please have Exhibit 075336 on the  
19 screen. And this should be a cable of 4 February 1999 at page 340,  
20 please. And I think we also had that on the screen during your  
21 examination. Thank you.

22 In the second paragraph, one can read that:

23 "Information/intelligence: We have been unable to identify its  
24 chief."

25 Is -- my question, is that still the case? That you still don't

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1 know who was the head of the intelligence directorate within the KLA  
2 General Staff, if there was such a thing?

3 A. Do I -- you mean currently, based on the knowledge I acquired  
4 later?

5 JUDGE BARTHE: Yes.

6 A. What I was told later from a variety of sources, UCK officers  
7 and people who knew the UCK well, Kadriu Veseli was head of the  
8 intelligence branch of the UCK.

9 JUDGE BARTHE: But you're saying that you learned that later?

10 A. I learned that after -- I learned that after the conflict was  
11 over and NATO had come into Kosovo.

12 JUDGE BARTHE: Thank you.

13 And, Mr. Byrnes, just on a related issue, which is still not  
14 completely clear to the Panel. Did you have any personal knowledge  
15 at the time, that is in 1998 or 1999, about where Mr. Veseli was from  
16 November 1998 onwards or what he was doing?

17 A. The only -- sir, the only information that we had was that  
18 Mr. Veseli was in Albania, and we did not know what his  
19 responsibilities were. There were rumours, but we didn't -- we had  
20 no specific information that we could validate about what his  
21 responsibilities were.

22 JUDGE BARTHE: So you didn't know, apart from these rumours,  
23 what he was doing in Albania, if he was there?

24 A. That's right.

25 JUDGE BARTHE: At the time.

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1 A. That's right.

2 JUDGE BARTHE: Thank you.

3 I'd like to move on to the next paragraph on the next page of  
4 your SPO statement, paragraph 43.

5 The exhibit can be closed.

6 Mr. Byrnes, according to the written record of your statement to  
7 the SPO, you told the Prosecution that Mr. Thaci said that Mr. Demaci  
8 was in Prishtine -- or "was the Prishtine/Pristina spokesman but did  
9 not attribute to him any political authority." And Mr. Thaci later  
10 said, according to the written record of your written statement, that  
11 "Demaci had a minor role."

12 First of all, do you recall saying that to the Prosecution?

13 A. I do.

14 JUDGE BARTHE: Can you recall when and where and in what context  
15 Mr. Thaci made that comment? Approximately. Which year, for  
16 example?

17 A. I'll try to be brief. As we've said earlier, I think I saw  
18 Mr. Thaci, it was five or six times before he left Kosovo for western  
19 Europe in approximately mid-November. I recall that at one point,  
20 and I think it was before he left for western Europe, he told me that  
21 Mr. Demaci was their -- literally their spokesman in Prishtine, but  
22 the spokesman for the UCK central leadership was Mr. Krasniqi.

23 And to be frank, I and Nick Turnbull, the EU KDOM commander,  
24 never quite figured out how those roles were divided and what -- in  
25 fact, what role Mr. Demaci really was playing is -- what's -- what

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1 role the Prishtine spokesman was supposed to be. It just didn't make  
2 a lot of sense.

3 And then, as you know, Demaci led the rebellion against the  
4 Rambouillet draft agreement while Thaci and his colleagues, the  
5 delegation, were in France, and that stretched to the limit the  
6 Thaci-Demaci relationship. Mr. Thaci was very critical of Mr. Demaci  
7 in subsequent comments about him, and Mr. Demaci resigned from the  
8 UCK.

9 JUDGE BARTHE: Just to be clear, that comment was made in 1998  
10 already in November you're saying?

11 A. Yes.

12 JUDGE BARTHE: So before the --

13 A. That's --

14 JUDGE BARTHE: -- Rambouillet --

15 A. That's my recollection.

16 JUDGE BARTHE: And did Mr. Thaci explain what he meant with "a  
17 minor role"? Minor compared to what or to who?

18 A. I -- I just recall him saying he played a minor role. What I --  
19 what I took that to mean, and I do remember that, was don't pay a lot  
20 of attention to him.

21 JUDGE BARTHE: Thank you.

22 If we could please go to paragraph 50.

23 Mr. Byrnes, in paragraph 50 of the written record of your  
24 statement, SPO statement, you talked about Mr. Thaci who was, as you  
25 said, according to the record, identified to you "as a senior member

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1 of the KLA General Staff, but he was not identified by name." And  
2 you talked about another early August meeting in Likoc/Likovac. I  
3 think you mentioned that meeting during your statement here, during  
4 your testimony. But you said:

5 "But by November, I noticed that Thaci," Mr. Thaci, "dominated  
6 the discussion when Rexhep Selimi was present."

7 And you said you earlier had perceived that Mr. Rexhep Selimi  
8 was the primary leader.

9 My question is simply this: Did you notice when you were -- or  
10 when you attended that meeting in early August in Likovac/Likoc, a  
11 detention site or detained persons there? I think you said earlier,  
12 that was on Monday, that you saw sheds and one or two Serb prisoners;  
13 is that right? Can you recall that?

14 A. This was in early August?

15 JUDGE BARTHE: I don't know. I'm asking you.

16 A. I don't remember. I mean, that was 25 years ago. I just don't  
17 remember seeing Serb -- seeing Serb prisoners in Likovac. And I can  
18 see it, I may be mistaken, but there were a number of occasions when  
19 we were out there when there were -- there were Serbian prisoners.  
20 They were normally farmers or peasants that had been picked up. But  
21 I apologise. My memory is not clear about the August situation.

22 JUDGE BARTHE: Not a problem at all.

23 Further on, you said that you met or that Mr. Sylejman "Sultan"  
24 Selimi was also present at the meeting, and that you did not talk --  
25 or that he did not talk much. And you said your personal agenda from

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1 August 1998 contains a note, which is: "12:00 Likovac on Tuesday 18  
2 August 1998." If you can see that at the bottom of the page. It's  
3 paragraph 50.

4 Can you remember where you met Mr. Rexhep Selimi and  
5 Mr. Sylejman Selimi? Exactly what building, which building?

6 A. On -- did you say 12 August?

7 JUDGE BARTHE: 18 August.

8 A. Oh, okay.

9 JUDGE BARTHE: 12.00.

10 A. Because I arrived on 12 --

11 JUDGE BARTHE: I suppose it's a reference to the time.

12 A. No, I --

13 JUDGE BARTHE: Not the day, the 12.

14 A. -- remember meeting the two Selimis in Likovac, or Likoc.

15 JUDGE BARTHE: Can you recall where you met them?

16 A. In Likovac.

17 JUDGE BARTHE: And where exactly? A specific building or  
18 outside?

19 A. I don't. I'm sorry.

20 JUDGE BARTHE: Do you recall seeing a police station in Likovac?

21 A. That was -- that was a police station.

22 JUDGE BARTHE: And did you also see a health centre or hospital  
23 in Likovac?

24 A. See what?

25 JUDGE BARTHE: A hospital, health centre?

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1 A. A hospital?

2 JUDGE BARTHE: Yeah.

3 A. A health centre?

4 JUDGE BARTHE: Yeah.

5 A. I don't recall that.

6 JUDGE BARTHE: Did you see or hear that Mr. Rexhep Selimi was  
7 giving orders to other KLA members, if you --

8 A. I don't --

9 JUDGE BARTHE: -- can recall? You don't recall?

10 A. No, I don't.

11 JUDGE BARTHE: Thank you.

12 If we could move on to paragraph 59, please.

13 Mr. Byrnes, in paragraph 59 you stated, according to the written  
14 record of your interview, that you had the "impression that, at some  
15 point in time, the military police started reporting to the  
16 General Staff rather than the zone commanders"; and that you thought  
17 Sabit Geci, Mr. Geci was in charge of the military police, "although  
18 he was badly wounded in October." I suppose this is October 1998; is  
19 that right?

20 A. That's right.

21 JUDGE BARTHE: In your preparation session with the Prosecution  
22 - and I refer to Preparation Note 1, paragraph 46 - you said that you  
23 don't recall when you had that impression that the military police  
24 started reporting to the General Staff instead of the zone commanders  
25 and on what specific information or what specific information was the



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1 basis for this impression. Is this still the case?

2 A. Yes. Yes, sir.

3 JUDGE BARTHE: When did you see for the first time military  
4 police -- KLA military police in Kosovo?

5 A. That's hard to recall, in particular -- in particular because  
6 when we had major meetings -- for example, in the November meeting, I  
7 can't -- I don't remember the specific date, but I recall in  
8 November, after KVM had been established, we negotiated the release  
9 of, I think, a couple of Serbian journalists, and the journalists  
10 were turned over to us or to General Walker in Dragobilje. There was  
11 quite a large contingent of UCK soldiers there, based -- that we  
12 assumed were what we would call in the West VIP protective security.  
13 And I asked Bashota who they were, and he said these were the -- they  
14 were the UCK military police. They provided protection, VIP  
15 protection to the leadership. And the leadership present, as I  
16 recall, was the troika.

17 And we saw that a few other times in those sorts of situations.

18 JUDGE BARTHE: So Mr. Bashota told you that these soldiers were  
19 from the UCK military police; is that correct?

20 A. Yes, sir.

21 JUDGE BARTHE: And did you see any or notice any uniforms or  
22 specific insignia or anything that led you to the assumption that the  
23 KLA had a military police?

24 A. No, I don't recall. But I can say that while I did not see UCK  
25 personnel in specific uniforms with -- some of -- some of our team

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1 members did on patrols.

2 JUDGE BARTHE: [Microphone not activated].

3 Could we please go to paragraph 67 for my next question, please.

4 Mr. Byrnes, in that paragraph you said that you learned  
5 afterwards from the press and talking with people that  
6 Mr. Jakup Krasniqi had what you called "a strained relationship" with  
7 Mr. Thaci. And you also learned subsequently that the relationship  
8 with Remi, Commander Remi, and Mr. Thaci was up and down.

9 I'm interested in the following: Why was, according to what you  
10 learned from the press or talking, from talking with people, or what  
11 was the reason that Mr. Krasniqi and Mr. Thaci had a strained  
12 relationship?

13 A. I -- I do not know.

14 JUDGE BARTHE: Thank you.

15 My next question is about paragraph 69 at the bottom of the  
16 page. And there you said, and I think you confirmed that during your  
17 testimony here, that you saw Mr. Thaci for the last time during the  
18 conflict in Kosovo in mid-November 1998, and that you believed that  
19 he left Kosovo the same month. And a little bit further down you  
20 said that you had several meetings with Mr. Thaci in November 1998.

21 Do you know where Mr. Thaci went or where he stayed after  
22 November 1998? I think on Monday you said that he left for work in  
23 western Europe, but can you be more specific where he stayed or where  
24 he went?

25 A. No, I can't. We -- our understanding from our UCK sources was

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1 that he was in western Europe, but they were never more specific  
2 about his location.

3 JUDGE BARTHE: And do you know whether Mr. Thaci was outside  
4 Kosovo for the entire period from November 1998 or mid-November 1998  
5 to February 1998?

6 A. That was my impression. I cannot confirm that, but that was my  
7 impression. We never saw him again until we met at Rambouillet.

8 JUDGE BARTHE: If I mentioned the wrong date, I meant from  
9 mid-November 1998 to February 1999.

10 A. Right.

11 JUDGE BARTHE: Bear with me for a moment.

12 PRESIDING JUDGE SMITH: Witness, we will give you a short  
13 15-minute break as has been our practice.

14 THE WITNESS: Thank you.

15 PRESIDING JUDGE SMITH: You may leave the courtroom with the  
16 Court Usher at this time.

17 [The witness stands down]

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 We're adjourned until 3.45.

20 --- Break taken at 3.30 p.m.

21 --- On resuming at 3.45 p.m.

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

24 [The witness takes the stand]

25 PRESIDING JUDGE SMITH: All right, Mr. Byrnes. Judge Barthe

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1 still has some more questions for you.

2 THE WITNESS: Let's do it.

3 JUDGE BARTHE: Thank you, Mr. Byrnes.

4 Madam Court Officer, could we please go to paragraph 72 of the  
5 SPO's statement.

6 Mr. Byrnes, I promise to be as brief as possible. And here in  
7 that paragraph -- and I have a very brief question. Maybe the  
8 question requires a little bit longer answer from you, but we'll see.  
9 In that paragraph, you talked about a different meeting, a different  
10 meeting than a meeting you had on 28 October, 28 October 1998. A  
11 meeting that was memorable, you said, because Mr. Thaci engaged in a  
12 lengthy discussion about ideology and political philosophy that  
13 lasted for several hours.

14 And my question is, I would like to ask you to summarise or to  
15 describe what Mr. Thaci said or what his ideology or political  
16 philosophy was, if you can do that.

17 A. I'm chuckling.

18 JUDGE BARTHE: To give us a basic idea about it.

19 A. I'm afraid I'm going to fail dramatically in responding to this  
20 question. Excuse me. All -- frankly, all I remember was it was  
21 about Marxism-Leninism. And I had been a Russian studies major in  
22 college, and I had served, at that point, for seven years in our  
23 embassy in Moscow, and I had some familiarity with that philosophy.  
24 And I recalled the discussion was about that. But what he said other  
25 than he was -- he considered himself a Marxist-Leninist, I have just

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1 no clue at this point. I'm sorry.

2 JUDGE BARTHE: Not a problem at all.

3 If we look at paragraph 79 of your statement. Maybe that helps  
4 you to recall. In paragraph 79, you talked about the LPK -- or:  
5 "Another source," you said, "of the KLA's membership was the LPK,  
6 which emerged from a Marxist/Leninist/Hoxhite group. This political  
7 wing saw an opportunity to reunify Albanian land while driving out  
8 Serbs. The key leaders of this latter group were Xhavit Haliti,  
9 Azem Sylja, Ali Ahmeti, Thaci, Kadri Veseli, and Adem Grabovci."

10 Is that what you recall now or what you meant when you said it  
11 was a Marxist-Leninist --

12 A. Yes.

13 JUDGE BARTHE: Along these lines.

14 A. Yes. But if I can add, there were differences within the group.  
15 And do we -- do we have time for me to retell you a small anecdote?

16 JUDGE BARTHE: Go ahead.

17 A. Which at -- I still remember this. It -- to use an American  
18 expression, it knocked my socks off. It was at Rambouillet, and  
19 Xhavit Haliti, who I'd met for the first time there, invited me to  
20 lunch, and the two of us had a one-on-one lunch. And he went on at  
21 some length about what the UCK's aspirations were.

22 And I distinctly recall this. Here I was, an American diplomat,  
23 a senior American diplomat, and he was telling me the UCK's  
24 aspirations were to reunify the Albanian lands, which was Albania and  
25 Kosovo, and to establish a system in Kosovo modelled on Enver Hoxha's

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1 system in Albania. I remember just about falling out of my chair  
2 listening to this. I'd never had an experience of -- like that in my  
3 entire career where another party would open their soul, if you will.  
4 It was extraordinary.

5 But he -- Haliti represented one wing of LPK that favoured a  
6 Hoxhite model for Kosovo, in addition, of course, to freeing Kosovo  
7 from Serbian control. Anyway, I'll stop at that.

8 JUDGE BARTHE: Just very briefly. In that speech that Mr. Thaci  
9 gave, was it also about reunification with Albania? If you can  
10 recall that.

11 A. No, I don't -- I don't -- frankly, I don't recall. But he  
12 never -- he never said in our conversations, private and otherwise,  
13 during the time we met in Kosovo, I never -- he never said anything  
14 about a reunification with Albania.

15 JUDGE BARTHE: [Microphone not activated].

16 Could we please scroll down to paragraph 110. In that  
17 paragraph, Mr. Byrnes --

18 A. What paragraph, please?

19 JUDGE BARTHE: 110.

20 A. Okay.

21 JUDGE BARTHE: Starting with: "At the time ..." Maybe I just  
22 read the paragraph:

23 "At the time, in September 1998, I did not have much of an idea  
24 who Hashim Thaci was beyond believing he was in the political  
25 directorate of the Drenica zone. However, the Qirez/Cirez victims

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1 knew who he was because he had been involved in the student movement.  
2 Based on their accounts, he was there and it was clear he was in  
3 charge."

4 My question is do you know why it was clear that for the, as you  
5 call them, Qirez, or Cirez, victims, that Mr. Thaci was in charge?

6 A. They told me. This is Gjergj Dedaj and Agim Krasniqi. They  
7 told me he was the one giving orders. He was directing the  
8 operation, the exercise.

9 JUDGE BARTHE: And in the next paragraph, paragraph 111, you  
10 said that the detention of these opposition politicians in Qirez, or  
11 Cirez, was a major incident, and in your opinion was directed by the  
12 General Staff. And I would like to know why do you think that the  
13 General Staff, the KLA General Staff was involved or was -- directed  
14 this incident, the detention of the opposition politicians in Qirez?  
15 What's the basis for your belief, in other words?

16 A. I accepted the view that Mr. Thaci was the political director in  
17 the General Staff, and, therefore, he apparently was in charge of the  
18 Qirez operation. And, therefore, it was an operation directed by the  
19 General Staff as part of the -- in a way, the political conflict that  
20 was growing between the UCK and the LDK.

21 That conflict, if I can go a little bit further, that conflict,  
22 at the end of the day, was about who was going to govern Kosovo after  
23 they'd gotten rid of the Serbs.

24 JUDGE BARTHE: Thank you. And was that something that was also  
25 conveyed to you by the Qirez, or Cirez, victims?

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1 A. No.

2 JUDGE BARTHE: Did they tell you?

3 A. No, that was my judgment --

4 JUDGE BARTHE: That was your judgment.

5 A. That's my assessment.

6 JUDGE BARTHE: Thank you.

7 If we could please go to paragraph 150.

8 In paragraph 150, you described that in October 2016, Mr. Thaci  
9 tried to present you with an award, which you turned down. And you  
10 said:

11 "Soon after I arrived in Kosovo, I received a call from  
12 [Mr.] Thaci's office asking if I would like to come and speak to him  
13 at his office."

14 And after meeting Mr. Thaci, you understood, you said, according  
15 to the record, of course, his reach out as an effort to influence  
16 you.

17 My question is what was the award for?

18 A. For what he considered my service to Kosovo.

19 JUDGE BARTHE: And what was the award, if you know?

20 A. I'm sorry?

21 JUDGE BARTHE: What was offered to you?

22 A. I didn't understand.

23 JUDGE BARTHE: I said what was offered? What was the award?

24 What did --

25 A. It was some sort of medal or plaque or something like -- I never



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1 saw it but ...

2 JUDGE BARTHE: But you turned it down, you said?

3 A. I turned it down. I'd been in situations like that once or  
4 twice before, and that's why I considered it an effort to influence  
5 me. It may well have been a good-faith effort to express gratitude,  
6 but I did not want to be put in that position.

7 I did tell him that if he wanted to award -- make such an award,  
8 he should make it to the members of US KDOM, not to the chief. And I  
9 told him that in the United States we had what we call presidential  
10 citations. In other words, the president awards -- presidential unit  
11 citations. I'd been in the Navy and aware that presidents award a  
12 unit for an outstanding action, and everybody gets a little ribbon  
13 showing that they had a -- I thought that that would have been an  
14 appropriate award. And it wouldn't have been perceived as an effort  
15 to influence me, and it would have been much fairer because the  
16 people who worked for me were the ones who made our effort ultimately  
17 successful.

18 JUDGE BARTHE: If I understood you correctly, you said the  
19 intention could have been good and honest, but you --

20 A. Yes.

21 JUDGE BARTHE: -- nevertheless decided the turn it down; is that  
22 right?

23 A. Yes.

24 JUDGE BARTHE: Thank you. And thank you very much for your  
25 patience so far. I now have a few more questions, unfortunately,

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1 about two incidents.

2 A. Sure.

3 JUDGE BARTHE: Just a few about two incidents, two specific  
4 incidents that you also mentioned in your SPO statement. And these  
5 incidents were described or are described in paragraphs 115 to 122.

6 And I would like to ask Madam Court Officer to please go into  
7 private session for the protection of witnesses.

8 [Private session]

9 [Private session text removed]

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7 [Open session]

8 THE COURT OFFICER: Your Honours, we're in public session.

9 JUDGE METTRAUX: Thank you.

10 And just to situate yourself, Mr. Byrnes. All of my questions  
11 will focus on your involvement, your personal or collective  
12 involvement in the release of KLA detainees.

13 By my account, you were involved in seven incidents of KLA  
14 detainees being released to your custody, and I'll list them in  
15 chronological order so that, again, we situate ourselves. There was  
16 the 13 or 14 parliamentarians in Qirez. There were the two Tanjug  
17 journalists, Mr. Dobricic and Radosevic. There was then the LDK  
18 activists, Mr. Desku and Kastrati. Number four, there was the case  
19 of the police inspector, Goran Zbilic. There was the case of the  
20 exchange against nine prisoners or detainees. Under number six,  
21 there were the five elderly Serbs. And under seven, I have the  
22 woodcutters, the two Savelic brothers.

23 Now, my first question for you: Was there any other instance  
24 where you were personally involved in securing the release of someone  
25 detained by the KLA?

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1 A. I can't recall another incident.

2 JUDGE METTRAUX: Now, these seven incidents I've listed, would  
3 you agree that they covered various zones and areas of Kosovo -  
4 Drenica, Llap, Prizren, Shala, Nerodime, Malisheve, and Pashtrik? Do  
5 you agree?

6 A. Yeah, I -- I think so. I don't have the list in front of me,  
7 but, yeah, I think you're right.

8 JUDGE METTRAUX: Well, we'll go back to them individually --

9 A. Sure, okay.

10 JUDGE METTRAUX: -- if that's a reassurance. And you agree that  
11 these seven cases cover a period of approximately six to seven months  
12 between the end of September 1998 to some time in late February 1999  
13 or early March 1999?

14 A. Yes.

15 JUDGE METTRAUX: Now, turning to the first of these incidents in  
16 chronological order, the case of Qirez. Do you recall being told  
17 that Agim Krasniqi and Gjergj Dedaj had been interrogated and accused  
18 of treason? Do you remember?

19 A. Yes.

20 JUDGE METTRAUX: And do you recall who told you that? Is it  
21 fair to say that it came from Mr. Dedaj and/or Mr. Krasniqi?

22 A. Yes.

23 JUDGE METTRAUX: Are you aware of either of these individuals  
24 engaging in any form of treasonous activity?

25 A. You'd have to define what -- you'd have to define "treasonous

1 activity." But from -- that was a -- that was a UCK accusation. But  
2 from my standpoint, no, they were engaged in what we would consider  
3 normal political activity. They were promoting their political  
4 parties.

5 JUDGE METTRAUX: And you might have answered my next question  
6 when Judge Barthe asked you this, but what did you understand to be  
7 the real reasons or the real reason for the detention and, you were  
8 told, the beatings of these individuals?

9 A. In the first place, UCK never -- never told us what their  
10 reasons were for detaining them that I -- that I recall. I think it  
11 was -- it was part of the growing political conflict between the UCK  
12 and the LDK, and the UCK was trying to spread its influence into  
13 these areas.

14 JUDGE METTRAUX: Now, you've told us in your statement - and  
15 that's P01066 at paragraph 105 - that you had contacted the KLA  
16 leadership in an effort to secure the release of these individuals.  
17 Can you recall today who you contacted for that purpose?

18 A. We're talking about the 13 parliamentarians?

19 JUDGE METTRAUX: Yes, sir.

20 A. I think it was Sokol Bashota because he was basically our go-to  
21 contact.

22 JUDGE METTRAUX: And your statement - it's paragraph 107 -  
23 suggests that you were called back by someone of the KLA,  
24 quote/unquote, who told you that the parliamentarians would be  
25 released. Do you recall that?

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1 A. I do.

2 JUDGE METTRAUX: And do you recall who called you back to tell  
3 you that?

4 A. I don't.

5 JUDGE METTRAUX: Is it safe to assume that this would have been  
6 a member of the troika, or could it have been someone else?

7 A. It could have been somebody else.

8 JUDGE METTRAUX: Now, on Monday you were asked about  
9 informations you received from Agim Krasniqi and Gjergj Dedaj when  
10 you met with them, you said, a few days after their release. Do you  
11 recall these questions?

12 A. They were my questions or their?

13 JUDGE METTRAUX: They were counsel's questions asking you about  
14 these meetings with Mr. Krasniqi and Dedaj shortly after their  
15 release. Do you recall these questions?

16 A. These were questions I asked? I'm sorry.

17 JUDGE METTRAUX: No, it's -- I'm just asking you whether you  
18 recall being asked about this by counsel for the Defence earlier this  
19 week.

20 A. Yes, I was. I -- yes, I was.

21 JUDGE METTRAUX: Now, these meetings that you had shortly after  
22 the release of Mr. Krasniqi and Dedaj, is that when Mr. Dedaj told  
23 you that he had been beaten up and that he told you that Mr. Thaci  
24 had been in charge of the operation? Is that during these particular  
25 meetings?

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1 A. Yes.

2 JUDGE METTRAUX: And is that also during these meetings that  
3 Mr. Krasniqi told you that he had been, I think the expression was,  
4 roughened up and interrogated by Mr. Thaci?

5 A. That was Agim Krasniqi and that's what he told me.

6 JUDGE METTRAUX: Now, I don't want to put words in your mouth,  
7 but you were asked about your calendar or the agenda in which you  
8 kept your meetings, and you had started giving an answer, and I want  
9 to be sure that the transcript of this week picked up all that you  
10 said.

11 My question is this: Do you consider this agenda to be an  
12 exhaustive list of all of your meetings, or do you accept the  
13 possibility that some of the meetings you had were not recorded in  
14 that document?

15 A. The latter.

16 JUDGE METTRAUX: Then something you said during your proofing  
17 session earlier this week with the Prosecutor is that when you met  
18 Mr. Dedaj shortly after his release, he was afraid of retribution  
19 from the KLA. Do you recall saying that?

20 A. Yes.

21 JUDGE METTRAUX: Did he explain to you why?

22 A. He did not want to be beaten again.

23 JUDGE METTRAUX: Now, you also said that according to -- well,  
24 your explanation or a statement you made in your statement was that  
25 you understood this to mean that Mr. Dedaj wanted to, and I quote,

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1 "stay alive." Can you explain what you meant by this?

2 A. Basically, he did not want an encore of that experience.

3 JUDGE METTRAUX: With members of the KLA leadership?

4 A. With members of the UCK.

5 JUDGE METTRAUX: And you also said that according to  
6 Mr. Krasniqi, after the conflict Mr. Thaci apologised to him for what  
7 had happened, and I think you said this occurred after the conflict.  
8 Can you tell us in what circumstances Mr. Krasniqi told you that?

9 A. No, I don't -- I -- I just remember it occurred after the --  
10 after we were back in Kosovo and the -- after the Kumanovo Agreement  
11 and we were back in Kosovo.

12 JUDGE METTRAUX: And just as a matter of clarification, can you  
13 confirm that Agim Krasniqi was a close associate of President Rugova;  
14 yes?

15 A. Yes.

16 JUDGE METTRAUX: Now, I want to show you a couple of documents  
17 that pertain to this incident and ask you a few questions about it.  
18 The first one is Exhibit P158, and if we could please bring it up.  
19 Thank you. And in the English version, that will be the second page  
20 please. And in the Albanian version to the right. Thank you.

21 Can you please, sir, acquaint yourself with the second half of  
22 the page with the title "Press Release ...". Can you see that?

23 A. I can.

24 JUDGE METTRAUX: I'll give you a second to read it.

25 A. I've read it.

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1 JUDGE METTRAUX: So as you can see from the document, it  
2 purports to be a press release of the military police directorate of  
3 the KLA. It's dated 23 September 1998. And it was published in  
4 Kosovo newspaper *Zeri i Kosoves* on 1 October 1998. What I want you  
5 to focus in particular on is the first sentence in that document  
6 which says:

7 "Based on information from the KLA Intelligence Service on  
8 20 September 1998 at about 12:15, the KLA ... police arrested 13  
9 syndicalists, 'institutionalist' party representatives in the village  
10 of Qirez, Drenica, for their divisive, partisan, schismatic,  
11 institutionalist, anti-liberation war propaganda for handing over  
12 weapons and for a temporary solution of Kosovo's political status  
13 within Serbia that they had been conducting on the ground."

14 Now, first, are you familiar with this document? Had you seen  
15 it before?

16 A. This is the first time.

17 JUDGE METTRAUX: My first question is what effect, if any, would  
18 accusations of -- suggestions of divisive, partisanship, schismatic,  
19 institutionalist, and so on and so forth, have on those concerned, if  
20 you can tell?

21 A. What effect on who?

22 JUDGE METTRAUX: On the people who are subject to those  
23 accusations. So in this case, the 13 parliamentarians.

24 A. Frankly, you'd have to ask them. I had no idea. I'm sure they  
25 wouldn't have welcomed it.



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1 JUDGE METTRAUX: There's another document, and I'll cite it  
2 rather than show it to accelerate things. It's Exhibit P304. It's a  
3 statement by the military police directorate of the KLA of 4 November  
4 1998, published in *Koha Ditore*, and it pertains again to this  
5 incident.

6 And it says that:

7 "The Directorate of the UCK Intelligence Service possesses data  
8 about their activities," talking of the parliamentarians, "against  
9 the UCK's liberation struggle."

10 And it says:

11 "These persons have spread propaganda for the surrender of  
12 weapons in collusion with the collaborationists Selman Binici from  
13 the village of Baje and Ramiz Hoxha from Bellanice, who have both  
14 been executed from the UCK, and are in ongoing cooperation with LDK  
15 Presidium ... Agim Krasniqi, known to the UCK Intelligence Service as  
16 an agent of covert operations against the UCK and the initiator of a  
17 kind of policy of autonomy for Kosova."

18 Now, I'll ask you the same question. In your experience of  
19 Kosovo and the tensions you've described at the time, what if any  
20 effect do you think these sorts of accusations would have had on  
21 those concerned? In other words, the parliamentarians that had just  
22 been released.

23 A. I think they would have felt threatened by this.

24 JUDGE METTRAUX: And is that consistent --

25 A. These kinds of accusations.

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1 JUDGE METTRAUX: Is that consistent with what Mr. Dedaj told you  
2 about his concern about retribution?

3 A. Yes.

4 JUDGE METTRAUX: Thank you. And, again, thank you for your  
5 patience. I will see you in the morning.

6 THE WITNESS: Thank you. You're welcome.

7 PRESIDING JUDGE SMITH: Thank you, Mr. Byrnes. We are finished  
8 for today, and we will see you again tomorrow.

9 THE WITNESS: What time?

10 PRESIDING JUDGE SMITH: I'm not making any promises.  
11 Does anybody have an objection to starting at 10.00 tomorrow?

12 THE WITNESS: Good.

13 PRESIDING JUDGE SMITH: You were convincing in your request, so  
14 we will see you at 10.00 tomorrow.

15 THE WITNESS: Super.

16 PRESIDING JUDGE SMITH: To continue --

17 THE WITNESS: My wife will be very pleased.

18 PRESIDING JUDGE SMITH: Yes, okay. Thank you very much.

19 THE WITNESS: Thank you.

20 PRESIDING JUDGE SMITH: Remember not to speak to anyone about  
21 your testimony outside of the courtroom, and you are excused for now.  
22 You may go with the Court Usher.

23 THE WITNESS: Thank you very much.

24 [The witness stands down]

25 PRESIDING JUDGE SMITH: We are adjourned until 10.00 a.m.

1 tomorrow.

2 --- Whereupon the hearing adjourned at 4.32 p.m.

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