

Tuesday, 18 October 2011

(10.15 am)

Discussion re housekeeping

MR SUMPTION: My Lady, can I just take up the last words of your Ladyship yesterday evening.

MRS JUSTICE GLOSTER: Yes.

MR SUMPTION: Can I hand up the documents I was referring to when I spoke about assurances that we have sought.

(Handed)

Just to take your Ladyship very quickly to this, we originally made enquiries about the position as a result of the disclosure of the agreement relating to the Le Bourget tape. In the first letter your Ladyship will see that at paragraph 1.6 on page 2 we asked for confirmation:

"... whether or not Mr Berezovsky had paid for any further evidence. If so, please identify what the evidence is and the nature of the payment promised, including whether it is contingent on his success."

MRS JUSTICE GLOSTER: Yes. I suppose the words "paid for any further evidence" might be construed as ambiguous but there we go.

MR SUMPTION: That is right, but your Ladyship will see that further up we referred to 11.07 of the Solicitors Code of Conduct and that, which is one of the last documents

in the clip, provides:

"You must not make or offer to make payments to a witness dependent upon the nature of the evidence given or upon the outcome of the case."

MRS JUSTICE GLOSTER: Yes. So the second limb, you would say, is engaged or might be.

MR SUMPTION: Indeed. There was subsequently an application supported by a witness statement of Mr Larizadeh which refers to 11.07 of the Solicitors Code of Conduct and the application was for an order in the terms of 2.5 of the draft that follows:

"... full details of any payments made by the claimant for evidence and/or to potential witnesses."

That application we did not press as a result of a witness statement from Mr Hastings which follows in which, on the last page -- much of this is concerned with the tape supplier, but on the last page Mr Hastings says at (e):

"I can confirm that no other payments have been made by Mr Berezovsky for evidence in these proceedings."

And at (f):

"Finally, Mr Berezovsky has agreed, in line with the rules set out in the CPR, to compensate certain witnesses for their time lost in assisting him with the preparation of witness statements to be served in due

course to support his case and the provision of conduct money in the event that they are called to give evidence."

On 13 July, just before the extract from the Code of Conduct, in response to an enquiry from us, we were told by Addleshaws:

"We confirm that the position set out in paragraphs 39(e) and (f) of the fifth witness statement of Mark Hastings remains correct."

We have no doubt that in the light of the rule of the Code of Conduct, Addleshaws themselves have not been involved in the payment of these witnesses. We have, however, written to them in order to enquire, first of all, how these statements came to be made and what steps were taken, particularly with Mr Berezovsky, to verify that the statements made by Addleshaws were accurate; and secondly, how it has proved possible for Mr Lindley, who is a practising solicitor, actually to take a contingency payment himself.

We will obviously report further on the outcome of that correspondence.

MRS JUSTICE GLOSTER: Yes. Thank you.

Mr Rabinowitz, as and when Addleshaws respond to the letter, this may be something I'll need to be referred to --

MR RABINOWITZ: I understand, my Lady.

MRS JUSTICE GLOSTER: -- at a later date.

MR RABINOWITZ: Indeed.

MRS JUSTICE GLOSTER: Thank you.

Yes, Mr Rabinowitz.

MR RABINOWITZ: My Lady, we call the next witness, who is  
Mr Nikolai Glushkov, please.

MR NIKOLAI GLUSHKOV (sworn)

MRS JUSTICE GLOSTER: Mr Glushkov, please sit down if you  
would like to but if at any time you want to stand up,  
please feel free to stand.

THE WITNESS: Thank you, my Lady.

Examination-in-chief by MR RABINOWITZ

MR RABINOWITZ: Good morning, Mr Glushkov.

A. Good morning.

Q. Before we begin, can you confirm that you don't have  
with you a mobile phone or any other electronic  
communication device?

A. I confirm.

Q. You have in front of you bundle D2. Can you open that  
at tab 13, please D2/13/1. It's the first tab. Do  
you have in front of you a document entitled "Witness  
Statement of Nikolai Alexeevich Glushkov"?

A. Yes, "Amended Witness Statement".

Q. That's right. If you go to page 53 of the bundle, so in

the bottom right-hand corner there's a number 53 --

A. Yes.

Q. -- you see, if you come back a page, do you see a signature there?

A. That's my signature and I put it on exactly the same piece of paper but not yellow but white.

Q. All right, thank you for that.

I understand that there are some corrections that you wish to make to this statement. Can I ask you first, please, to go to page 53 of the bundle D2/13/53. It's page 52 of the statement itself. It's the page we were looking at with your signature.

A. Yes.

Q. Come back a page, please. Now, paragraph 255, as I understand it, is a paragraph that you want to make a correction to.

My Lady, I think the position is this has been changed on the Magnum version but not on the hard copy.

MRS JUSTICE GLOSTER: Right.

MR RABINOWITZ: Mr Glushkov, you should have in front of you a piece of paper, just to your right, "Correction to Nikolai Glushkov's First Witness Statement". Do you see that?

A. Yes.

Q. And is it right that the correction you have made to

paragraph 255 is shown in this document?

A. Yes, it is correct.

Q. Now, Mr Glushkov, I understand that there is another correction that you wanted to make. Can you go, please, to page 25 of the bundle D2/13/25. Now, at paragraph 121 you say:

"Boris was not involved in Aeroflot (either as a director, shareholder" --

A. It's 24, page 24.

Q. Okay. It's 25 of the bundle, page 24 of the witness statement. Do you see at paragraph 121 you say:

"Boris was not involved in Aeroflot (either as a director, shareholder, employee or otherwise)."

Is that a sentence that you wish to correct in any way?

A. Yes. My Lady, may I give you some explanations to that effect?

MRS JUSTICE GLOSTER: Yes, please.

A. Actually after Boris Berezovsky provide -- that was my recollection and after Boris Berezovsky gave evidence here, I was requested by my solicitors whether I have any trace of the registry of Aeroflot. I said that I don't know but I will try to find out and I found it only last Sunday -- actually I have the bundle of files much greater than you have here in this courtroom at my

place, and I found extract. It was located in volume 93 of the materials of the case -- of the criminal case against me in Russia.

Unfortunately it's just the only extract that I have and definitely they confirm that I was wrong in this statement that Mr Berezovsky was a shareholder of Aeroflot.

MR RABINOWITZ: Can you explain in which years?

A. In 1996 this register shows that Mr Berezovsky was, through Consolidated Bank, 1996 through -- he was a shareholder of 0.109 per cent of Aeroflot. Mind you, my Lady, this is not a small share; at that time it was number ten shareholder in Aeroflot.

Later on -- and I think that's where Mr Shvidler was telling false statement -- it was acquired together with other shares by Laren Trading, a company of Roman Abramovich. But he acquired not only this share but also additional shares of Aeroflot, thus increasing the shareholding in Aeroflot to 2 per cent, which disappeared somehow in 1999.

Q. That's 1996. Can you say whether that shareholding was still there in any other year?

A. I couldn't say that. I couldn't say that. That's what I saw on Sunday and I sent these documents to Addleshaws because I found them.

MR RABINOWITZ: I can tell my learned friend we have  
a Russian version only of the share register --

THE WITNESS: But I can give comments to that version.

MR RABINOWITZ: -- which we got late yesterday afternoon.  
I'm happy to show my learned friend.

MRS JUSTICE GLOSTER: Perhaps you could take that --  
Mr Sumption, if there's any disagreement about access to  
that...

MR SUMPTION: Yes.

MRS JUSTICE GLOSTER: Presumably you would like a copy right  
now?

MR SUMPTION: Certainly I shall not be able to make much use  
of the Russian version, I'm afraid. We had absolutely  
no notice of a correction to 121 and that is not the  
normal practice in dealing with witness statements; the  
normal practice is to give notice when a change is to be  
made.

MRS JUSTICE GLOSTER: Well, I don't know why you weren't  
told yesterday.

MR SUMPTION: I was not. We will look at that document.  
It's unlikely to be material because, as I understand  
it, the shareholding had gone by 1999.

MRS JUSTICE GLOSTER: Yes, I see.

MR SUMPTION: In those circumstances it probably isn't going  
to be pursued, but we better have a copy of it.

MRS JUSTICE GLOSTER: Well, Mr Glushkov has been here; if he has to come back, he has to come back.

MR RABINOWITZ: Mr Glushkov, subject to that correction, can you confirm that your witness statement is true to the best of your knowledge and belief?

A. Subject to this correction, my statement is true to the best of my knowledge and belief.

MR RABINOWITZ: Can you wait there, please.

THE WITNESS: Thank you.

Cross-examination by MR SUMPTION

MR SUMPTION: Mr Glushkov, you have, I think, been a close personal friend and business colleague of Mr Berezovsky for many years. Is that true?

A. That was true. I was his first partner in his life and, as I consider, first his true partner, honest partner and trusted partner, and I can prove that with documents that I supplied to the Addleshaw Goddard.

Q. You are also -- is this right -- a strong supporter of Mr Berezovsky's political opposition to the present government in Russia; is that right?

A. Yes, that's true.

Q. When you left Russia for England in 2006, did you for a time live in Mr Berezovsky's house?

A. No. I lived in his house only for one night, the first night, and then I lived in apartment at -- near

Knightsbridge.

Q. Yes, I see. Did you, after your arrival in England, work for Mr Berezovsky?

A. Never in my life I worked for Mr Berezovsky or for anyone else apart from the state enterprises. I work only for myself.

Q. Right.

A. And I didn't work for Mr Berezovsky ever in my life.

Q. You worked, however, for companies which Mr Berezovsky controlled, did you not?

A. These were the companies where I was the shareholder as well.

Q. Yes. Did you have an office in Down Street after your arrival in England?

A. No. For time of my preparation of asylum I had a table allocated to me in one of the rooms in the office of Down Street due to convenience, because it's very close to the Ghersons office. But after the death of my other dear friend Badri, I stopped visiting this office and I don't even remember when I was there last time.

Q. Could I ask you to be given, please, bundle D2. It's the same bundle as your own witness statement is in, so you've probably got it. It's after flag 14, where you'll see a witness statement from a gentleman called Ian Patrick McKim D2/14/55.

A. Mm-hm.

Q. Now, you probably haven't seen this before --

A. No, I haven't seen it.

Q. -- but just to explain, Mr McKim was a solicitor who was engaged at certain stages on the preparation of Mr Berezovsky's case and in particular in certain meetings with Mr Patarkatsishvili.

If you look at paragraph 10 of this statement D2/14/57, he describes the process by which he looked into the facts and he said that:

"... [he] had access to Mr Stephenson at Carter Ruck, and to others including [Mr] Dubov, [Ms] Nosova and [yourself] who were assisting Mr Berezovsky with the claim."

Were you assisting Mr Berezovsky with the claim at any rate in 2007?

A. Yes, I was helping Mr Berezovsky in many things here in UK, but I never worked for him.

Q. Yes.

A. And I was never paid by Mr Berezovsky for this help.

Q. I see. So you had, you say, a table in Down Street?

A. Yes.

Q. The work that you did in relation to the present claim, was that done in Down Street?

A. I must definitely say, my Lady, that I don't even

remember when last time I was in Down Street.

MRS JUSTICE GLOSTER: Yes.

A. I would say that the last time that I remember, it was a few meetings after the death of Badri on 12 February where I visited this office with -- in -- and maybe on a couple of occasions on the birthdays of some of the employees there. But I never worked on this claim on the -- in the Down Street.

MR SUMPTION: You worked on it elsewhere; is that right?

A. No, this claim I was not involved at all; I was giving only evidence.

Q. Well, I understand that you accepted Mr McKim's statement that you were assisting Mr Berezovsky with his claim. What form did that assistance take?

A. At the beginning I was helping him to gather the facts and data.

Q. And when was that?

A. In 2007/2008 maybe, beginning. 2006 -- sorry, it started in 2006.

Q. And continued to 2008?

A. Yes, at the beginning, yes.

Q. Understood.

Did you also help him on other legal problems, for example his negotiations with the United Kingdom Inland Revenue?

A. No, not in negotiations, but I helped him definitely with -- in provision of two documents: one was provided by Ruslan Fomichev and the other from Joseph Kay, and only as a technical person, as a person who has relationship -- good relationship, as I understood at that time -- with both of them, with Ruslan and Joseph, and who were in agreeance to communicate with me and not with Boris.

Q. Did you help Mr Berezovsky in relation to the money-laundering enquiries of the Dutch public prosecutor?

A. No, I don't remember that.

Q. I see.

Have you received sums of money from Mr Berezovsky since your arrival in England?

A. I will tell you, I arrived here in England and my friends both Badri and Boris helped me, which is more -- it's legally confirmed and I have documents, it's the gift -- deed of gift. Officially it was provided by Badri but in fact I understood totally that it was the help from both of my friends.

Q. Now, do you have any arrangement with anybody under which you will stand to gain financially if Mr Berezovsky wins this action?

A. No.

Q. Mr Anatoly Motkin, is he a counsellor to Mr Berezovsky so far as you know?

A. No, I cannot comment that.

Q. You do not know anything about him?

A. No. No.

Q. Mr Motkin --

A. No, I know about Mr Motkin but I do not know whether he's helping Boris in this issue.

Q. I see. Mr Motkin we understand to be participating in the management of this litigation. Is that your understanding or do you not know anything about that?

A. No, I cannot say.

Q. I see.

Have you recently borrowed a large sum of money from Mr Motkin?

A. Yes.

Q. And is the terms of that loan in any way dependent on the outcome of this litigation?

A. No. I can provide the court, in case of need, both with the loan agreement and with the mortgage, because it was done against the mortgage of property.

Q. Understood.

Now, I would like to turn, please, to the circumstances of your arrest on 7 December 2000. You were represented, I think, in the criminal proceedings

in Moscow at that stage by Mr Borovkov. Is that right?

A. Yes.

Q. Could I ask you, please, to be given R(E)7/132/195 which I hope has by now been loaded up on to the Magnum system, but you'll be given a hard copy. What you are, I hope, looking at is the first page of Mr Borovkov's statement in your asylum proceedings in England.

A. Yes.

Q. I would like you just to confirm one or two points that he makes.

Could you turn to paragraph 31, please, which in the bundle numbering is R(E)7/132/209 --

A. I have it.

Q. You have it, thank you. Mr Borovkov is here providing some background information to your arrest and at paragraph 31 he says:

"I was due to attend the GPO..."

That's the Prosecutor's Office.

"... with Mr Glushkov on 7 December. Although it was not official, Mr Glushkov knew in advance that he was going to be detained on that occasion."

Now, that's correct, is it?

A. That's the opinion of Mr Borovkov.

Q. Is it correct?

A. The probability of me being arrest was high but even

higher was the probability that I would be killed on the way to the General Prosecutor's Office. That's why I had -- my Lady, may I give some details here? Because it's very important.

In fact I received the notification from two of my friends that there was a threat to my life on my visit to the General Prosecutor's Office on the day of 7th. That's why I had to rent a separate apartment -- in fact I was even told the way it would happen: I would be run over by a truck. And I had to rent an apartment through an intermediary and it's well known, I can provide even the exact address: it was in the Kutuzovsky Prospekt in the same house where the Puglachev's theatre is located. Mind you, Mr Sumption, I have fantastic memory: that's what I am famous for. In this house I spent the last night before I was arrested.

But I would like to make a difference between the -- being definite and being in the field of high probability. That's very essential. The probability was high, since it was announced on 13 November, but at the same time when I was giving interview to Kommersant I pointed out that I am sure that I will be some day arrested but it didn't happen until that time, and it happened -- I gave interview in November. So the probability was high, that's why I had to call my

lawyers, and I would have -- and I had to say that.

As it turned out, on 7 December I moved through a different route in a different car, arrived separately from my lawyer to the General Prosecutor's Office and that's how I reached there unnoticed. I entered the building without anyone even expecting me there.

Mr Borovkov joined me there, we entered the General Prosecutor's Office and then there was a turmoil. The turmoil insisted of the fact that they didn't know what to do with me.

MRS JUSTICE GLOSTER: Mr Glushkov, I'm going to stop you there because you're going to have a lot more answers to give, please.

MR SUMPTION: Mr Glushkov, could you please turn to 202 of your witness statement.

A. Of my...?

Q. Your witness statement.

A. My witness statement?

Q. Yes, your witness statement.

Paragraph 202, on page 43 of the bundle numbering D2/13/202.

A. I'll find it. Yes.

Q. Now, you've just referred to the Kommersant article and you refer to it here. In the second sentence on that paragraph you say:

"From then on, I knew I would be arrested and detained."

Is that true?

A. Yes.

Q. Could you look back --

A. But I never said that here or that on 7 December.

Q. Could you look back at Mr Borovkov's statement, please, and turn to paragraph 34 R(E)7/132/210.

A. Yes.

Q. "On 5 December..."

Mr Borovkov says:

"... (personally served on Mr Glushkov on [the 7th]), Investigator Filin issued a decree to select detention as the measure of restraint... The decision was taken on the same day as the decision to charge Mr Glushkov under Articles 159(2)(a), (b) and (c) and 159(3)."

So what Mr Borovkov is saying there is that on 5 December the decision was taken within the Prosecutor's Office to charge you and detain you. Do you accept that?

A. No. What is said here is completely different, legally different thing: that this decision was dated 5 December, which is completely different from the fact that it was signed on 5 December. The signing of this

order took place two hours while I was smoking and I know from my experience with General Prosecutor Office that they can date any documents any date whatsoever.

In fact, the decision -- from my point of view, the decision was taken there and then during two hours that I was waiting in between the first meeting with Prosecutor Filin and this decision being produced to me. We were waiting in the corridor smoking: I smoked half a pack of cigarettes waiting for this decision.

Q. Mr Glushkov, Mr Borovkov is saying that the decree was issued on 5 December and that the decision was taken on 5 December to charge you. Do you have any information which enables you to say that that is wrong?

A. In fact on many occasions, at least on 50 occasions during the course of court proceedings, I indicated that the documents of the General Prosecutor's Office were falsified, even the signatures were falsified, and that was proved by the expert reports prepared by expertise, independent experts.

Q. You're talking about other cases?

A. I am talking about this particular case.

Q. Would you look back at paragraph 31, please

R(E)7/132/209:

"On 6 December..."

This is Mr Borovkov's statement:

"... I met Mr Glushkov, together with my colleague, the lawyer Semyon Aria. There were others present at the same time, including the Kommersant journalist, Renata Yambayeva. Mr Glushkov told me that he knew that he would be arrested the following day."

Now, is that true?

A. That was my supposition, yes.

Q. Well, it's not supposition as expressed here; it's a recollection of what you said to him.

A. No, the recollection is wrong because I went to the General Prosecutor's Office even without the simplest necessary things that I would have taken if I knew that for sure. I went there in one suit, without anything that was of necessity. I was dressed like that -- I'm sorry, my Lady, without bowtie but with an ordinary tie. Bowties I am wearing here at this particular occasion because I like being present in this audience and I want to be in good state to hear other people's lie in front of this court.

Q. Mr Glushkov, you did tell Mr Borovkov on 6 December, didn't you, that you knew that you would be arrested on the following day?

A. No matter how many times you will repeat this question, Mr Sumption, my answer will be still the same. I will never give you the answer that you will require from me.

I will give you only truthful answer because I gave a vow to say truth and nothing but the truth.

Q. Would you please be given bundle R(E)7, flag 1

R(E)7/127/1. This is your own account of the position as at 6 December. It appears in your witness statement in support of your application for asylum.

Now, did you regard it as important to give truthful statements --

A. Definitely.

Q. -- in this document? Would you turn to paragraph 79, please, page 26 of the bundle R(E)7/127/26:

"Immediately after I left the hospital (before the required time to remove the stitches), I was summoned to the General Prosecutor's Office where I was arrested on 7 December. In order to avoid 'accidents' I stayed in separate rented apartments on 5 and 6 December. Knowing that I would be arrested on 7 December, I had a meeting with my lawyers the day before and I also met the correspondent Renata Yambayeva of Kommersant whom I told to cancel the press conference that we had planned for the following next week."

Is that statement true?

A. Yes, definitely, and it doesn't contradict my previous statement.

Q. So you did know that you were going to be arrested on

7 December?

A. I'll repeat once again: the probability was high.

Q. Mr Glushkov, you're simply fencing with the facts. You knew perfectly well you were going to be arrested?

A. Mr Sumption, I'm not fencing with -- I'm not being fenced with something. I am telling you my recollection of the facts and you cannot substitute probability with the fact. The fact is arrested. The probability of being arrested is a different thing.

Q. Now, you have undergone two trials in Moscow, the first between 2002 and 2004 and the second -- is this right -- between 2004 and 2006?

A. That is correct.

Q. Now, was the result of the first trial that you were convicted of abuse of your authority as deputy director general of Aeroflot?

A. That's it.

Q. And of failing to repatriate Aeroflot foreign currency to Russia?

A. That is correct.

Q. And of attempting to escape from custody?

A. That is also true.

Q. You were acquitted at that trial of money-laundering?

A. Yes.

Q. Was the result of the second trial that you were

reconvicted of failing to repatriate foreign currency  
and also convicted of theft from Aeroflot?

A. No.

Q. What do you say the result of the second trial was?

A. You see, Mr Sumption, I'm not going to indulge with you  
in the legal argument on the correct statement but the  
accusation and conviction never had relate -- was  
related to theft, which is Article Number 158 of the  
Criminal Code of Russian Federation, but of the  
Article 159, which is fraud, of the Criminal Code of  
Russian Federation. If the Criminal Code of Russian  
Federation makes a difference between these two things,  
I make the difference as well.

Q. I'm perfectly happy with the word "fraud" if you would  
prefer that.

A. Yes.

Q. Understood. So were you convicted at the end of the  
second trial of fraud against Aeroflot?

A. Exactly.

Q. Right. And also -- is this right -- of failing to  
repatriate foreign currency?

A. That's correct.

Q. Now, is it right that a number of other persons have  
been convicted in Russia of offences concerning the same  
transactions involving Aeroflot?

A. That's correct.

Q. Can you tell us who they are?

A. They were Mrs Kryzhevskaya, Mr Krasnenker and Mr Sheinin.

Q. What about Ms Dubanskaya: was she convicted of offences as well?

A. No.

Q. She was not. Okay, three other people then were convicted of offences relating to these transactions. Can you confirm that those three persons were people of no political significance: they weren't politicians or engaged in politics?

A. No.

Q. That's correct, is it?

A. Yes.

Q. And --

A. And they were never in jail.

Q. And they also -- is this right -- had no connection with Mr Berezovsky?

A. No.

Q. Sorry, when you say "no", are you confirming that they had no connection with Mr Berezovsky?

A. To the best of my knowledge.

Q. Understood.

A. Apart from Mr Krasnenker, who worked in Logovaz.

- Q. Now, I fully understand that you say you were wrongly convicted on all of these charges and that your two trials in Russia were unfair.
- A. That's correct.
- Q. I'm not going to go into that aspect of matters. What I would like to ask you is this: do you go so far as to say that there wasn't even a case worthy of investigation by the public prosecutor into the transactions involving Aeroflot?
- A. Which public prosecution?
- Q. The one in Russia. Do you say that there was not even a case which was worthy of investigation by the prosecutor?
- A. I think that it was instigated and I know exactly who instigated it and when, and I exactly relate this in my asylum claim statements and in all documents related to that. I was not hiding anything, not anything related -- actually all the materials of the case, my Lady, were provided to asylum tribunal, to the High Court here and to all the other instances that requested it, and I faced a fair trial in asylum court and I was giving evidence for quite a number of days in this respect.
- Q. Mr Glushkov, I think you have missed the point of my question. I understand that you say -- and I'm not

going to challenge you on this -- that your trial was unfair and that you should not have been convicted.

A. My Lady, may, before I answer this question, I can answer this --

MRS JUSTICE GLOSTER: Let him put the question first.

MR SUMPTION: I haven't asked you the question yet.

MRS JUSTICE GLOSTER: Just a second, Mr Sumption.

It's important, Mr Glushkov, that you listen to the question. If you then have an objection to it, or Mr Rabinowitz does, then Mr Rabinowitz can get up.

Put the question, Mr Sumption, please.

MR SUMPTION: Now, what I would like you to tell us is this:

do you say that there wasn't even anything suspicious enough to warrant being investigated by the public prosecutor?

A. Once again, my Lady, to answer to this question I have to give you explanations. If you look at my witness statements, there are quite a number of pages crossed out: that was done at the request of the other side that said that these events have nothing to do with this particular case. I did that at this request because my lawyers said that that side is correct.

Now Mr Sumption is asking me a question that deals exactly with those crossed-out parts and if he insists on those questions, I will have to ask your Ladyship to

reinstate those crossed-out pages.

MRS JUSTICE GLOSTER: Okay. Well, just answer the question first.

A. I think that they have nothing to do -- this prosecution had nothing to do with the necessity to prosecute me, which is more -- as was recognised by the High Court here, it was not prosecution but persecution.

MR SUMPTION: Mr Glushkov, the parts that you have deleted related to the question who was responsible for having you arrested, and that is not the question that I am asking you about. I am interested in the transactions about which you were subsequently tried in Moscow. That's what I'm interested in.

A. The transactions were --

Q. I haven't asked the question yet.

A. Okay.

Q. What I want you to tell us is: do you say that there was not even something sufficiently suspicious about those transactions to be worth investigating by a prosecutor? Do you understand the point that I am making?

A. Yes, I understand the point --

Q. I'm not asking you who got you arrested. I'm just asking you: do you accept that there were sufficiently suspicious circumstances to warrant being investigated?

A. And the investigation took place -- there were, and the

investigation took place in 1997 and 1998 and all the accusations were dropped out in 1998, in June 1998, by the general prosecutors.

My Lady, what Mr Sumption is saying is the new renewal of those accusations that started in 1999 and that has direct relationship to who caused those renewals.

MRS JUSTICE GLOSTER: Okay. So can I just summarise, Mr Glushkov, and if I've got it wrong, tell me.

You accept that there were circumstances of such a nature that justified the initial investigation?

A. Yes.

MRS JUSTICE GLOSTER: Once that investigation was dropped, you say there were no circumstances justifying the repeated investigation or the continued investigation?

A. Exactly. Exactly, my Lady.

MR SUMPTION: I understand.

The matters investigated on the second occasion, in December 2000, were they the same matters as the matters in respect of which the investigation had previously been dropped?

A. No, but those matters were never dropped as well.

Q. I think you may have misunderstood my question, Mr Glushkov. What you've just confirmed is that you accept that there were matters that were worthy of

investigation on the earlier occasion but there was no justification for reopening the investigation later.

All that I asked you is this: were the matters that were being investigated the same on the two occasions?

A. No.

Q. What was the difference?

A. The difference that fraud appeared.

Q. Sorry, the difference...?

A. Fraud appeared.

Q. Fraud appeared --

A. The accusation in fraud.

Q. -- on the second occasion?

A. On the second occasion, yes.

Q. And what had appeared on the first occasion?

A. Illegal commercial activity and money-laundering.

Q. Right.

Now, if you would just turn to paragraph 78 of your witness statement D2/13/17, Mr Glushkov, you give some evidence here about a company called Andava.

A. Mm-hm.

Q. Now, Andava was a Swiss company, was it not?

A. Yes.

Q. And I think you tell us that it was originally established in 1994 as a joint venture between Andre and AVVA International and was connected with a project to

manufacture a good-value popular car?

A. Exactly.

Q. Now, that venture had come to an end, hadn't it, by the end of 1995?

A. Didn't come to an end but it was slowly dying, let's put it this way.

Q. And is it right that at the end of 1995 Andava had effectively no business?

A. No, it had business.

Q. What was its business at the end of 1999?

A. It had some business with Avtovaz, with Transaero, with other companies.

Q. No, I'm not talking about afterwards; I'm asking you about the position at the end of 1995?

A. I'm saying about the end of 1995.

Q. I see. Well, now, in September 1996 I think you tell us that Andava became a wholly owned subsidiary of Andava Holdings SA, a Luxembourg company?

A. Yes.

Q. And before that transaction occurred, were you and Mr Berezovsky shareholders in Andava?

A. Yes.

Q. And did you and Mr Berezovsky then, in September 1996, exchange your shares in Andava for shares in Andava Holdings?

A. We transferred those shares to Andava Holdings.

Q. Yes, and you took shares in Andava Holdings?

A. That is the difficult situation that I'm not yet definite about that.

Q. Well --

A. Yes, but there is a statement like that. Actually the registry indicates that I was the shareholder of Andava Holding and that is correct.

Q. Yes. I mean, you appear to confirm that --

A. And I stopped being shareholder officially of Andava Holding in 1997, yes.

Q. Right.

Well, if you look at your witness statement at paragraph 83 D2/13/18, what you say is that:

"On 18 June 1997, Boris and I transferred our shares in Andava to Andava Holding SA, and obtained shares in that holding company."

I assume that that's true?

A. That's a formal registration that took place, yes.

Q. Right.

Now, were the directors of Andava in 1996 you, Mr Berezovsky and Mr Jenni?

A. Yes.

Q. And did you perform your duties as a director of Andava until June 1997?

A. Until June 1997, yes.

Q. And did you formally resign as a director of Andava in November 1997?

A. No, I submitted the -- I submitted my resignation in May but it was registered in November.

Q. I see.

Now, you became the first deputy director general of Aeroflot -- is this right -- in January 1996? I've taken that date from your witness statement.

A. Yes, that is correct.

Q. Is it right that one of the first things that you did was to cause Aeroflot to enter into a contract with Andava to manage its foreign currency holdings?

A. This is not correct because the first -- I've done many things that were first.

Q. One of the first things.

A. One of many things, Mr Sumption.

Q. Of course.

A. And one of them was this.

Q. Right. Now, did Andava begin to operate as Aeroflot's international treasury in April 1996?

A. No, it became operating as international treasury in May 1997 but it was -- it started holding the deposits for Aeroflot in -- at the end of May 1996.

Q. If you look at paragraph 132 of your witness statement

D2/13/29, you say that:

"Andava became Aeroflot's international treasury centre in April 1996."

Is that not right?

A. Yes, in a way, in a way, correct, but I give the correct definition.

Q. Yes, I see. Well, I'm not so much interested in the title or definitions. In substance that's what happened from April 1996 onwards, isn't it: it operated as Aeroflot's international treasury centre?

A. Not from -- yes, yes, let's put it this way.

Q. Now, Mr Jenni, in his witness statement, tells us that that was Andava's only business from that time onwards. Is that correct?

A. I think that if he says that, that's correct.

Q. Now, is this right: that as first deputy director general of Aeroflot you caused Aeroflot to contract with a company of which you were an active director and part-owner? Is that correct?

A. Yes.

Q. Would you accept that at the very least you had a significant conflict of interest?

A. Of which I reported to the board of directors and to the general manager.

Q. Yes. You had a --

A. And Central Bank.

Q. Yes. You had a significant conflict of interest. You may have reported it, but you did have that conflict, didn't you?

A. Yes.

Q. Now, you're obviously aware, I take it, that Mr Jenni, who was one of your fellow directors at Andava, was convicted in Switzerland of assisting you to act in criminal breach of your duties to Aeroflot?

A. No, this is not correct definition because -- in this case I would like to have this conviction in front of me because I know it almost by heart and I would like to have -- to draw attention, my Lady, to the statement of facts A and 1.5.3, where it is indicated the reason why I was involved in this accusation.

Q. Could you please turn to bundle H(A)97, which somebody will find for you. You need to turn to page 192, where the document starts H(A)97/192.

Is this the document that you referred to a moment ago when you said that you knew it by heart? We're looking at an English translation of it, which may not be the one that you looked at.

A. I think either I was given a wrong --

Q. Page 192.

A. Oh, sorry, sorry. Oh, yes.

Q. This is the document you were referring to, is it?

A. Yes.

Q. Understood.

Now, is it right that the charges against Mr Jenni related to the period between April 1996 and June 1997?

A. Mm-hm.

Q. And did it also relate to the system by which Andava paid foreign currency bills on behalf of Aeroflot?

A. Mind you, you're asking me the questions: my Lady, I must definitely draw the attention of High Court that I was never a party to those hearings --

Q. I understand.

A. -- and I was not even the witness to those hearings; which is more, I was not even invited to participate in those hearings, no matter what is said here, because I received no official invitation. But what you say is correct, judging from this document.

Q. Right.

Now, in the proceedings against Mr Jenni, is it right that the facts were substantially undisputed; the argument was about whether they were dishonest or not?

A. No, it is not correct statement and, my Lady, I must definitely say that Mr Jenni was finally accused as an assistant, accomplice, to the person -- that is myself -- that is convicted guilty of abuse of

authority, and that is exactly what he is convicted of. And the reason -- but mind you, I was never convicted of abuse of authority. And the reason why I was found guilty by the court, not being a party to this court, guilty of abuse of authority, is if you look at paragraph A of the facts of case. It's page 197 H(A)97/197. (Pause)

Q. Yes?

MRS JUSTICE GLOSTER: Yes. (Pause)

A. Here it's indicated the reason, the initial reason what was used by the Swiss court. It's four pages -- four lines above the end of the last page. It says:

"This verdict was also not appealed" --

MRS JUSTICE GLOSTER: Just a second. Are we on page 197, 198?

A. It's H(A)97/197. It's statement of facts of case, A.

MR SUMPTION: Right.

A. If you look at the line number four from the end, it starts with the in absentia:

"This verdict was also not appealed by the sentenced individuals."

And above that is written:

"The prosecutor's office appealed against this verdict; Nikolai Glushkov did not appeal."

Which is intentional untruth. I will tell you all

the parties appealed the decision of the court and judging based on this later -- and if Mr Sumption allows me, I will turn to the other page and we'll show that based on this assumption, the court made a judgment that as soon as Nikolai Glushkov didn't appeal against the first ruling of the court that made me guilty of the abuse of authority, I agreed with my guilt, of being guilty of abuse of authority. It's 1.5.3 here in the same decision of the court. And this is not true.

Which is more, by my information -- and I provided Mr Jenni with the copies of my appeal and appeals of all the parties -- these appeals were submitted to the court -- to the Swiss court and they had it at its disposal.

So this assumption is taken as an untrue assumption for basing me -- for sentencing me as an accused of a guilt that I was not accused of.

MRS JUSTICE GLOSTER: Yes.

MR SUMPTION: Mr Glushkov, what I'm concerned with is the facts which were found by the Swiss court, which I'm going to take you to.

Now, first of all, could you look, please, at page 224 H(A)97/224.

A. Mr Sumption, once again, I must definitely draw a fact that they are based on the wrong assumption.

Q. Mr Glushkov, let's just have a look at the facts and you can discuss the facts when we look at them.

First of all, I would like to establish with your assistance exactly what Mr Jenni was convicted of that related to you.

A. Mm-hm.

Q. At page 224, you will see a heading, 4.2.3:

"Aiding and abetting Nikolai Glushkov's neglect of duty by the accused."

And if you look two pages further on, you'll find the conclusion at 4.2.4, page 226 H(A)97/226:

"The accused..."

That's Mr Jenni.

"...is therefore to be found guilty of aiding and abetting unfaithful management."

Now, do you accept that Mr Jenni was convicted of aiding and abetting unfaithful management by you?

I know you don't agree, but do you accept that that's what the Swiss court convicted him of?

A. Yes, but I think that this conviction is wrong. You cannot accuse person of being guilty of aiding and abetting unfaithful management if the person who he is abetting and aiding was not accused and guilty of this crime.

Q. Would you please turn back to page 209 H(A)97/209,

where you'll find the basis on which I suggested to you a few minutes ago that the facts were not contested; it was only the implications.

A. Were not contested by whom?

Q. By Mr Jenni.

A. I'm afraid that I didn't have the chance to contest those facts.

Q. If you have a look at paragraph 2.1, the judgment says, second line of 2.1 -- well, start at the first line:

"The objective facts of the case, as described in the bill of indictment in relation to the documented contracts and business transactions, the firms and individuals involved and the movement of funds, are uncontested in respect of the essential points. The accused confirms that the relevant elements relating to the facts of the case are of fundamental importance and that the payments, especially those mentioned in Addendum 2 to the bill of indictment, are roughly correct."

If you then look at the next paragraph, that begins by saying:

"However, the assessment of the business transactions as making no business sense and thereby detrimental -- since incurring only costs for the civil claimant..."

That was Aeroflot.

"... which forms the basis of the indictment, is contested in full."

Now, what I suggest to you is that Mr Jenni did not contest the actual transactions; he simply disputed the suggestion that those transactions were artificial and unfaithful. Do you agree?

A. I can neither agree nor disagree with this because Mr Jenni is here and you have every possible chance to cross-examine him on this effect. I cannot be answerable for what Mr Jenni said or assumably said in court.

Q. Well, I'm not going to seek to make you answerable for what Mr Jenni said. That appears to have been the position, what the issues were, according to the Swiss court.

A. I do not agree with this decision of Swiss court.

Q. Well, now --

A. And no court can accuse a person that is not tried in this court and rule it guilty.

Q. Let's have a look at what the transactions were and I'm going to ask you whether you accept that such transactions occurred.

The terms -- correct me if I'm wrong -- on which Andava settled foreign currency bills were that it paid

to the supplier and then charged Aeroflot taking payments out of the foreign currency balances under its control; is that correct?

A. No, that is not correct.

Q. Right. In what --

A. Which is more, what is correct is described in the -- in 1848 in the very famous hearing here in London in House of Lords by Lord Cottenham when he described what sort of relationship becomes -- and it's valid since then in every financial institution between the client and the financial institution. It's the famous case of *Foley v Hill*. So I was teaching this in the university. So what do you want to tell me?

Q. Mr Glushkov, I'm not trying to debate law with you. Lord Cottenham unfortunately died about 130 years before the facts of this case and I'm asking you about the facts of this case. What I want to explore with you is the transactions which led to Mr Jenni's conviction and your involvement in them.

Now, do you accept that Andava settled foreign currency bills on behalf of Aeroflot?

A. The whole statement is wrong because it describes the whole of the transaction wrongly. Which is more, the court didn't accept the expert report of independent expert provided by Mr Jenni and you will have a chance

to question him about that. But I do not agree with anything that is said in this report.

Which is more, I do not agree with the report of expert Bardola who prepared the report for this because it was not based on the Russian accounting system and whereas it made the conclusions on Russian accounting system.

Q. Well, Mr Glushkov, the way I'm going to deal with this is as follows: I am going to summarise what I say the Swiss judge found. Now --

MRS JUSTICE GLOSTER: Just before you do that, Mr Sumption, could you just explain to me, if you don't agree with how Mr Sumption summarised the transactions, what were the terms on which Andava settled foreign currency bills, if it did so at all? Just explain to me the system, very shortly, please.

A. Then -- no, no, it cannot be done very shortly. I can spend a day on that and I am prepared, my Lady, to do that.

MRS JUSTICE GLOSTER: Well then don't answer the question.

Mr Sumption, you continue please.

A. But I can -- my Lady --

MRS JUSTICE GLOSTER: No, I don't want to have a day on it. All I wanted was a headline answer summary. If that's not possible --

A. You see, we had the relationship in rubles, Aeroflot had relationship in rubles, and that's the currency that was to be devalued and it devalued in 1998, and we had the deposits in hard currency. But that's how the whole thing -- the payments were done via the agreements and the promissory notes in rubles and that took the account of the exchange rate difference.

And that's why I say that the Russian accounting accounts, the grand livre, the big book of accounting book, was to be delivered to Bardola. Russian Prosecutor's Office refuse to offer this book to the expert, Swiss expert, and that's why --

MRS JUSTICE GLOSTER: Just stop there, Mr Glushkov, please.

Scroll back, if you can, to [draft] page 39 on the LiveNote screen and see Mr Sumption's summary. I'll read it to you again. It's [draft] page 39, line 1. I just want to understand why you say Mr Sumption's summary of the terms on which Andava settled foreign currency bills is a wrong summary.

A. Because it's wrong in everything.

MRS JUSTICE GLOSTER: Okay. Well, you just say in six lines what were the terms on which Andava settled foreign currency bills.

A. My Lady, then I will say the following.

Andava settled the debts that Aeroflot had in front

of United Financial Corporation. The debts of Aeroflot before United Financial Corporation were made in rubles and there were promissory notes issued in rubles for this debt. Andava then paid these promissory notes at the exchange rate of that time -- that's the essence of this transaction -- but it paid it in hard currency. And that's why the exchange difference was playing the trick -- you understand what I mean? It was the sort of exchange rate -- it was insurance against the exchange rate drop of ruble. That's how it was projected.

Whatever is said in the Bardola report, whatever is said now in the statement of Mr Sumption, does not correspond the truth.

MRS JUSTICE GLOSTER: Thank you.

Go on, Mr Sumption, please.

MR SUMPTION: Now, the result of the transactions was that the supplier of services, the hard currency supplier of services, got paid out of the Aeroflot foreign currency treasury; wasn't that right?

A. That is not correct. Once again, Mr Sumption -- you see, my Lady, I'm not going to indulge into that very famous speech of Lord Cottenham who died, helpfully, 138 years ago, but definitely that's the basis of the whole thing. When you go to the bank you don't say that and you don't say that you are being paid out of your

funds; you are being paid out of the bank's funds.

So to be on the legally correct terms, what you are saying is not correct, Mr Sumption.

Q. When Andava charged Aeroflot, it added, during the first part of the period covered by this judgment, interest at the rate of 65 per cent for late payment, didn't it?

A. Mr Sumption, it's not correct everything. Andava didn't add anything. Why do we discuss this? It has nothing to do with me apart from the fact that it accused me of something. I was -- it made me guilty of something I was never guilty before.

Q. And in the second part of the period Andava charged a flat rate penalty of 15 per cent on the total amount of every item settled by Aeroflot more than 150 days late; that's right too, isn't it?

A. And this is not right too.

Q. Now, the Swiss court held, did they not, that those were the transactions that occurred and that they had no rational purpose other than to divert money from Aeroflot's foreign currency treasury to Andava? That's what they found, isn't it?

A. My Lady, if we are going to discuss all the issues, I suggest, then I am prepared to deal with the substance of Aeroflot/Andava case. I then demand that we are not reciting the judgment of Swiss court but we go to the

substance, and I'm prepared to answer to every single question of the substance of the matter. I was answering these questions for two months in Russian court.

MRS JUSTICE GLOSTER: Look, Mr Glushkov, I'm the one who decides at the end of the day what is relevant.

THE WITNESS: Sorry, my Lady.

MRS JUSTICE GLOSTER: It may be that I decide that all these questions have no relevance to Mr Berezovsky's case. At the moment, though, I take the view that it is appropriate for you to answer the questions that Mr Sumption is putting, so please do your best to do that, even though you take the view -- which you clearly do -- that the Swiss decision is not reliable.

THE WITNESS: I'm sorry, my Lady.

MRS JUSTICE GLOSTER: It doesn't matter. It's for me to decide at the end of the day whether this has any relevance to anything; what the status, if anything, is of the Swiss court judgment; what relevance it has. So don't worry about that; just answer the questions.

THE WITNESS: My Lady, I didn't want to intrude in your judgment.

MRS JUSTICE GLOSTER: No, no, fine. Okay.

MR SUMPTION: Do you accept that the Swiss court found, rightly or wrongly, that these were artificial

arrangements with no rational commercial purpose other than to divert money from Aeroflot's foreign currency treasury to Andava? Do you accept that is what they found?

A. That was decision of Swiss court.

Q. Right. Now, do you accept that that was, in the view of the Swiss court, because although Andava settled the suppliers' bills, Andava was never in fact out of pocket because they settled them with Aeroflot's own money? That was what they decided?

A. That's what they decided and to which I do not agree 100 per cent.

Q. Right.

And they also decided, did they not, that because Andava controlled the time at which Aeroflot was charged and delayed the charging of Aeroflot for long enough to ensure that the interest and penalties were always payable, that also was an uncommercial and unjustifiable transaction? That's what they decided, is it not?

A. That's what they decided and to which I do not agree at all.

Q. I understand.

Now, they also decided, did they not, that the result of these operations over the period in question was that Andava made a profit at the expense of Aeroflot

of 53.4 million Swiss francs? Do you agree they decided that?

A. It could be, but I do not know this.

Q. They decided, did they not, that the profits made by Andava in this period were paid out to a number of companies? And I want to just confirm with you who owns these companies.

One of them was Anros. They decided, did they not, that the 53.4 million had in part been paid out to Anros, did they?

A. Could be. Cannot comment that.

Q. Was Anros a company whose owners included you with 32 per cent?

A. No, that's not true. In 1995 I transferred all my ownership in Anros to Boris Berezovsky.

Q. When do you say that was? In 1995, I see.

A. Yes, in June 1995. In November it was put on the document, signed, and I think that it's in the bundle of the court.

Q. You do say that in your witness statement at paragraph 70 D2/13/16. So is the position that Mr Berezovsky had 28 per cent before you gave him your shares and your share of 32 per cent was then added to that 28 per cent?

A. I don't know what happened then. I gave a gift to

Boris Berezovsky of all my shares in Anros, Forus and other companies.

Q. Now, there was also a company called Forus. Do you say you gave your shares to Mr Berezovsky in that company at the same time?

A. Exactly.

Q. And what about Ruco Trading, which was another company which was the recipient: were you ever interested in that?

A. Yes. Ruco, I was the beneficial shareholder and the two amounts were indicated in the Ruco Trading, it's 3-point -- if we are speaking about Swiss decision -- 3.06, and Ruco paid out of this amount 3.246 to Laren Trading and that was recognised by the Swiss court as well, and that was a case because the -- due to -- according to the information of my Swiss lawyers, the judge was not satisfied with the fact that I was not shareholder of Laren Trading, because she accepted Laren Trading being the recipient of that amount but was not satisfied that I was not shareholder of that company. As it turned out later, shareholder of that company is Mr Abramovich.

Q. I think the correct figure for transfers from Ruco Trading may be 41.5 million Swiss francs.

A. That's to my account, yes. That's exactly -- that's the

only amount that was ever accepted as the amount transferred to my account: 41,000 Swiss francs or US\$32,000, yes.

Q. It's 41.5 million Swiss francs, wasn't it?

A. No, thousand.

Q. I see. Well, I'll check that figure.

A. You'll have to.

Q. Now, in another document we've looked at, which you won't have seen before and I won't take you to, Ruco Trading is said by Mr Berezovsky to be a company belonging to himself and Mr Patarkatsishvili. But I think your evidence is that you were the beneficial owner?

A. Also beneficial owner.

Q. Also, I see; not instead of them, as well as them?

A. No.

Q. I understand.

Now, you say, I think, that the treasury transactions that give rise to this judgment were honest transactions with a proper commercial justification?

A. Yes, exactly.

Q. Now, would you not agree with this: that they were at least transactions which it was right and proper to require you to explain?

A. To explain to whom?

Q. To a prosecutor, for example.

A. Definitely.

Q. And looking at the matter just before November 2000, you say that you were confident of being able to justify your conduct?

A. Yes, definitely.

Q. But you can't seriously suggest, can you, that there was nothing which needed justifying?

A. I can confirm the following thing: I was never questioned about this between the period -- by the prosecutors between the period I was arrested and the period the criminal -- the court started being heard in 2002; not a single question. The only thing that I was able to transfer to the prosecutors is my written submission that I transferred on 7 December 2000. That's it. Nothing -- I was not ever questioned about this after.

Q. But these transactions were, were they not, part of the basis on which you were ultimately convicted in Moscow?

A. Unfortunately, due to the political circumstances. But mind you, Mr Sumption, that during court hearing the first time I made -- I gave evidence, I was giving it during one month, full month, every day, eight hours, and I explained to the court the exact nature of this, including the Lord Cottenham rules of the game, and the

result was that they drop -- the charge of fraud was dropped. There was something to be replaced.

Mr Sheremetev, the Judge Sheremetev found this ruling. We objected to this ruling. I was thinking and I was most definite that I was not guilty of the crime and we appealed this ruling.

Q. But you were convicted of it on the second occasion? It was the same transactions, I think you've confirmed that.

A. Yes, but it was completely unfair trial.

Q. I understand.

A. If my Lady will be interested, I can relay the details that make me being sure of that unfair conviction.

MRS JUSTICE GLOSTER: Well -- just a second -- I would be interested but I don't think that it's appropriate for you because we're under quite tight time constraints.

THE WITNESS: Thank you, my Lady.

MR SUMPTION: I want to ask you about a different matter, Mr Glushkov, but, my Lady, I'm not going to be more than, I should think, about five or ten minutes at the most. Would it be sensible to --

MRS JUSTICE GLOSTER: Well, shall we continue, Mr Sumption, or do you wish for the break?

MR SUMPTION: No, I would suggest that we continue and take the break between my cross-examination and any

re-examination.

MRS JUSTICE GLOSTER: Very well.

MR SUMPTION: Mr Glushkov, would you please take bundle R(E)7 at page 1 R(E)7/127/1, which will show you what this document is: it's your asylum witness statement.

A. Yes.

Q. If you turn on to page 27 R(E)7/127/27, paragraph 83, you say that:

"[You are] aware from Boris that, in January 2001, [Mr Berezovsky] had a meeting in France with Roman Abramovich, and it was put to Boris that if he were to sell his shares..."

This is the shares in ORT.

"... then I would be freed."

Mr Berezovsky told you that that meeting happened in January, did he?

A. No, he couldn't tell me. I'm aware from Mr Berezovsky, that's what I was retold by Mr Borovkov to me, because I couldn't be told by Mr Berezovsky because he was in England and I was in jail.

Q. No, I understand --

A. But Mr Borovkov -- let me explain to you. You asked me a question. Definitely I received this information and I was most aware about this and that's what I wrote

here, what corresponded the fact, despite of the other fact which is also part of my asylum claim, my Lady: it's a statement of Mr Patarkatsishvili that he made in 2001 that they started negotiating my release on 7 December.

Q. I'm going to ask you about that episode in just a moment, Mr Glushkov.

What you were talking about here is not the knowledge that you had when you were in jail. You are saying:

"[You are] aware..."

That's at the time of preparing this witness statement.

"... from Boris..."

That's Mr Berezovsky.

"... that, in January 2001, Boris had a meeting in France with [Mr] Abramovich."

Now, all I'm asking you to confirm is that when you spoke to him about this, presumably after your arrival in England, he told you that the meeting with Mr Abramovich was in January 2001, didn't he?

A. Mr Sumption, I would relieve myself of your assumptions because they do not correspond to what I said before and I said to you before exactly what is written here. I am aware until now, Borovkov, I can tell you, I can repeat

in this court, Borovkov relate to me the fact from Boris Berezovsky that this happened in January 2001, but this is not a direct knowledge.

Q. Mr Glushkov, why did you write in this statement that it was Boris who told you that? That's Mr Berezovsky, not Mr Borovkov.

A. No, that's -- I always understood that that -- Mr Borovkov can have no information of his own.

Q. I'm not asking you about Mr Borovkov. Why did you write in this witness statement --

A. I explain.

Q. -- that you were aware of that from Mr Berezovsky?

A. I explain.

Q. Yes.

A. I explain: because that was what was told to me by Mr Borovkov.

Q. Mr Glushkov, that simply cannot be right. You wrote this because Mr Berezovsky had said so when you discussed this matter with him after arriving in England, didn't you?

A. Mr Sumption, I don't remember you being present at our meeting with Mr Berezovsky and the statement that you are making does not correspond with the truth.

Q. I am simply reading your evidence, Mr Glushkov.

A. No.

Q. What has happened is that you have sat in this court during parts of Mr Berezovsky's evidence and you are seeking to avoid parts of your own evidence that do not appear to accord with his; that's right, isn't it?

A. No, that's not correct. Which is -- Mr Sumption, why are you just pulling one string and the other strings? Please refer then to the statement of Badri Patarkatsishvili that I supplied as the evidence to this December point, where 7 December is exactly the day that is indicated there. I have it -- if you find difficulty in finding it, I have it in my briefcase.

Q. I'm not interested in what Mr Borovkov said to you, Mr Glushkov because, as you rightly say --

A. What about Mr Patarkatsishvili?

MRS JUSTICE GLOSTER: Just a second. Don't interrupt the question, please.

MR SUMPTION: -- as you rightly say, Mr Borovkov had no direct knowledge. I am interested in what Mr Berezovsky had told you and I have suggested to you that in fact he told you what you record in paragraph 83.

You deny that, do you?

A. Directly, no, he didn't.

Q. Could you please look at the next paragraph, paragraph 84.

A. In fact, answering your question, I don't even recollect

discussing the date of these negotiations with him directly.

Q. Now, if you look at paragraph 84, you say at the end of that paragraph that:

"[You are] aware that... [Mr] Patarkatsishvili, tried to negotiate further and had discussions with, Ivanov, the Secretary of the Security Council with the aim of securing my release but to no ultimate avail."

Now, is that a reference to negotiations between Mr Ivanov and Mr Patarkatsishvili in Moscow between January and April 2001?

A. That is correct.

Q. Could you look back at Mr Borovkov's statement --

A. I have it here.

Q. -- at paragraph 66 R(E)7/132/222. He summarises, not from personal knowledge but from what he had been told, some of the facts about those negotiations.

Now, does that confirm the evidence that you've just given about the date at which this negotiation occurred, namely that it started in January and ended in April?

A. Of Mr Patarkatsishvili?

Q. Yes.

A. Yes. That's what he confirmed in his statement.

MR SUMPTION: Thank you. I have no further questions for you.

MRS JUSTICE GLOSTER: Thank you. I'll take the break now, ten minutes. You mustn't talk about your evidence or the case with anybody.

THE WITNESS: Thank you, my Lady.

(11.38 am)

(A short break)

(11.50 am)

MRS JUSTICE GLOSTER: Mr Malek?

MR MALEK: I have no questions, my Lady.

MRS JUSTICE GLOSTER: Mr Adkin?

MR ADKIN: My Lady, no questions.

MRS JUSTICE GLOSTER: Mr Mumford?

MR MUMFORD: No questions.

Re-examination by MR RABINOWITZ

MR RABINOWITZ: Mr Glushkov, just a few questions for you.

Towards the end of your evidence in answer to questions from Mr Sumption, you referred to a statement by Mr Patarkatsishvili referring to the date of 7 December.

A. Indeed so.

Q. Can I ask that you be given, please, bundle H(A)97 at page 157, please H(A)97/157.

A. My Lady, as just a short remark of the consistency of everything that I say, this statement is also part of my asylum claim.

MRS JUSTICE GLOSTER: Yes, fine. Thank you.

MR RABINOWITZ: Can I ask you just to read, if you would,  
Mr Glushkov, the first part of this statement at least.

A. I'm doing my homework quite well: if I'm referencing something, I read it. I read it.

Q. Can I just ask this about the statement. Towards the bottom of page 157 there is a date which looks like 2008. Do you see that?

A. Yes. 17/7/2008: is that the one that you reference?

Q. That's right. But on the following page, there seems to be a date: December 2005.

Can you help us with when you think this --

A. Sir, I'm looking through the Russian.

Q. Are you able to help, Mr Glushkov, as to when --

A. I found. This is the date where the -- the interview of Mr Patarkatsishvili was given in 2001 but the notarised statement was made -- it's a notary stamp, it's a notary stamp, and the statement -- actually I have the original of this statement of Mr Patarkatsishvili. It was presented to the court in Moscow. It was -- it's in the materials of the court in Moscow. It's the notary stamp which is made by notary, public notary in Georgia, because Mr Patarkatsishvili couldn't leave Georgia at that time and he notarised his statement.

Q. Thank you for that.

Can I then just ask you this. Mr Sumption spent some time with you today --

A. Sorry, and 2008 is the date of translation, I'm afraid.

Q. Thank you very much.

Mr Sumption spent time with you this morning going through a series of court proceedings in foreign jurisdictions, including in Russia and in the Swiss courts. We obviously don't know what relevance he places on it. But given that, you mentioned when Mr Sumption brought up the second Russian proceedings that the trial was unfair.

A. Yes.

Q. Now, as I say, we don't know if this is relevant or how, we are pressed for time, but if you can give a short -- can I ask you, only if you can give a short explanation, can I ask you to explain why you say it was unfair?

A. My Lady, just in few sentences if possible.

MRS JUSTICE GLOSTER: Yes, of course.

A. All parties appealed. Cassation court, which is Moscow City Court, ruled out -- and this is very important, that's where the unfairness started -- that the prosecutors didn't provide sufficient evidence of guilt of me whereas the defence didn't provide sufficient defence of my innocence, which is a ridiculous statement in a judgment of this sort by itself because if the

prosecutors didn't provide the sufficient evidence of guilt, I should be acquitted of any guilt. That's by law.

And also it was said that the audit by minister of finance was done with the violations of the criminal procedural law. That's why it returned for a second hearing although by all means it should be dismissed and I should be ruled non-guilty.

The second hearing started with the fact that the judge started hearing the case in fair way and, naturally, hearing it in a fair way, dismissed the audit report on which all the accusations were based. Without this audit report -- and it was a very well-based ruling of a judge, based on the facts that it was really done with violation of legislation.

And then, by the end of the proceedings of the second court hearing, when she was pressed by the prosecutors and she was pressed, she complained openly in the court -- and this is witnessed by my lawyers here in UK -- that she was pressed and she complained in the court that they are pressing her, that they are threatening her. She was complaining to us, to all the audience that was sitting in the courtroom. And finally she readmitted this audit report without any grounds, just at the request of prosecutors, full stop. The

whole ruling is a few sentences long.

And after that, the whole thing started quite in a funny way, everything started moving. And the ruling itself, if Mr Sumption was reading it, is ridiculous. In fact, in 90 per cent it is one-to-one copy of the prosecutor's document, one-to-one copy, even in typing, even in bold. It's just as if a computer copy was taken from one computer to the other and she just signed it. And the other thing, had no consequence to whatever, and then the ruling, full stop.

MRS JUSTICE GLOSTER: But initially she refused to admit the audit report, did she?

A. Yes. Yes.

MRS JUSTICE GLOSTER: Did she give reasons for that refusal?

A. Yes, it was many pages reasons because it contained -- you see, before she refused we questioned all auditors and the main question that we asked the auditors, "What is debit and what is credit?" None of the auditors stood this question. My Lady, none of the auditors could answer this question. They couldn't answer why in the debit they were counting credit.

And we have submitted to asylum -- immigration, asylum court, all the notes, minutes of this cross-examination. And one of the auditors simply said that she never signed -- she never did this calculation;

she just signed, at the request of prosecutor, the audit report.

MRS JUSTICE GLOSTER: Yes, I see.

A. So that was the reason why she dismissed this audit report. It is in the materials of asylum case, my Lady.

MRS JUSTICE GLOSTER: And did the judge complain that she had been physically threatened?

A. You see, she even explained how: because she adopted a child, a daughter, and she started complaining to us that they started investigation on how she accepted the daughter, with the aim to take it away -- to take her away from her.

MRS JUSTICE GLOSTER: Yes, I see. Thank you. I need no more than that. Thank you.

MR RABINOWITZ: Now, Mr Glushkov, Mr Sumption spent a long time with you on the Swiss court proceedings and again you made clear that you regard this as unreliable. Again, one doesn't know why this was relevant. But only if you can do an explanation which is certainly no longer than the one that you have just given in relation to the Russian proceedings and why you say that was unfair, can you explain, please, why you say the Swiss court's decision was unreliable in your view?

A. The Swiss court decision was unfair on major three issues.

First, it ruled me guilty, guilty of abuse of authority, without me being tried, based on the fact that I didn't appeal the ruling of the first court. And it's written there; it's black and white.

Second, it didn't accept the expert report of the opponents of the prosecutors, of Mr Jenni, expert, which were different from the one produced by Mr -- by the expert report of prosecutors.

Third one, they refused to provide the big book, accounting book of Aeroflot that could prove that there was an exchange difference that was accounted for and that was giving benefit to Aeroflot.

And these three things made the whole thing ridiculous, my Lady.

MRS JUSTICE GLOSTER: Yes, thank you.

MR RABINOWITZ: Now, one more question.

In the context of dealing with the Swiss proceedings you mentioned a company called Laren Trading. Can you explain what it is that Laren Trading did which created a problem, as it turned out, for you in these proceedings?

A. You see, I don't know exactly because everything is covered more or less in documents. I'm sure that Mr Abramovich might tell us, or Mr Shvidler, who knows everything about Laren Trading, or maybe they will tell

untruth. But the truth is that Mr Abramovich accepted that Laren Trading is his company.

Laren Trading transferred certain amounts of money to Ruco that were used later to increase the capital of Andava Holding and Andava, and later this money was reimbursed to Laren Trading. That was the whole transaction. It's -- I can draw a picture how it was done.

I don't care what Mr Shvidler wrote in his witness statement because they're not true, but the thing -- because I have documents that support this. But the thing is that it shows either that -- either -- that was the first question that I asked Badri: was he a shareholder of Laren Trading? Because from my knowledge Badri was the shareholder of Andava Holding and I was wondering whether Laren Trading became a shareholder of Andava Holding. That was my first question. He couldn't answer; he said that he didn't know. But the instructions to transfer the funds were coming from Badri. And then -- the fact that Badri was the shareholder of Andava Holding creates no doubts.

And then when the money came -- it was 2,856,000 and then smaller amounts to Ruco -- they were transferred in turn to Laren Trading. So it was one-to-one transfer, amounts coming from Andava and from Andava to Ruco.

I showed this to Russian court so that, my Lady, you don't doubt that I can indicate the pages of the court hearing, the volumes where it is all relayed.

I gave my evidence to that and that's what made Judge Sheremetev dismiss the accusation of money-laundering of this transfer, but he was not convinced. He asked me whether I was a shareholder of Laren Trading. I definitely said that I was not, but he was not convinced because I couldn't prove anything otherwise. As far as all other companies were concerned, I could provide evidence; but this company was completely in darkness for me and I didn't know at that time who was the owner of this company.

That was the whole thing.

Q. Do you know now who was the owner of this company?

A. Yes, Abramovich.

Q. On what basis do you say that?

A. Because he provided this document and I was sent by lawyers a copy of statement concerning this. But this is also confirmed by Mr Shvidler in his statement.

MRS JUSTICE GLOSTER: Thank you.

MR RABINOWITZ: No further questions. Thank you,

Mr Glushkov.

MRS JUSTICE GLOSTER: Thank you very much indeed,

Mr Glushkov, for coming along.

THE WITNESS: Thank you.

MRS JUSTICE GLOSTER: Mr Sumption, subject to the point about the registration, can this witness be released, or is it possible that you might wish to cross-examine him further about the registration document relating to the shares?

MR SUMPTION: I think it's almost inconceivable that I will because of his evidence as to when that came to an end. I think the right working assumption is that we will not require him anymore unless some surprise emerges.

MRS JUSTICE GLOSTER: Right.

You may be released. There's a very small possibility that you may be recalled. But thank you very much for coming to give your evidence.

THE WITNESS: Thank you very much.

(The witness withdrew)

MR SUMPTION: My Lady, for the assistance of your Ladyship and for my learned friend, I should perhaps make it clear that it is not part of my case that the proceedings in Russia against Mr Glushkov were fair; I take no position on that one way or the other. Of course, we are as well aware as anyone else of the issues about the fairness of controversial Russian political proceedings. We do, however, contend that the Swiss proceedings were fair.

Secondly, it is not part of my case that Mr Glushkov was guilty as charged. It is, however, part of my case that there was what in English legal terms one would call a prima facie case against him and that that is a sufficient legal justification for his arrest.

MRS JUSTICE GLOSTER: Yes, thank you.

Mr Rabinowitz.

MR RABINOWITZ: Can I call the next witness, my Lady, and that is Mr Jenni.

MRS JUSTICE GLOSTER: Yes.

MR HANS-PETER JENNI (sworn)

MRS JUSTICE GLOSTER: Do sit down if you would like to.

THE WITNESS: Thank you, my Lady.

Examination-in-chief by MR RABINOWITZ

MR RABINOWITZ: Good afternoon, Mr Jenni.

A. Good afternoon.

Q. Mr Jenni, again, before we begin, can you confirm you don't have any mobile phone or any other communication devices?

A. Yes.

Q. Thank you very much.

Can you be given, please, bundle D1 -- that will be brought to you -- and can that be open at tab 10, please D1/10/186.

Now, at tab 10 you, I hope, see a document entitled

"Witness Statement of Hans-Peter Jenni"?

A. Correct, yes.

Q. Can I ask you to go to page 245 of the bundle; it's page 58 of your statement D1/10/245.

A. Yes.

Q. You should there see a signature. Can you confirm that that's your signature?

A. It's my signature, yes.

Q. And can you confirm that this is your first and only witness statement in these proceedings?

A. It appears so, yes.

Q. Can you confirm that the contents of this, your witness statement, are true to the best of your knowledge and belief?

A. It is so, yes.

MR RABINOWITZ: Thank you very much. Can you wait there, please, Mr Jenni.

Cross-examination by MS DAVIES

MS DAVIES: Mr Jenni, you have been a legal and business adviser to Mr Berezovsky since 1991; is that right?

A. I'm -- I know Mr Berezovsky since 1991 and I have been a legal adviser to him. However, in the last years it was not -- up to now I was not a legal adviser; I was just a friend.

Q. In fact you'd given up your legal practising certificate

in 1998, when you moved to Cyprus?

A. Exactly, yes.

Q. You also acted as a legal and business adviser to Mr Patarkatsishvili between 1991 and 2008; is that right?

A. I -- occasionally, yes.

Q. And also as an adviser to Mr Glushkov?

A. Yes.

Q. And during that period it would appear you acted for the three of them in relation to a wide variety of matters.

A. Yes, correct.

Q. You identify some of them in your statement; in particular you refer to Anros, Andava and Forus.

A. Yes.

Q. Those were all Swiss and Luxembourg companies in which they each held interests; is that right?

A. Yes, adding some offshore companies.

Q. Anros from 1991 was the 50 per cent owner of Logovaz?

A. Yes.

Q. And Forus and Andava were financial service companies who provided initially services to Avtovaz?

A. Forus SA in Switzerland and Andava SA in Switzerland, yes.

Q. And after Mr Glushkov had moved to Aeroflot, Andava provided financial services to Aeroflot?

A. Correct.

Q. And in the mid-1990s your role was to manage those interests on Mr Berezovsky's, Mr Glushkov's and Mr Patarkatsishvili's behalf?

A. We should precise the term "manage".

Q. Well, you had a detailed involvement in the affairs of those companies?

A. I had involvement in it, but I was not a manager.

Q. You were a director of each of them?

A. I was one of the directors.

Q. And for Andava, for example, you had signing authorisations for the companies in the group?

A. All the directors had signing authorisations.

Q. And you were aware of the contracts between Andava and Aeroflot?

A. I was.

Q. And you monitored the activities of Andava?

A. The board of directors monitored the activities of Andava, yes.

Q. During the 1990s you also managed some other companies on their behalf which are not mentioned in your witness statement, didn't you, such as Ruco Trading?

A. Yes, I mentioned offshore companies, yes.

Q. Ruco Trading was a company registered in the Grand Cayman Islands; is that correct?

A. Yes.

Q. And initially it was a company beneficially owned by Mr Glushkov and Mr Berezovsky; is that correct?

A. Yes.

Q. And did Mr Patarkatsishvili subsequently obtain an interest in Ruco?

A. Yes.

Q. That company, Ruco, itself received payments from Andava from time to time; is that correct?

A. Yes.

Q. Including payments of dividends from Andava?

A. Yes.

Q. Now, in 1996 --

A. From the Andava group, yes.

Q. The Andava group, yes.

In 1996 and 1997 you also assisted Mr Berezovsky in the acquisition of two properties in the south of France?

A. Correct.

Q. The Chateau de la Garoupe and the Clocher de la Garoupe?

A. Yes.

Q. You assisted thereafter in the arrangements for the maintenance of those properties?

A. My office and Christian Stiefel, who was my partner, yes.

Q. Is it fair to say that during the mid-to-late 1990s you were centrally involved in Mr Berezovsky's financial affairs outside of Russia?

A. I'm not sure about that.

Q. Could you be given bundle S2/1, please, at tab 12 S2/1.12/238. This is the transcript of the evidence that you gave in the North Shore proceedings.

A. Yes.

Q. You can see at page 105 you being sworn.

A. Yes.

Q. And you're being cross-examined by Mr Swainston.

A. Yes.

Q. At page 107, line 18 -- sorry, start at line 13.

A. Line 13, what -- page 107, line 13, yes?

Q. 107, yes. Mr Swainston is asking you:

"Question: It's right, isn't it, that you were at the centre of Mr Berezovsky's and Mr Glushkov's affairs in Switzerland?"

A. In Switzerland, yes.

Q.

"Answer: It's correct that I treated with affairs of Mr Berezovsky and Mr Glushkov in Switzerland, yes.

"Question: You were centrally involved in those affairs and Mr Fomichev was not. That's also true, isn't it?"

A. Yes.

Q.

"Answer: As far as Switzerland is concerned, that is true..."

A. Yes.

Q. Now, is the point that I put to you, you're suggesting, too broad because I said it was offshore?

A. Yes.

Q. But we know from Ruco it also covered other offshore companies, not just Swiss companies?

A. Yes, but this was all that it was centred around these companies in Switzerland. I do not know what was around other companies.

Q. I see. Now, in the mid-to-late 1990s, when you were managing the companies Forus, Anros, Andava and Ruco and the French properties on Mr Berezovsky's behalf, did that occupy most of your time?

A. No.

Q. No. What sort of percentage of your time?

A. About -- maybe 20 per cent.

Q. Now, you tell us in your statement that in 2000 you were appointed as super-protector of all the trusts within the Hotspur and Octopus structures --

A. Yes.

Q. -- those being trusts that were established by Valmet in

2000?

A. Yes.

Q. And you were subsequently appointed in December 2002 as the trustee of the Itchen Trust?

A. Yes.

Q. That was a trust established by Mr Berezovsky in 2001 by Dentons in Gibraltar; is that correct?

A. For me it was -- how is it called? -- Stephen Curtis.

Q. Stephen Curtis?

A. Yes.

Q. Do you recall what sort of size of fund the Itchen Trust was at the time you took over --

A. Well, I don't --

Q. -- as a trustee?

A. I don't remember how much funds there were when I took over. I know that this trust has been funded by monies that were received from the sale of participation in Sibneft.

Q. Would you agree it was a substantial fund?

A. It was substantial fund, yes.

Q. And would I be right in understanding that you must be someone who has or at least did have a close professional relationship with Mr Berezovsky?

A. Professional relationship, yes.

Q. And you'd describe him as a good friend?

A. I describe him as a good friend, yes.

Q. Now, given the extent of your involvement in Mr Berezovsky's affairs, you must have seen or spoken to him frequently over the 20-year period that you have acted on his behalf?

A. That's evident, yes.

Q. And also to Mr Patarkatsishvili?

A. Yes, of course; I would even say even more so.

Q. And you've also, in the past, been in regular contact with other advisers of Mr Berezovsky, such as Mr Fomichev?

A. I met Mr Fomichev from time to time when there were questions that we had to discuss together, following Mr Berezovsky asking me to take up things with Mr Fomichev.

Q. You said in the North Shore action that you met with him almost every two or three months. Is that correct?

A. Yes, when I went to Moscow I met him because -- well, at a certain period of time, not for the 20 years.

Q. No, but he was Mr Berezovsky's principal financial adviser from 2000 for several years, so during that period.

A. From 2000 I think it was already less.

Q. You also continue now to advise Mr Berezovsky on business and personal matters from time to time?

A. No. As a friend but not as a legal adviser.

Q. But as a friend you do?

A. Well, if he asks me something, I give him my opinion.

Q. And does that mean that you maintain regular contact with Mr Berezovsky to this day?

A. Yes.

Q. Do the matters on which you are advising him include this case?

A. No.

Q. But you have no doubt discussed this litigation with him since it was started?

A. No.

Q. Sorry?

A. No.

Q. Not at all?

A. No.

Q. What about --

A. I have discussed with him my Swiss -- my case in Switzerland, yes. These things I have discussed, but not this litigation.

Q. What about Mr Glushkov, who you describe as a close friend?

A. We didn't discuss this either.

Q. You tell us in your statement that you first met Mr Abramovich in the summer of 1995.

- A. Yes, I think so. It was 1995.
- Q. And that thereafter you regularly saw Mr Abramovich and Mr Berezovsky together when you visited Russia.
- A. Yes, correct.
- Q. Am I right in understanding that you did not yourself have any direct professional relationship with Mr Abramovich or his companies?
- A. Correct.
- Q. So is essentially what you're describing that you came across Mr Abramovich when you happened to be meeting Mr Berezovsky?
- A. Yes.
- Q. Through your involvement in Mr Berezovsky's offshore businesses you also had some involvement with some of the Russian companies in which he had an interest, didn't you?
- A. Yes.
- Q. In particular you tell us you became a director of Consolidated Bank for a time.
- A. I was sometime a director of Consolidated Bank, yes.
- Q. Now, you tell us in your statement that you think that that was for a short period in 1999. That's paragraph 62 D1/10/201 if you want to...
- A. It's, yes, possible.
- Q. In fact it seems from the documents that are now

available that you might have been mistaken about that date.

A. It's possible.

Q. And I just want to establish the facts with you, Mr Jenni. So if you --

A. Yes, because I don't have any documents left with me and I couldn't really establish this.

Q. If you could be given bundle H(C)2, at page 4T, you should find some minutes of Consolidated Bank from 23 May 1995 H(C)2/4T.

A. Yes.

Q. You weren't present at this meeting but you can see on the first page that Mr Mayor was then representing Forus Holding SA.

A. Yes.

Q. And if you turn forward to page 5T --

A. 5T, yes.

Q. -- you see at the top of page 5T there's a decision to elect board members of Consolidated Bank --

A. Yes.

Q. -- and you see your name, Hans-Peter Jenni?

A. Yes.

Q. And that was adopted by the board.

A. Okay.

Q. And the next meeting that we have documents for is in

October 1995, which, if you go forward to page 26T, you see at that meeting you were present -- 26T for translation H(C)2/26T.

A. It's further down.

Q. It's after the end of page 32.

A. I have to see which numbers are which.

Q. Yes, it's not quite obvious, but it is after page 32.

A. 26T, yes.

Q. You see on that occasion, in the third indent, you were present as the director on behalf of Forus?

A. Yes, yes, yes.

Q. And if you go forward to page 117T, which you will find after page 121 H(C)2/117T, that's some minutes of a meeting of Consolidated Bank on 29 May 1996.

If you go forward to page 118T, we can see the board is reorganised on that date and it appears --

A. 118T, yes.

Q. At the bottom, and it appears that you ceased to be a member of the board --

A. Yes, that's possible.

Q. -- in May 1996 and would you take it from me you were reappointed, it appears from the documents, by June 2001.

A. That's possible, yes.

Q. So it does, would you accept, looking at those

documents --

A. Yes, I accept this because I -- my memory was...

Q. You were a member of the board of Consolidated Bank between the summer of 1995 and May 1996?

A. Yes, yes, yes, yes.

Q. You tell us in paragraph 67 of your statement D1/10/202 that:

"[You] recall being aware that Consolidated Bank did at one stage have an interest in Sibneft..."

A. Yes, by discussions, yes.

Q. And you refer in that connection to a company called NFK.

A. Yes, Neftyanaya Finansovya Kompaniya.

Q. Is that indicating that your recollection is that Consolidated Bank's interest in Sibneft was held via NFK?

A. Yes.

Q. And was your understanding that such interest as Mr Berezovsky had in Sibneft was also held through Consolidated Bank via NFK?

A. Well, that's possible, yes.

Q. Is that what you understood, Mr Jenni?

A. Yes, I understood that NFK was the vehicle by which Sibneft -- participation to Sibneft was held.

Q. And you fairly point out in your statement that you were

never provided with details about the shareholding structure and were not personally involved in the acquisition of Sibneft.

A. Correct.

Q. Would you be prepared to take it from me that NFK never itself owned any Sibneft shares; rather it just obtained a right to manage 51 per cent of Sibneft shares in December 1995? You're not in a position to disagree?

A. No.

Q. As you were not directly involved in the acquisition of Sibneft, your understanding of what happened must be dependent on what you were told by others, mustn't it?

A. Correct, yes.

Q. And were those others principally Mr Berezovsky --

A. No.

Q. -- and Mr Patarkatsishvili?

A. Mr Berezovsky, Mr Patarkatsishvili, Mr Fomichev, Mrs Nosova; maybe others.

Q. From what you tell us in your statement, it doesn't sound like you were given many details about the acquisition of Sibneft.

A. That's correct.

Q. That wasn't a matter, would I be right in understanding, that really concerned you?

A. No, because I was concerned about the Swiss tranche of

the activities and not of the activities taking place in Russia.

- Q. The point, would I be right in understanding, that really mattered to you was that Mr Berezovsky and Mr Patarkatsishvili were going to receive money as a result of the creation of Sibneft?
- A. Well, that was their concern. My concern, my concern was the activities of the companies in Switzerland and if they took obligations, that they fulfilled these obligations.
- Q. That's what they conveyed to you, was it, that they were going to receive money?
- A. Yes, they told me that they should receive money from Sibneft.
- Q. Given how frequently you saw Mr Berezovsky and communicated with him over the years, it must now be difficult to differentiate any one conversation you had with him with any other?
- A. Of course.
- Q. It's not a criticism, Mr Jenni.
- A. Of course. Of course.
- Q. If you could turn to paragraph 114 of your witness statement --
- A. My witness statement?
- Q. -- at page D1/10/213.

A. Wait, wait. You said which page?

Q. D1/10/213.

A. 213, yes.

Q. You see you say there that:

"On one of my visits to Moscow to receive an update from Boris and Badri regarding business, in around 1996, they told me that they had entered into an agreement with Mr Abramovich whereby 50% of Sibneft was acquired for them and 50% of Sibneft was acquired for Mr Abramovich."

A. Mm-hm.

Q. Now, given what you've just said about how difficult it is to differentiate conversations, it must be possible, mustn't it, that you're remembering a conversation that took place later than 1996?

A. No, I don't think so, because starting with the meeting I had first when I got acquainted with Mr Abramovich in 1995, from there on there was always discussion about Sibneft. And, well, it was not only Sibneft; it was the oil businesses, let's say like this, because Sibneft in that form didn't exist in 1995 yet. And there was discussion also how to participate in this business.

And then we had the situation of the elections in 1996 and we had this situation with the auction. That was for seeing the money against sales of state

property. We had with Mr Berezovsky, I remember, discussions where he tried to interest Mr Soros in participating in purchase of shares of oil company. And following this came the situation where they said, "Now we have purchased a stake in Sibneft".

Q. Mr Jenni, I'm not disputing that you had conversations in 1996 about --

A. No, I just want -- I just want to recall, when I say that I heard about this in 1996, I want to recall to you why I come to the conclusion that it was in 1996.

Q. I'm not disputing you may have had conversations in 1996 about Sibneft.

A. Yes.

Q. What I would like you to focus on is the suggestion that you were told in 1996 that Mr Berezovsky had acquired a 50% interest in Sibneft. What I would suggest to you is that, given how many conversations you've had with Mr Berezovsky over the years, it's quite possible --

A. Well, I cannot say it was on this date and on this conversation, okay.

Q. Were you told by Mr Berezovsky or Mr Patarkatsishvili in around 1996 that they had transferred any shares they owned in Sibneft to Mr Abramovich?

A. I don't remember that.

Q. Could you be given bundle J2/2, please, tab 9

J2/2.09/26. Tab 9, please, J2/2. This is a statement of Mr Marino that was served on behalf of Mr Berezovsky's behalf.

Have you seen this before, Mr Jenni?

A. No.

Q. Do you remember speaking to Mr Marino before April 2009 about Mr Berezovsky's case?

A. Before 2009, no.

Q. Could you turn to page 81 in this statement.

A. Page 81?

Q. Yes, of the bundle. So it's J2/2.09/81.

A. 81, yes.

Q. Paragraph 201:

"I also understand from Mr Jenni..."

Now, just stopping there, it does appear you must have spoken to Mr Marino?

A. It's possible, but I don't know what date. What was the date? I don't remember at what date I spoke to Mr Marino.

Q. The background was, just if that might assist you, Mr Abramovich was applying to strike out Mr Berezovsky's claims and evidence was being produced to seek to overcome the strike-out.

A. It's possible, because I have been discussing with Mr Marino in a large scale of questions.

Q. So you've had discussions with Mr Marino over some time, have you? Is that --

A. Yes.

Q. Yes. You see he says there:

"I also understand from Mr Jenni that, in 1996, he was told by Mr Berezovsky and Mr Patarkatsishvili that they had 'transferred shares' in Sibneft to Mr Abramovich..."

Sorry, if you shake your head, it doesn't get on the transcript.

A. I do not remember that I said this.

Q. You don't remember you said that, right.

Did you yourself monitor or have any knowledge about Sibneft's financial performance?

A. I had no knowledge about Sibneft's financial performance.

Q. Did you know, for example, it didn't declare any dividends until 2000?

A. No, no.

Q. Do you have yourself any direct knowledge of the total amounts paid by Mr Abramovich to Mr Berezovsky over the period 1995 to 2000?

A. No.

Q. Or the total amount paid by companies controlled by Mr Abramovich to Mr Berezovsky during that period?

A. No, no.

Q. Given your relationship with Mr Berezovsky, you presumably were aware that from 1995 one of his main interests in Russia was ORT?

A. Yes.

Q. Although you tell us in your statement that you were never personally involved with ORT either as a director or as a legal adviser.

A. Yes.

Q. If you could turn to paragraph 69 of your statement --

MRS JUSTICE GLOSTER: Can we put Marino's statement away?

MS DAVIES: Yes, my Lady. Yes.

A. Which one?

Q. You can put J2/2 away, yes.

A. My statement?

Q. Paragraph 69 of your statement --

A. 69 of my statement, yes.

Q. -- at D1/10/203.

A. You are moving too fast for me. 69, yes.

Q. In the last sentence you say you:

"Understood from conversations that I had with Boris and Badri at the time that ORT ran at a substantial loss and so all of these oligarchs provided finance for the television station from their own financial-industrial groups of companies."

A. Yes.

Q. When you're talking about conversations you had at the time, do you mean 1995/1996?

A. Yes.

Q. You've told us about Ms Nosova a moment ago.

A. Yes.

Q. You presumably know her?

A. Yes.

Q. By 1994 she was the first deputy director general for finance of Logovaz --

A. Yes.

Q. -- and a member of the supervisory board of Consolidated Bank?

A. Yes.

Q. Those were the two companies who initially took shares in ORT on Mr Berezovsky's behalf?

A. Yes.

Q. Now, she says in her statement that the other private investors were willing to buy into ORT because they were not expected to pay much for their shares in ORT and as a favour to Mr Berezovsky.

A. If -- well, I don't know. Maybe.

Q. And she goes on to say that the other investors didn't want to fund ORT from their own resources.

You're not in a position to disagree with Ms Nosova,

are you?

A. No, no.

Q. Did Mr Berezovsky or Mr Patarkatsishvili subsequently tell you that the other oligarchs had decided they didn't want to continue funding ORT?

A. Maybe it was more general, not funding, but they wanted to get out.

Q. They wanted to get out?

A. Yes.

Q. And he agreed to reimburse them the amounts they had funded in exchange for the shares that they had acquired.

A. Yes.

Q. Did you know that?

A. No, I don't know, but I know that these shares, they went over to him.

Q. That's what he tells us in his statement?

A. Yes, yes.

Q. And again you're not in a position to disagree?

A. No.

Q. You're not able to assist, are you, on how much Mr Berezovsky paid to those oligarchs for their shares?

A. No, no, no.

Q. Or how much he contributed to ORT in total over the period 1995 to 2000?

A. No, no.

Q. No.

You tell us you produced a written assignment of certain interest from Mr Glushkov to Mr Berezovsky in November 1995.

A. Wait, I didn't understand the question. Please repeat.

Q. You tell us in your statement that you produced a written assignment of certain interests from Mr Glushkov to Mr Berezovsky in November 1995.

A. Yes.

MRS JUSTICE GLOSTER: What paragraph?

MS DAVIES: That's paragraph 88, my Lady, page D1/10/207.

Could you be given bundle H(A)03 at page 25

H(A)03/25.

A. Yes.

Q. Is this the written assignment that you're referring to?

A. Yes.

Q. And that covers, am I right in understanding, shares in Profor, Anros, Forus and, by reason of the written amendment at the bottom of the page on page 27, Logovaz?

A. Of Logovaz, yes.

Q. Was your perception that Mr Berezovsky and Mr Glushkov were close at the time that this written assignment was entered into?

A. What was your assumption that...?

- Q. Was your perception -- did you understand that Mr Berezovsky and Mr Glushkov were close at the time that this written assignment was --
- A. Yes, yes, yes.
- Q. And would you say from your observation of their relationship that they trusted each other totally at this time?
- A. Yes, yes.
- Q. In paragraphs 97 to 98 of your statement at page D1/10/209 you tell us that once Mr Berezovsky was appointed as the deputy secretary of the Security Council in 1996:
- "Under Russian legislation, [he] was no longer allowed to hold interests in commercial enterprises."
- That's the last sentence of paragraph --
- A. Yes, yes, yes.
- Q. You're not a Russian qualified lawyer yourself, are you, Mr Jenni?
- A. No.
- Q. So what is that sentence that, "Under Russian legislation, a person in such a position was no longer allowed to hold directorships or interests in commercial enterprises", what's that based on, Mr Jenni?
- A. On the independence of the person in the -- when it is -- he is holding an official in the -- let's say high

official post, yes.

MRS JUSTICE GLOSTER: No, I think you're missing the question.

A. Yes.

MRS JUSTICE GLOSTER: Ms Davies is saying: what is your knowledge of the statement? What knowledge on your own part are you basing your assertion on?

A. Ah. I had -- the knowledge I had from Russian lawyers. When Mr Berezovsky was appointed deputy secretary of the Security Council in Russia, I had contacts with lawyers and they all said that he had to get rid, in a sense, of all his participations and of all his duties he had in private enterprise.

MS DAVIES: He had to get rid of his management duties in relation to private enterprises, but are you saying you were also told that he had to get rid of his ownership of shares?

A. Yes.

Q. And do you know what Russian legislation was being referred to in that context?

A. No, I didn't.

Q. You see, Mr Rozenberg, who is the expert in Russian law being called by Mr Abramovich, says that there's no such prohibition on owning shares.

A. Mm-hm. That would be good, yes.

Q. That's not the advice you were given at the time?

A. No, it was not the advice I had at the time and I was trying to fulfil what I was told: that we had to separate Mr Berezovsky from his holdings.

Q. You go on to say that it was therefore necessary, as you say in your statement, for Mr Berezovsky to divest himself of his shareholdings --

A. Yes.

Q. -- and that your understanding was he decided to transfer ownership of all his shareholdings to Mr Patarkatsishvili?

A. Correct, yes.

Q. And did those shareholdings include Andava?

A. They included Andava.

Q. And how long was the transfer intended to remain effective for?

A. It was intended to remain as long as he was in a position that would prevent him from having these assets.

Q. So for at least as long as he remained in political office?

A. At least as long as he was in this office, yes.

Q. Do you recall -- and it's not intended to be a memory test -- but Mr Berezovsky was dismissed from his post on the Security Council on 5 November 1997?

A. Yes.

Q. And so until that time your evidence is you were holding all Mr Berezovsky's shares in the offshore companies in Badri's name, Mr Patarkatsishvili's name, not Mr Berezovsky's name?

A. Yes, but Mr Badri always confirmed to me that these shares were also Boris's shares.

Q. Could you be given bundle H(A)06 at page 95 H(A)06/95. Is that a document you prepared in May 1997?

A. Yes, that's correct.

Q. It's a power of attorney in relation to Mr Berezovsky's 937 shares of Andava.

A. Yes.

Q. And he's authorising you to represent him at the meeting of shareholders to be held on 29 May 1997.

A. Yes.

Q. If you could just turn forward to page 97 H(A)06/97.

A. Yes.

Q. Is that another agreement you prepared?

A. Wait, wait, wait, wait. Yes.

Q. And that's between you and Mr Berezovsky and he's transferring, according to this agreement, to you --

A. Yes.

Q. -- share certificates in Andava --

A. Yes.

Q. -- on your undertaking to hold them on trust --

A. Yes.

Q. -- and then to return them to him after the shareholding meeting?

A. It is not quite what happened there. This was the exchange of the shares of the SA to the shares of the holdings. So the shares of the SA were put into the holding company and from the holding company were received shares of the holding company.

Q. So you were transferring back to him shares in the holding company, not the shares you received?

A. Exactly, yes. Exactly.

Q. But these were shares, if I understood your evidence a moment ago, that had been transferred to Mr Patarkatsishvili in 1996? Because this is May 1997: it's while Mr Berezovsky is still a member of the Security Council.

A. So the shares in Andava were -- I don't know. I have to think now. No, the shares in Andava -- I can't remember. But as I -- as you see here, the shares have been of Boris and also of Nikolai, because it was the two persons that were holding the shares in Andava SA, and they gave me the power of attorney to put them into the holding and then to take the shares of the holding. So it's -- they were ownership of these two persons.

- Q. It looks, doesn't it, as if the Andava shares had not been transferred --
- A. No, no.
- Q. -- to Mr Patarkatsishvili?
- A. At that time at least, yes.
- Q. Now, your evidence, if I've understood it, is that in the period prior to 1997 Mr Berezovsky was keen to keep Mr Abramovich close to him as a business partner and a friend?
- A. I stated that they were -- they were close to each other and they were -- in my view they were friends, yes.
- Q. In late 1996 you'd been involved in the acquisition of a substantial property on Mr Berezovsky's behalf, Chateau de la Garoupe?
- A. Yes.
- Q. Soon after that property had been purchased in early 1997, a neighbouring property, the Clocher de la Garoupe came up for sale?
- A. Yes.
- Q. And you were told that Mr Berezovsky was also interested in purchasing that property; is that correct?
- A. Yes.
- Q. Were you also told not to tell anyone apart from Mr Bordes, the French property agent, and his associate Maitre Heinzen that Mr Berezovsky was interested in

purchasing that property?

A. No, I don't remember that.

Q. Could you be given bundle H(C)3 at page 77T H(C)3/77T.

This is -- just to tell you what it is, Mr Jenni -- a translation of a fax that was sent to you on 6 May 1997 from Mr Bordes. The original French version starts on page 77 if you would rather look at that.

Do you see the first paragraph of that in the translation says:

"I met with our client this weekend. It seems that he is personally interested in the neighbouring villa but this course of action..."

Then in bold:

"... should only be known to you, [Maitre] Heinzen and myself, but not to Mr Ro... A... not even his partner."

"Mr Ro... A..." must be Mr Abramovich, mustn't it?

A. Yes, probably.

Q. So it does look, doesn't it, as if you were told --

A. No, I have not been told anything. I see this fax --

Q. It's a fax to you, Mr Jenni.

A. Yes, yes, yes.

Q. And Mr Stiefel was in your office, wasn't he?

A. Yes, yes, yes.

Q. And you were being instructed by Mr Bordes that the

course of action of acquiring the property was not something you should communicate to Mr Abramovich?

A. He asks so, yes. It looks so, yes.

Q. If you turn forward to page 83T H(C)3/83T, it's a translation of a further fax from Mr Bordes to you, this time on 16 May.

A. Yes.

Q. The French original is at page 83. In the first paragraph in the translation:

"The client, to whom I spoke the day before yesterday, seems to want to go ahead at the level required by the vendor of 95 including furniture, and to keep this purchase confidential in relation to everybody."

So again you were being instructed to keep the purchase confidential, weren't you?

A. Well, confidentiality was always a question in deals.

Q. Is that a "yes", Mr Jenni?

A. To keep it confidential from somebody, from somebody concrete, I don't know. I had no contact to Roman Abramovich at any time so it was no -- there was no -- for me it was clear that it was -- everything was confidential.

Q. And then the next paragraph:

"We mentioned to the client that GII could grant

a lease to Mr [Abramovich] for four months in return for a rent of around 2.5."

A. Mm-hm, yes.

Q. Now GII was a company owned by --

A. Of Mr Bordes.

Q. -- Mr Bordes, wasn't it?

A. Yes.

Q. But it was acting in relation to this rental on behalf of a company called Sifi?

A. Yes, yes.

Q. And Sifi was a company that you tell us in your statement which was set up originally to purchase the Chateau de la Garoupe?

A. Yes.

Q. And its shares were predominantly owned by OVACO --

A. Yes.

Q. -- another company that you managed?

A. Yes.

Q. And it was in turn owned by Comodo --

A. Yes.

Q. -- a company wholly owned by Mr Berezovsky?

A. He's the beneficial owner, yes.

Q. If you could turn on to page 114T H(C)3/114T. This is a translation of a letter at page 114 in the original French --

A. Mm-hm.

Q. -- again from Mr Bordes to you, this time 20 June 1997,  
and it's "Re: 'Number Ten'". Number Ten was the  
Clocher, wasn't it?

A. I don't know this...

Q. You don't remember --

A. Oh, okay, he speaks here:

"... d'accelerer le principe de l'acquisition du  
'Number Ten'..."

He says here:

"... to speed up the principle of buying 'Number  
Ten'..."

Buying -- if it was buying Number Ten and it is '97,  
so it can't be the Clocher; it must be the -- it can't  
be the chateau; it must be the Clocher.

Q. It must be the Clocher. There was no other property  
being bought in 1997?

A. No, no, no.

Q. You see in the first paragraph:

"The owner, who nevertheless needs to remove  
a certain number of personal effects..."

Having asked you to speed up the purchase, it refers  
to the fact that:

"The owner, who nevertheless needs to remove  
a certain number of personal effects... as well as some

period furniture not included in the sale, wants, for reasons of discretion which concern her and us too, since we want..."

And then in bold:

"... everybody, including the neighbours, to think that this is purely a rental, to have this move carried out by her personal removal man from Paris, who will come on site, stay at 'Number Ten' and leave again with his van."

So again you're being instructed that "everybody, including the neighbours", needs to think that this is a rental?

A. Yes, Mr Bordes send always quite a lot of correspondence, yes.

MRS JUSTICE GLOSTER: Sorry, you're talking rather softly, Mr Jenni. Can you speak up a bit?

A. Yes, okay. Mr Bordes, he was sending a lot of correspondence always, yes, it is true.

MS DAVIES: Would you have read the correspondence you received from Mr Bordes, Mr Jenni?

A. Yes, I looked at it. But you see, even if it was addressed at me, it was Mr Stiefel who was acting in the first place for this. I was not acting in the first place for the Sifi and for the purchase of the Clocher -- of -- yes, of the Clocher.

Q. If you stay on page 114T, or if you're on the original 114, you see in paragraph 2 Mr Bordes is telling you that he has:

"... arranged for Mr RA..."

That must be Mr Abramovich again, mustn't it?

A. Hmm.

Q. Is that a "yes", Mr --

A. Yes.

Q. Yes.

"... to be informed through Mr Eugene Shvidler, that I was in the process of persuading the owner of the neighbouring villa to allow a rental for the months of August and September for the price of USD 200,000 (I had proposed a higher price, but these gentlemen wanted to make an offer at this level, which I am now deemed to have had accepted. This is to keep these gentlemen informed). Shortly afterwards, Mr Shvidler called me back to inform me of his agreement and to thank me, but he told me that in fact, it is very important for him to have the villa sooner, if possible from 21 July..."

Then he says:

"I am therefore initially going to enter into commitments with him for August and September, telling him that I am endeavouring to get the villa for 21 or 22 July in return for USD 25,000 or 30,000 extra, so

that it seems plausible."

So Mr Bordes is clearly telling you, isn't he, that Mr Abramovich has been informed that he's renting the Clocher de la Garoupe although in fact it was Mr Berezovsky who was acquiring the Clocher de la Garoupe before the rental started?

A. It's possible, yes.

Q. It's possible. That's what Mr Bordes was telling you, isn't it?

A. Yes. Yes.

Q. And that's in due course what happened, isn't it?

A. I don't know.

Q. You don't know?

A. Well, he purchased -- Mr Berezovsky purchased the Clocher, yes; but what he was telling or not telling, I don't know.

Q. Are you saying you don't know that Sifi received rental in relation to the Clocher de la Garoupe?

A. No, I don't know this. It was Mr Stiefel who took care of this. I didn't look at these details, no.

Q. But if I were -- we could go through the documents if you want to, but would you accept from me that the documents show that Sifi did receive rental --

A. Yes, okay. I accept it.

Q. You say in your statement that you "recall noticing in

1997 that Mr Abramovich was distancing himself from [Mr Berezovsky]", and that you noticed that he wanted "to make his own separate business and leisure arrangements". That's paragraph 146 D1/10/219.

A. Yes.

Q. Now, we've already established that you did not have any direct professional relationship with Mr Abramovich or his companies?

A. Yes.

Q. So what is that based on, Mr Jenni?

A. It's based on the fact that Mr Bordes -- Mr Abramovich and Mr Bordes were in contact and it looked as though Mr Abramovich wanted also to buy some property in Antibes and Mr Bordes tried to propose to him the services of his company and Mr Abramovich refused and said that he would like to completely independently proceed to buy this property.

Q. In fact Mr Abramovich did use Mr Bordes for the purchase of his property in Cap d'Antibes in 2000; did you know that?

A. No.

Q. And in fact, also, Mr Abramovich stayed at Clocher de la Garoupe throughout the summers of 1997 and 1998.

A. This is correct, yes.

Q. So it's not right, is it, that he was making separate

leisure arrangements in 1997?

A. I was told so that he did but... 1997? Maybe not 1997, maybe 1999 -- 98.

Q. Well, he stayed there in 1998 as well.

A. Okay, I don't -- you see, I don't remember the dates exactly when these things -- it's quite a long time ago. So when I recall that there was a proposition to go through John Heinzen, to use Bordes for the whole arrangement of the things, I was told that he didn't want to and that he wanted to do the separate arrangements for him. This is the information I had and from this information I took to say that, okay, if he doesn't want to go together with Mr Bordes and with the structures and facilities we have, then it is not together but it is separate.

Q. So you put two and two together and made that conclusion?

A. Pardon me?

Q. You put together what you had been told and made that conclusion?

A. Yes.

Q. Now, you explain in paragraphs 147 to 150 D1/10/220 of your statement that the monies that were used to purchase Clocher de la Garoupe on Mr Berezovsky's behalf came from Runicom.

A. Yes.

Q. Did you understand at the time that Runicom was a company ultimately owned by Mr Abramovich?

A. The whole transaction with Runicom was done with Mr Stiefel and I understood from him that the company Runicom was a company that belonged to Sibneft, that it was a trading arm of Sibneft. This is what I understood.

Q. You understood that from Mr Stiefel?

A. Yes.

Q. You didn't investigate that yourself?

A. No.

Q. And did you know anymore about Runicom?

A. No, I don't know anything. Well, I heard -- later on I heard in our proceedings that, first of all, this is in 2008, 2009, I had this information that there was a problem with Runicom, that there is proceedings because it seems that there was a mixture between Runicom SA in Switzerland and Runicom Limited in Gibraltar and all these things, of course, I heard it and knew but not at that time --

Q. I was asking about 1997.

A. No.

Q. Now, if you could turn to paragraph 199 of your statement, you're here addressing certain meetings you

had with Valmet, at page D1/10/230.

A. Wait, wait, 199. Yes.

Q. You say you were first asked by Mr Berezovsky to attend a presentation at Valmet's offices in Geneva in the spring of 2000. You go on to say that you were there as a friend and adviser to Mr Berezovsky and Mr Patarkatsishvili but not in any official legal capacity.

A. Yes.

Q. But you must have been there to represent Mr Berezovsky's and Mr Patarkatsishvili's interests, mustn't you?

A. No. This first meeting was something like a presentation so Mr Samuelson gave a presentation of what he is able to do. I do not know, up to now, who brought Mr Samuelson into the game. As I was in Switzerland at that time and the meeting should take place in Geneva, I was just asked, "Could you drop in, could you sit there and look what is happening and then tell us what you think about it?"

Q. So you were asked to report back to them about it?

A. Yes.

Q. And you subsequently went to a number of other meetings with Valmet?

A. But very much later on, not in the...

Q. So this meeting you're describing in 1999 is a very initial presentation?

A. This was a very initial presentation because we had the problems in 1999, we had the sequestration of funds, blocking of accounts and everything. And then we had the situation that Mr Berezovsky and Mr Patarkatsishvili, they came to the conclusion that they should also, how do you call this, put their relationship into more a formal way and to see what is -- who is who and what is what. And so they were looking for a solution for this and one who could provide such a solution, it seems, was Mr Samuelson. So it was Valmet.

Q. So you obviously gave a positive report back about --

A. Yes, I gave a report that it looks that this company is worth...

Q. And then later in 2000, you attended certain further meetings with Mr Samuelson?

A. I don't remember.

MS DAVIES: My Lady, I wonder if that's a convenient moment.

MRS JUSTICE GLOSTER: Yes, certainly.

Mr Jenni, you're not to talk to anybody about your evidence or about the case over the lunch hour, all right?

THE WITNESS: Yes, okay.

MRS JUSTICE GLOSTER: Very well. 2 o'clock.

(1.00 pm)

(The short adjournment)

(2.00 pm)

MRS JUSTICE GLOSTER: Yes, Ms Davies.

MS DAVIES: Mr Jenni, just before lunch you told us that the background to your first meeting with Valmet was that there had been problems experienced in 1999 involving the sequestration of funds and the blocking of accounts. Could you tell us briefly what that was about?

A. This was the so-called Aeroflot case and it was -- as far as Switzerland is concerned, it was blocking of accounts due to a request for legal assistance by the Russian prosecutors in Switzerland.

Q. So one of the reasons Mr Berezovsky was interested in Samuelson was that they were looking for a solution for having funds that they could have available which wouldn't be frozen?

A. Well, I wouldn't say it was this because in the -- the basic idea was that they wanted to get structured their relationship and they wanted to get structured their holdings in a way that it was clear who was holding what shares in what -- to what extent. This was the objective. So there were put up two structures that were more or less like a mirror, they mirrored the

situation, and in this structure they would put in their shares 50/50, as they decided to do the business together.

And the question of -- well, I would rather say it was a question of confidentiality because before this happened with the sequestration, with blocking of accounts and so on, we had cases where people tried to get into accounts and to get information from accounts that we do not know who they were, what they were. But from banks I received calls telling me, for instance, that somebody was trying to get into the account and to get the information.

Q. Mr Samuelson certainly gave the impression, did he, that he could set up very complex structures that would help prevent funds from being blocked?

A. That is correct -- no, for me it was never a question that it would prevent funds from being blocked because if there is legal insistence somewhere, there is legal insistence somewhere, you have to declare the beneficial owner and so on, so the funds will be blocked if they have to be blocked. But it is also question of confidentiality and you know the Swiss banking secrecy deals with questions of confidentiality. We are used to that not everybody is putting his nose into all the details of other people.

- Q. You told us this morning that after your initial attendance at this presentation in the spring of 2000, you did attend some further meetings with Valmet --
- A. Yes.
- Q. -- later in 2000.
- A. Yes. Later on, yes.
- Q. And presumably at those meetings Valmet were, amongst other things, interested in obtaining details as to the source of the funds that they were going to be managing on Mr Berezovsky's behalf?
- A. The source of the funds? Well, they were -- first of all, they were interested in what businesses were behind it and what businesses should be structured, yes.
- Q. And that was because that was the source of the funds they were obtaining and of course they had --
- A. Yes, of course, it was the businesses that were generating funds, yes.
- Q. And they had their own due diligence requirements they no doubt had to satisfy?
- A. Yes, yes, yes.
- Q. You tell us in your statement at paragraph 200 D1/10/230 that at the meetings that you attended at least, you very much left the explanation of the source of the funds to Mr Fomichev?
- A. Yes, that's correct. Yes.

Q. He, by late 2000, being closely involved in the management of Mr Berezovsky's finances?

A. Yes.

Q. Now, you refer at paragraph 203 D1/10/231 to a meeting that you attended on 5 August 2000 and there's a short note of that meeting at H(A)21/12, if you could be given that.

A. Yes.

Q. And you confirm in paragraph 203 that this is an accurate record of the meeting you attended.

A. Yes.

Q. Now, at page 12 we have the English translation of the meeting note; the original meeting note is actually at page 11. It appears to be in Dutch.

A. Mm-hm.

Q. You can see that that includes a photocopy of your business card and Mr Fomichev's business card.

A. Yes.

Q. Could you just remind yourself -- it's up to you whether you prefer to look at the Dutch or the English but just remind yourself of the -- just read the note. (Pause)

A. Yes.

Q. Just looking at the note, it looks as if this might have been one of the early substantive meetings you attended with Valmet?

A. Yes.

Q. In particular from the fact they're referring at the end to "possibly some... new business". That suggests that the business yet hadn't been placed with them, doesn't it?

A. Yes, yes. The business was not yet placed, no.

Q. Now, if you look at the first paragraph of this note and the last two sentences, would I be right in understanding that at this stage what was being discussed with Valmet was relatively small participations in Russian companies being transferred into the Valmet structure?

A. This is not correct because this was rather the idea that into different vessels should not be put more than these small parts.

Q. The last sentence says:

"The participations shall all be between 5 and 15% of the share capital."

A. Yes, of each -- of each vessel.

Q. The vessel being the underlying --

A. Of the structure, yes.

Q. I see.

A. So that it was not vulnerable, there was not the bulk risk with one vessel.

Q. Now, subsequently to this meeting you provided some

references to Valmet for Mr Berezovsky and Mr Patarkatsishvili; that was on 2 September 2000. If you turn forward in this bundle, we find them at page 137 H(A)21/137.

A. Yes.

Q. This is the reference for Mr Patarkatsishvili --

A. Yes.

Q. -- but did you provide a similar reference for Mr Berezovsky?

A. Yes.

Q. The next meeting the documents record you as attending was a meeting on around 5 September 2000. If you could take up bundle H(A)19 at page 10 H(A)19/10.

A. Yes.

Q. Now, you don't refer to this meeting note in your statement. Have you seen it before?

A. I just have to look at it first.

Q. Of course.

A. No. No.

Q. Just to set the context, although this has a date "9/5/00", that's in fact US dating. You can see that from the bottom of page 11, where the last paragraph refers to "Hans-Peter as a Swiss lawyer", who must be you --

A. Yes.

Q. -- having provided reference letters.

A. Yes.

Q. And we've just looked at one of those reference letters and it's 2 September.

A. Yes.

Q. So this must be produced after that?

A. Probably, yes. I don't know this note but, as it refers to this, it must be after that.

Q. Now, the third paragraph on page 11 of this note --

A. Which, sorry?

Q. The third paragraph on page 11, the paragraph starting, "I have met with BB and AP..."

A. I made a mistake, I put the -- I have to find it first.

Q. Sorry, page 11.

A. Page 11. Yes.

Q. About halfway through that paragraph you see it says:

"Ruslan is assisted by Hans-Peter Jenni, a Swiss lawyer now resident in Cyprus, [Mr] Kay... and [Ms] Nosova... I have had numerous meetings with Ruslan, sometimes attended by Hans-Peter, some by Natalia and one by Joseph... Today, Peter joined me at a meeting held in London with Ruslan and Hans-Peter."

So it looks as if you had been at a meeting in London on around 5 September.

A. That's possible, yes.

Q. And if you go up to the top of page 11, you can --  
sorry, page 10 --

A. Page 10, mm-hm.

Q. -- first of all, you see there's a note in the second  
and third paragraphs of what Valmet had been told about  
what interests Mr Berezovsky and Mr Patarkatsishvili  
held at the time:

"They bought 49% with the Government retaining 51%  
of ORT."

Then:

"They... added Kommersant..."

Then:

"... [they] were able to buy control of Sibneft...  
and subsequently have acquired 70% of Russia's aluminium  
smelters and have created a new holding company called  
Russian Aluminium..."

A. Yes.

Q. Did you know at the time what percentage interest in  
Rusal Mr Berezovsky claimed to own?

A. No.

Q. You weren't responsible for telling Valmet that it was  
70 per cent then?

A. No, not me.

Q. And over the page, at the top of page 11, you see  
a reference to the Hotspur and Octopus Trusts and then

a reference to:

"We will start by moving the Sibneft holdings into the funds in about ten days."

Now, as at September 2000 was your understanding that Mr Berezovsky directly held any Sibneft shares that could be moved into funds in about ten days?

A. I must say I was probably present at the meeting but it was not my suggestion or my -- the information didn't come from me. So whether it was the case or it was not the case, it was up to the people who gave this information to judge it, not me.

Q. And you didn't understand Mr Berezovsky to have shares in Sibneft?

A. I always understood that he has the participation in Sibneft but I didn't know the details: where he had it, how he would transfer it and so on. This I didn't know.

Q. Is this likely to come from Mr Fomichev?

A. Well, probably, yes.

Q. Or Ms Nosova?

A. Or Ms Nosova? I don't -- I cannot answer this question because I don't know.

Q. Was anyone else present at meetings that you held with Valmet?

A. Sometimes it was Boris Berezovsky who was present, Mr Fomichev was present, Mrs Nosova was present,

I remember Mr Curtis was present sometimes.

Q. Do you remember then describing to Valmet the interest --

A. No, no.

Q. None of them?

A. Well, I don't recall it.

Q. You don't recall.

The next paragraph:

"BB and AP also own a large stake in Aeroflot..."

A. Yes.

Q. Was it your understanding as at 2000 that Mr Berezovsky and Mr Patarkatsishvili owned a large stake in Aeroflot?

A. No.

Q. But Mr Berezovsky was receiving funds as a result of Andava's dealings with Aeroflot, wasn't he?

A. There were dividends paid out to the shareholders, yes.

Q. Andava dividends paid out?

A. Yes.

Q. To Mr Berezovsky?

A. I don't remember where they were paid out, but the companies, yes.

Q. Could you be given bundle H(A)18 at page 221.001T H(A)18/221.001T. Now, this is also not a document that you refer to in your statement, no doubt because it only came to light after your statement was signed. Do

you recall seeing this document before?

This is the translation, sorry, I should say, of  
a Russian document --

A. May I see the original?

Q. It starts at page 221.001.

A. Yes. May I see the original?

Q. That is the original, 221.001.

A. This is the original. I don't know, I don't remember  
this document. (Pause)

No, I don't know who produced this document.

Q. Before I ask a question --

A. At least in the French text my name is wrongly spelt --  
in the Russian text my name is wrongly spelt.

Q. Before I ask you a question about it, are you fluent in  
Russian, Mr Jenni?

A. Pardon me?

Q. Are you fluent in Russian?

A. Yes.

Q. And when you communicated with Mr Berezovsky and  
Mr Patarkatsishvili, did you communicate in Russian  
or --

A. Yes.

Q. -- English? Russian?

A. Yes.

Q. Now, if you look at the bottom of the second page of

this document, in the English translation we're told at page 002T that:

"The materials set forth in this list were received by me on 21 April 2000.

"Hans-Peter Jenni."

A. No.

Q. You don't have any recollection of receiving this?

A. No. No, I see this -- I never saw this document.

I don't know these companies. I never heard about these companies.

Q. Could you just be given bundle H(E)1 --

MRS JUSTICE GLOSTER: Is this the original document, the one on the screen?

THE WITNESS: No, this is the translation.

MRS JUSTICE GLOSTER: Is there one in Russian with a signature on it?

MS DAVIES: Not that I've seen, my Lady.

THE WITNESS: There is no signature on it and my name is -- in the Russian original it is spelt wrongly.

MR RABINOWITZ: My Lady, in answer to your question, I don't think we have. This obviously comes from the family defendants' disclosure. But we haven't seen one with a signature on it.

MRS JUSTICE GLOSTER: Yes, I see. Thank you.

So you don't have any recollection of seeing this

document before?

A. No, I never...

MS DAVIES: Could you just be given for completeness bundle  
H(E)1/01.

Sorry, it's not in my hard copy, my Lady, as it's  
a new...

A. I don't...

Q. It's on the screen, Mr Jenni.

A. On the screen, yes.

Q. Yes. This is a cover sheet that was found, as we  
understand it, on the front of this file and you see  
that says:

"For Mr Hans-Peter Jenni

"CONFIDENTIALLY

"PERSONALLY IN HANDS"

I just wanted to check you have no recollection of  
seeing that either?

A. No.

Q. Thank you.

Now, you told us a bit this morning about a company  
called Ruco. Do you recall that in 1996 Ruco received  
a loan from a company called Laren Trading --

A. Yes.

Q. -- of US\$5 million?

A. It might -- it's possible, yes.

Q. And is it correct that Ruco then used the funds that it had received to increase the capital of Andava Holding SA?

A. Yes, yes.

Q. And it was Ruco that became the shareholder in Andava Holding SA, not Laren?

A. Yes.

Q. And Ruco subsequently repaid Laren 2.8 million of the loan that it had received?

A. Yes.

Q. In your statement, starting at paragraph 248 on page 240 D1/10/240, you give some evidence about the sale by Mr Abramovich of 25 per cent of Rusal Holding to Mr Deripaska.

A. Yes.

Q. And you say there that Mr Patarkatsishvili -- that's paragraph 251 -- told you that he was unhappy about the sale because he felt that he, Mr Berezovsky and Mr Abramovich should have sold together?

A. This is correct, yes.

Q. Are you suggesting that Mr Patarkatsishvili told you about his happiness in this respect at the time -- that's in late 2004 -- or was it subsequently?

A. No, it was -- rather 2004, I guess.

Q. Presumably you had a number of discussions with both

Mr Berezovsky and Mr Patarkatsishvili --

A. Yes.

Q. -- about the Rusal sale?

A. Yes.

Q. And it must again be possible, mustn't it, Mr Jenni, that you're attributing a conversation that you've had more recently to a conversation you actually --

A. Normally --

Q. -- and suggesting it happened in 2004?

A. This is always possible because time has passed and my memory passes also. But what I can say is normally when things happened I have been informed by them through the communication we had normally, that we're sitting together and discussing all that was happening around, shortly after it happened and not some time later.

Q. But you've discussed it on more than one occasion?

A. Yes.

Q. And it must be very difficult to distinguish one conversation from any one other?

A. Yes.

Q. Do you have any arrangement whereby you stand to benefit financially should Mr Berezovsky succeed in any of his claims?

A. No.

MS DAVIES: Thank you very much, Mr Jenni.

MR MALEK: I have no questions.

MRS JUSTICE GLOSTER: Any questions from anyone else?

MR ADKIN: No.

MR MUMFORD: No.

MRS JUSTICE GLOSTER: Yes, Mr Rabinowitz.

Re-examination by MR RABINOWITZ

MR RABINOWITZ: Just one question, Mr Jenni.

In the course of your answers to Ms Davies today you were asked about the relationship between Mr Abramovich and Mr Berezovsky and you said that you'd seen them together and you'd said that in your view they were friends.

Can I ask you just to describe what it was about their interrelationship which made you form the view that they were friends?

- A. I saw Mr Abramovich the first time, that was in 1995, in a private house outside Moscow with Mr Boris Berezovsky and it was in a familiar surrounding. I saw Mr Abramovich again, and with family, if I remember well, with family in 1997, 1997 at Clocher, at La Garoupe, in Antibes, and that was where the two families were together. So I had the impression that they were quite familiar and quite friends.
- Q. Did they relate to each other in any way which made you form the view about whether they were friends?

MRS JUSTICE GLOSTER: What does that mean, Mr Rabinowitz?

MR RABINOWITZ: Did they interact with each other? Or was it just that you -- the answer that you've given?

A. Well, in fact the feeling was that -- I now also try to recall other meetings where I saw them together and... In the end it was rather formal.

MR RABINOWITZ: Thank you very much.

MRS JUSTICE GLOSTER: When both families were staying at Antibes, did you get the impression they were, as it were, spending some time on their holidays together?

A. Maybe not that they were spending holidays together but they were just near each other.

MRS JUSTICE GLOSTER: Yes, I see.

Thank you. I have no further questions. Thank you very much indeed for coming along, Mr Jenni.

THE WITNESS: Thank you.

(The witness withdrew)

MR RABINOWITZ: My Lady, our next witness is Ms Gorbunova.

Can I just ask: does your Ladyship have -- before she is sworn -- a document identifying a correction to be made to her statement?

MRS JUSTICE GLOSTER: Can you hand me up another one.

(Handed)

Thank you very much.

MS ELENA GORBUNOVA (sworn)

MRS JUSTICE GLOSTER: Do sit down if you would like to.

THE WITNESS: Thank you.

Examination-in-chief by MR RABINOWITZ

Q. Good afternoon, Ms Gorbunova. Can I just check that you don't have with you any mobile phone or any other electronic communication device?

A. No.

Q. Thank you very much.

Can I ask that you please be given bundle D4 open at tab 8 D4/08/56. Ms Gorbunova, at D4, tab 8, you should, I hope, see a document titled "First Witness Statement of Elena Alexandrovna Gorbunova".

A. Yes.

Q. Do you have that? If you can go, please, to page 67 of the bundle, the numbers on the right bottom corner D4/08/67.

A. Yes.

Q. And do you see a signature there?

A. Yes.

Q. And can you confirm that that's your signature?

A. Yes, that's mine.

Q. Thank you.

Now, there is, I know, a correction that you want to make to your witness statement. Can I ask you to go to

page 64 of the bundle D4/08/64. It's paragraph 28.

It really begins at the bottom of the previous page and goes over the page. Do you see that paragraph?

A. Yes.

Q. Right. Then do you have with you there, in front of you, a page headed "Correction to Elena Gorbunova's First Witness Statement"?

A. No, I don't.

Q. You don't. Can I just hand up... (Handed) Thank you very much.

Now, I understand this is a correction you want to make to that paragraph. Is that right?

A. Yes.

Q. Now, subject to that correction, can you confirm that the contents of this, your first witness statement, are true to the best of your knowledge and belief?

A. Yes.

Q. Thank you.

Now, can I ask you next to go to tab 11 of the same bundle D4/11/120. You should see another witness statement: it should be headed "Second Witness Statement of Elena Gorbunova".

A. Yes.

Q. Do you see that?

A. Yes.

Q. Can I ask you to go, please, to page 122 of the bundle D4/11/122. It's the third page of the witness statement. Again, do you see a signature there?

A. Yes.

Q. Can you confirm that it's your signature?

A. Yes, it's mine.

Q. And can you confirm that the contents of this, your second witness statement, are true to the best of your knowledge and belief?

A. Yes.

Q. Ms Gorbunova, as I understand it, the position in terms of the translator is this. You understand English?

A. Yes.

Q. And so the questions will be asked in English.

A. Yes.

Q. But the position is, is it not, that when it comes to answering, for more complex answers you would like to give them to the translator in Russian because you're not comfortable speaking English?

A. Yes, if it's possible.

MRS JUSTICE GLOSTER: Yes. Well, see how you go. It's easier in a way -- well, it's easier for me, put it this way -- if you give your answers in English, but I don't want to inconvenience you in any way. So just how you feel easiest.

THE WITNESS: Thank you, my Lady.

MRS JUSTICE GLOSTER: Can you try and speak up a bit because your voice is quite soft. Can you pull the microphone towards you. Thank you.

MR RABINOWITZ: Can we just have a temporary interruption or commercial so that the translator can go and get her pad and glasses.

Ms Gorbunova, can you wait there, please.

Mr Sumption will have some questions for you.

MRS JUSTICE GLOSTER: Yes, Mr Sumption.

Cross-examination by MR SUMPTION

(All answers interpreted unless otherwise indicated)

MR SUMPTION: Ms Gorbunova, when did you last meet

Mr Smolensky?

A. On 5 September 2011.

Q. And what did you discuss with him?

A. We discussed the evidence he gave in favour of Boris for the purposes of the strike-out application and the evidence he was trying to give via Skype to our lawyers.

Q. And what did you say about that?

A. (Not interpreted) Me or him?

(Interpreted) I didn't say anything about that.

I just received information.

Q. Well, you say that you discussed these matters. Tell us what was discussed, what was said?

A. I was asking him how it was happening, how the procedure was actually taking place. I also asked him if he was willing once again to give evidence and to sign it.

Q. And what was his answer?

A. He said that he was willing to meet with our lawyers the following day.

Q. Did you say to Mr Smolensky that you would like him to avoid helping Mr Abramovich in this action?

A. No, that's impossible.

Q. Did you say to Mr Smolensky --

A. I didn't know he was helping him.

Q. No, but you wanted to discourage him from doing so, did you not?

A. No.

Q. And did you say to Mr Smolensky that you would be adversely affected financially if Mr Berezovsky lost, which was why you would prefer him not to assist Mr Abramovich's --

A. I didn't say that.

Q. Because that is what we understand from Mr Smolensky that you said: both of those things.

A. That is not true.

Q. Well, I suggest to you that it is.

A. This is your assumption. I'm telling you what happened.

Q. Do you have a financial interest in the outcome of this

case, Ms Gorbunova?

A. What do you mean?

Q. Well, if Mr Berezovsky wins, do you stand to be better off financially?

A. Naturally.

Q. Explain how that is.

A. Well, because we're a family.

Q. Have you lent your own money to Mr Berezovsky, Ms Gorbunova?

A. No.

Q. You haven't lent any money to Mr Berezovsky; is that your evidence?

A. At some point back in time he put some money on my account and later, when he needed some financial assistance, I just returned this money to him. I didn't consider this money to be my personal funds; I considered it to be the money of our family.

Q. Did you lend him that money when you passed it back to him?

A. No, I didn't. I just gave it back to him.

Q. Was it agreed between you that he would repay it to you if he succeeded in this action? Perhaps the translator could assist.

A. We did not agree that, but I think it's natural to assume so.

Q. You are, I assume, familiar with the main issues in this lawsuit. Is that correct?

A. Yes.

Q. Am I right in thinking that Mr Berezovsky has often spoken to you about them, about the issues?

A. About this as well.

Q. And over the past few years no doubt Mr Berezovsky has often said to you that he believes that Mr Abramovich blackmailed him?

A. I was present myself and therefore I didn't need any confirmation from Mr Berezovsky to know that.

Q. You did not hear, according to your evidence, the detailed exchanges which you claim to have been present at; is that correct?

A. No, I didn't hear the detailed exchanges but the first 15 minutes were sufficient for me to understand that it was blackmail.

Q. Could you look at your first witness statement, please. You tell us in paragraph 39 that the men sat in one corner of the terrace by the dining table and you sat in another one. You then say you went inside after 10 or 15 minutes as it was cold. Do you see that?

A. (Not interpreted) Yes.

Q. The next paragraph:

"From what [you] observed, Roman behaved very

differently at this meeting from how I had seen him behave previously. He used to be respectful towards Boris, almost humble. However, on this visit Roman seemed to be looking down on Boris... My impression was that Roman was trying to demonstrate that he was doing Boris a huge favour. I heard the men talking about Boris and Badri's interests in ORT. I recall Roman saying that the government wanted to pay significantly less for the ORT shares than he was going to pay, and that it was only thanks to Roman that they would pay more. I think Roman also said that he was personally paying some of the sale price as he was fed up with the story with Boris and Badri."

You then say at paragraph 41:

"I remember that after the meeting, Boris was outraged."

Now, what did you hear of the conversation between these three men that led you to think that it was blackmail?

- A. Well, first of all I knew what the conversation would be about and the most important issue that was being discussed was that Nikolai Glushkov was arrested and put in prison. All the rest was a consequence of that situation.
- Q. Reading your witness statement, could you please point

to what it was in this conversation, as you describe it, which suggested that it was blackmail?

- A. I was not actually recording all the words that were being uttered there. I was trying to describe the situation that was at hand, that was there, and the situation was blackmail. This was just a day; the situation was developing over the course of several months.
- Q. What you say in paragraph 41 was that it was Mr Berezovsky who told you that Mr Abramovich had used Mr Glushkov to blackmail him.
- A. Mr Berezovsky simply voiced exactly what I've heard and exactly the conclusions that I have come to.
- Q. You do not say that in your witness statement and it didn't happen, did it?
- A. This is exactly what did happen; it's just that our opinions on the meeting coincided.
- Q. Then why didn't you say that in your witness statement, Ms Gorbunova? You've made two of them.
- A. I was not being asked about the opinion I formed about that meeting.
- Q. If you had heard yourself --
- A. Once again, I was describing a situation, not an opinion.
- Q. If you had actually heard the exchanges between these

three men which amounted in your opinion to blackmail, you would have said that in your witness statement, wouldn't you?

A. Not necessarily. For me this was a totally natural understanding of the situation but at that time I thought about a different thing altogether: I thought that apart from Nikolai having become a hostage, we were becoming financial hostages to Mr Abramovich.

Q. Now, you met Mr Abramovich, did you not, many times between 1995 and 2000?

A. Yes.

Q. He must have come quite often in that period to your house in southern France?

A. Yes.

Q. It cannot be easy to remember even approximately, years after the event, the dates on which you saw him?

A. The date is indeed difficult to recall but I remember very well the sequence of events.

Q. Would you look at paragraph 34, please, of your witness statement; paragraphs 34 and 35 D4/08/65.

A. (Not interpreted) yes.

Q. You say here that Mr Abramovich was present at Mr Patarkatsishvili's birthday party at the George V Hotel in Paris on 31 October.

A. No, no, no, I'm saying in fact that we were celebrating

the birthday and Mr Abramovich came along.

Q. Yes. So you say --

A. He did not join in with the celebrations.

Q. You say that he arrived at the hotel around lunchtime and that you spoke to him.

A. Yes.

Q. Now, are you sure about that?

A. Absolutely.

Q. You have a mental picture, do you, of that occasion?

A. (Not interpreted) Yes.

Q. Mr Abramovich had in fact been in Paris ten days earlier but his travel records show that he returned to Russia on 24 October and did not leave Russia again until 6 November. He was not present at the George V Hotel on the 31st.

A. We know everything we need to know about the stamps in Mr Abramovich's passport.

Q. What do you need to know about the stamps in Mr Abramovich's passport, Ms Gorbunova?

THE INTERPRETER: Okay, this must have been my mistranslation.

A. We already know everything about the stamps in Mr Abramovich's passport.

MR SUMPTION: What do you know --

A. Strange metamorphoses are happening to these stamps.

Q. What do you know about the stamps in Mr Abramovich's passport that helps you to give evidence about his presence in Paris on 31 October?

A. Nothing at that time. But if he changed one stamp, nothing can guarantee that he hadn't changed all others as well.

Q. He didn't change any stamps as far as you're aware, did he?

MRS JUSTICE GLOSTER: Well, I'm not sure that's a question she can answer, Mr Sumption.

MR SUMPTION: Well, she claims to have some knowledge of this.

MRS JUSTICE GLOSTER: You think, do you, that he's changed the stamps or he's obtained a change to the stamps in his passport?

A. I saw how they were being changed.

MR SUMPTION: What do you mean, you "saw how they were being changed"?

A. I mean that he sent us one stamp in a copy of a document and it was different from the stamp that he eventually disclosed in the original document. I think this is a question to the experts.

Q. Are you talking, Ms Gorbunova, about an occasion on which a photocopy of a passport stamp at a later date was replaced by a better copy of the same page of the

passport? Is that the occasion you're talking about?

A. I can't say that it was a better copy. I can say that it was different, the stamp.

MRS JUSTICE GLOSTER: Well, Mr Sumption, I don't think you need to go over this.

MR SUMPTION: I'm not going to -- no. I only asked the question because the witness claimed to have some knowledge of it.

Now, Ms Gorbunova, you say that you were at Cap d'Antibes on 6 November 2000; you say that in paragraph 36 of your witness statement.

A. (Not interpreted) Yes.

Q. Would you please tell us what you did on 6 November 2000? Tell us how you occupied your day, who you saw and so on.

A. If I had seen someone, I would have remembered it. Most probably I haven't seen anyone unusual. It was an ordinary, routine day in our house.

Q. Are you saying that you saw nobody on that day or you saw nobody unusual?

A. (Not interpreted) Nobody unusual.

Q. How do you know that, Ms Gorbunova, after 11 years?

A. I just remember that period of time rather well because rather extraordinary events were happening in our lives and I remembered them because they were not very

ordinary.

- Q. Tell us what was the next time after 6 November 2000 when you saw someone unusual and who it was?
- A. By "unusual" I mean all the guests that were coming to visit us.
- Q. Tell us what was the next day after 6 November when you saw someone unusual?
- A. For example, on 7 December.
- Q. On 7 December. You saw nobody unusual between 6 November and 7 December; is that your evidence?
- A. I travelled a lot at that time and very seldom was in the house.
- Q. Ms Gorbunova, you say in paragraph 36 that you are sure that Mr Abramovich did not come to Cap d'Antibes on 6 November. I suggest to you that you cannot possibly remember the specific date on which Mr Abramovich came to Cap d'Antibes.
- A. Everybody's memory works differently. If you assume something, you are basing your assumption on how your memory works. My memory works differently.
- Q. And in particular you cannot possibly remember not seeing somebody on a particular date when you know that he has been on a number of occasions to Cap d'Antibes. What do you say?
- A. If a person hadn't visited us for four months then of

course it's easy to remember.

Q. When you made your first witness statement did you know that Mr Berezovsky was saying that Mr Abramovich's visit to Cap d'Antibes happened a few days before Christmas and a couple of weeks after the arrest of Nikolai Glushkov?

A. No, I didn't know about it.

Q. You didn't know that that's what he was saying?

A. I didn't know which dates he was giving.

Q. You seem to be very familiar with the issues in this action. Are you really saying that you did not know at the time of your first witness statement that your partner was alleging that this meeting occurred a few days before Christmas?

A. Mr Sumption, the important thing is the essence of what is going on and not the time when it was taking place.

Q. Well, the timing is important to some issues on this action and I'm therefore going to ask you about them.

A. Fine, fine. I'll try and remember, if I have time.

Q. At paragraph 38 D4/08/65 you say that:

"Although [you] do not remember the precise date of the meeting... [it] took place before 24 December 2000."

Was that evidence not given in order to corroborate Mr Berezovsky's evidence that it was a few days before Christmas?

- A. No, this evidence was given on the basis of what I was remembering, recollecting -- remembering.
- Q. You said in your first witness statement, paragraph 42, that you went away with Mr Berezovsky after Roman Abramovich's visit and came back after Christmas. Paragraph 42 D4/08/66. Would you just remind yourself of that.
- A. (Not interpreted) Yes.
- Q. Now, in your second witness statement you say that you left with Mr Berezovsky for the United States and came back alone to Cap d'Antibes for Christmas. Do you remember saying that? It's paragraph 6(g) of your second witness statement if you want to have a look at it D4/11/122.
- A. (Not interpreted) Just a second. Which one?
- THE INTERPRETER: Could you give us the tab, please?
- MR SUMPTION: It's in tab 11. I'm just looking at tab 11, paragraph 6, in conjunction with paragraph 42 of your first witness statement.
- A. (Not interpreted) Yes.
- Q. Now, where did you go with Boris after Roman's visit to the chateau? I'm looking at paragraph 42 of your first witness statement.
- A. Most likely to Germany.
- Q. If you look at paragraph 6(c) of your second witness

statement, you say that:

"[You] understand that Boris arrived in the US on 17 December 2000, as is shown by his passport stamps. I was with Boris for some of this trip to the US, and I think that we flew together from the London to the US."

A. (Not interpreted) Yes.

Q. Do you see that?

A. (Not interpreted) Yes.

Q. Now, is it right that the visit that you made after Roman's visit to the chateau, are you saying that that was a visit to the United States?

A. No, I wrote that either we went to Germany or to the US and it is in my witness statement.

Q. Are you referring to your second witness statement when you say that?

A. I don't remember in which.

Q. Well, have a look at paragraph 6 of your second witness statement. Is that the witness statement that you have just referred to?

A. (Not interpreted) Yes. Yes.

Q. Right. You answered "yes", but possibly so faintly that it may not have got on to the transcript.

A. (Not interpreted) I can see it.

Q. It has, fine.

You say in your second witness statement, paragraph 6(c), that you left with Mr Berezovsky for the United States from London --

A. (Not interpreted) Yes.

Q. -- and came back, you say, in time for Christmas.

A. (Not interpreted) Yes.

Q. You describe a number of things that you did in his company in the United States: paragraphs 6(c), (d) and following.

A. (Not interpreted) Yes.

Q. Now, are you aware that your passport stamps show no record of your entering the United States in December?

A. Possibly, but I was there.

Q. Mr Berezovsky's passport stamps do record his entry into the United States, but yours do not.

A. I don't know, but I was there.

Q. You were not there, were you, Ms Gorbunova?

A. I was there.

Q. If you say that you went to the United States with Mr Berezovsky, presumably that is something that you say on the basis of your recollection rather than because you have been assisted by any documents?

A. No, no, I remember I went to Washington and we were at a presentation of a civil liberties society or something, I can't remember exactly what it was called,

but together with Alexander Goldfarb.

- Q. Did you remember going to the United States with Mr Berezovsky before Christmas at the time when you wrote your first witness statement?
- A. I don't know, but I think at that time the question of where we were did not arise.
- Q. If you remembered going with Mr Berezovsky to the United States before Christmas at the time you made your second witness statement, presumably you would have remembered it at the time when you made your first witness statement just a few months earlier?
- A. It's just that when I was giving my second witness statement I had to remember December date by date, very specifically what was happening.
- Q. If you had mentioned the American visit in your first witness statement, that would have undermined Mr Berezovsky's then case that his meeting with Mr Abramovich occurred shortly before Christmas, wouldn't it?
- A. I did not coordinate my statement with Mr Berezovsky.
- Q. And for that reason you didn't mention it, did you?
- A. At that time I was not asked about our movements throughout the month of December.
- Q. If you look at paragraph 38 of your witness statement,
- Ms Gorbunova D4/08/65 --

MRS JUSTICE GLOSTER: The first one?

MR SUMPTION: The first witness statement, yes.

A. What is the tab, please?

Q. Tab 8.

What you say in paragraph 38 is that you are sure that Mr Abramovich's denial that he met Boris in December is wrong. You say:

"The meeting took place before 24 December..."

Then at paragraph 42 you say that after that meeting you and Boris went away for a few days and came back after Christmas.

What you're saying in that witness statement is that after the meeting with Mr Abramovich you went away with Mr Berezovsky for Christmas and didn't come back until afterwards; that's right, isn't it?

A. I'm not saying that we left for Christmas, for actual Christmas.

Q. You are at paragraph 42, aren't you? Because what you say is that you went away with him for a few days and came back after Christmas.

A. (Not interpreted) After a few days.

Q. Look at paragraph 42.

A. I suppose what happened is that the two trips merged in my mind into one. What I remember is the sequence of events and I remember that soon after that, we left.

Q. Soon after the meeting you left, you mean?

A. (Not interpreted) Yes.

Q. The meeting with Mr Abramovich?

A. (Not interpreted) Yes.

Q. And you left for Christmas soon after the meeting?

A. No, I didn't say that we left for Christmas, ie to spend Christmas elsewhere. I was saying that I remember that we came back after Christmas.

Q. Now, you were at Cap d'Antibes on 7 December, when the news arrived of Mr Glushkov's arrest in Moscow, were you not?

A. (Not interpreted) Yes.

Q. Mr Glushkov was a friend, was he not?

A. Yes, he was a friend and he is a godfather to our daughter.

Q. Yes. So the news of his arrest was no doubt distressing for you as well as for Mr Berezovsky?

A. Yes, for me it was also unexpected and traumatic.

Q. If Mr Abramovich had arrived at Cap d'Antibes on 7 December, the very day that the news broke of the arrest of Mr Glushkov, you would have remembered that, wouldn't you?

A. No, not necessarily.

Q. And you would have said it in your first witness statement, wouldn't you?

A. (Not interpreted) What? (Consults interpreter)

(Interpreted) If I remembered it, I would have said it.

Q. You do not remember Mr Abramovich arriving at Cap d'Antibes on 7 December itself, do you?

A. I repeat once again: it's difficult for me to remember all the dates exactly but I remember the sequence of events very clearly.

Q. You do not remember either, do you, Mr Abramovich arriving at Cap d'Antibes in the two or three days after 7 December? Do you agree? You don't remember that either?

A. In two/three days we left for Germany.

Q. This meeting in December never happened, did it?

A. That is not true. It did happen.

Q. You may be confusing Mr Abramovich's arrival on 6 November with his arrival at some stage in December?

A. I cannot be confusing that because on 9 November I went to Moscow; I came back on the 11th and that was my last visit.

Q. Why does that mean that you can't be confusing that, if Mr Abramovich's travel records show that he was in the south of France on 6 November?

A. When I saw Mr Abramovich I already had no possibility to re-enter Russia.

Q. And you are confusing what Mr Berezovsky told you about his exchanges with Mr Abramovich with things that Mr Berezovsky has told you much later many times, are you not?

A. No, I'm not confusing.

MR SUMPTION: Thank you.

MR MALEK: I have no questions.

MR ADKIN: My Lady, no.

MR MUMFORD: No questions.

MRS JUSTICE GLOSTER: Yes, Mr Rabinowitz.

Re-examination by MR RABINOWITZ

MR RABINOWITZ: Ms Gorbunova, you were asked by Mr Sumption about a trip that you made to see Mr Smolensky in September of this year.

A. (Not interpreted) Yes.

Q. Mr Sumption suggested to you that you had had a conversation with Mr Smolensky in which I think it was suggested that you were seeking to persuade Mr Smolensky not to help Mr Abramovich, and you denied that.

Can you just assist us with this: did Mr Abramovich's name come up in the conversation with Mr Smolensky?

A. Yes.

Q. And can you tell us the context in which Mr Abramovich's name came up and what it was that you were told by

Mr Smolensky about Mr Abramovich?

A. Mr Smolensky told me that he got a call from Mr Abramovich, who organised a meeting with Mr Putin to discuss some kind of business interests of Mr Smolensky.

Q. Was there anything else that he said?

A. (Not interpreted) About Abramovich?

(Interpreted) He said that Smolensky was interested in some -- had an interest in a project near Vladivostok and that he was going to build or undertake a large project there and that Putin had promised him help. He also said that Smolensky owned some land there and Putin wanted to confiscate it from him to build his own residence, a villa there for himself, and that Roman was just an intermediary in that.

Q. An intermediary in what? Can you just explain what you mean by "[he] was just an intermediary in that"?

A. As far as I understood, Roman was a person, an intermediary between Putin and Smolensky, somebody who would talk Smolensky into giving up that land.

Q. Are you suggesting that was on behalf of President Putin?

A. (Not interpreted) Yes.

Q. Now, can I just ask you this. You were also asked by Mr Sumption about the circumstances in which it came to be that your second witness statement had more

information about your movements in December than your first witness statement.

A. (Not interpreted) Yes.

Q. Can I ask you to look at paragraph 3, please, of your second witness statement: that's at D4, tab 11, page 120 D4/11/120. You see you say:

"[You] make this statement... following the provision on 4 August 2011 by Global Jet [of information relating to] the private jet [that] Boris [and you] used at that time."

A. (Not interpreted) Yes.

Q. Can you just assist as to whether that was something that you took into account in producing the further details of your movements in December 2000?

A. I didn't take it into account in my first witness statement but I did for my second witness statement.

MR RABINOWITZ: Thank you very much. I've got no further questions.

MRS JUSTICE GLOSTER: Thank you very much indeed.

THE WITNESS: (Not interpreted) Thank you.

MRS JUSTICE GLOSTER: Thank you for coming along and helping the court.

(The witness withdrew)

MRS JUSTICE GLOSTER: I'll take the break now. Have you got another witness for this afternoon?

MR RABINOWITZ: I think we have got another witness here.

MRS JUSTICE GLOSTER: Right. I'll take ten minutes.

Just before I do that, I was promised an agreed chronology, or at least one that is agreed so far as you can get -- obviously you're not going to agree all the dates -- and also an agreed list of issues. I could really do with the agreed chronology.

MR RABINOWITZ: As I understand it, the agreed chronology has been sent to your Ladyship today.

MRS JUSTICE GLOSTER: Excellent. Very well. Thank you very much. Ten minutes.

(3.15 pm)

(A short break)

(3.30 pm)

MR RABINOWITZ: My Lady, our next witness is Mr Dubov.

MRS JUSTICE GLOSTER: Yes.

MR YULI DUBOV (sworn)

Examination-in-chief by MR RABINOWITZ

MR RABINOWITZ: Good afternoon, Mr Dubov.

A. Good afternoon.

Q. I wonder if you -- well, can we just start again and can I ask you to confirm that you don't have any mobile phone or electronic device?

A. No, I left everything at my seat back there.

Q. Well done. Can I ask then that you be given bundle D1,

please, open at tab number 12 D1/12/258.

Do you have in front of you, Mr Dubov, a document headed "Witness Statement of Yuli Dubov"?

A. I do indeed.

Q. Thank you very much. And can I ask you to go to page 295 D1/12/295; it's the second last page of the tab in the bundle. You seem to have it there. It's 295, bottom-right corner.

A. Yes.

Q. Thank you. You see a signature there: can you confirm that's your signature?

A. This is my signature.

Q. And can you confirm that this is your first statement in these proceedings?

A. Yes, I believe this is my first statement.

Q. Thank you.

Can you confirm that the contents of this witness statement are true to the best of your knowledge and belief?

A. I do.

Q. Thank you.

Can you then be given bundle D4 opened at tab 2, please D4/02/5. You should see a document, "Second Witness Statement of Yuli Dubov".

A. That's right.

Q. Thank you. If you go to page 11, again you should see a signature D4/02/11.

A. Yes.

Q. Can you confirm that that's your signature?

A. It's my signature.

Q. And this is your second statement?

A. This is my second statement.

Q. And can you confirm that the contents of this, your second statement, are true to the best of your knowledge and belief?

A. I do.

MR RABINOWITZ: Thank you. Can you wait there, please.

Mr Sumption will have some questions for you.

Cross-examination by MR SUMPTION

MR SUMPTION: Mr Dubov, I think you describe yourself as a close personal friend of Boris Berezovsky. Is that right?

A. It's the shortest description of our relations, yes.

Q. Right. Well, it's probably sufficient for present purposes. And of Mr Glushkov also?

A. And of Mr Glushkov also.

Q. You tell us in your witness statement that you work from an office in Mr Berezovsky's building in Down Street. Is that correct?

A. That's correct.

Q. What do you do in that office?

A. Well, most of the time I'm working on my book and in the time that's left I'm also trying to earn some money, more or less successfully.

Q. Now, is it right that since 2004 you have been involved in the preparation of this case?

A. In the beginning, yes.

Q. Only in the beginning?

A. Only the beginning.

Q. During what period were you involved with it?

A. I believe that until February 2008, until Badri died.

Q. Yes, I see. So between 2004 and 2008; would that be fair?

A. Yes.

Q. And have you, during that period, regularly discussed Mr Boris Berezovsky's case with him?

A. No, I don't think that we had any regular discussions about this case.

Q. Well --

A. From time to time Boris came to me with the request to try and find some kind of information that could assist him and his lawyers in preparation to this trial and I was always glad to assist him in this.

Q. And were you present, for example, at interviews with Mr Patarkatsishvili by Mr Berezovsky's solicitors in

2007?

A. Yes, I was indeed. It was two days in July or in June;  
I don't remember when exactly.

Q. Yes.

Now, during the period when you were working on this case, on what basis were you working on it? Was he paying you for it?

A. No.

Q. Do you have any arrangement with anybody under which you stand to benefit financially if he wins this action?

A. No.

Q. Now, I'd like to ask you about the ORT sale, please.

A. All right.

Q. In 2000 you were the deputy general director -- or rather at the end of 2000 you were the deputy director general of Logovaz?

A. That's right.

Q. And that company itself was a shareholder in ORT, with a holding of 11 per cent?

A. Absolutely right.

Q. Was your position as deputy general director a board position, ie were you a director also?

A. I was on board as well.

Q. Yes. And were you, in addition, a director of ORT?

A. I was on board of ORT.

Q. Sorry?

A. I was on board of ORT.

Q. Right. As well as Logovaz?

A. As well as Logovaz.

Q. Now, in early September Mr Berezovsky announced his intention of transferring the 49 per cent stake which he controlled in ORT to what has been called a teletrust of distinguished journalists and cultural figures. Do you know what I'm talking about?

A. Yes, I do know what you are talking about. I never discussed with Boris these arrangements but I knew about this from the press mainly.

Q. Well, were you consulted about these arrangements?

A. No.

Q. You weren't? Were you consulted about the names of the people who would be on this teletrust?

A. No. It was completely Boris's choice and his decision.

Q. Could you please be given bundle H(A)21/178. You should have open in front of you an English translation of a press conference with Mr Berezovsky which was shown on TV6, which I think was another of Mr Berezovsky's television interests --

A. That's right.

Q. -- on 7 September 2000. This is a press conference about the teletrust.

A. Mm-hm.

Q. I'd like you to turn to the third page, page 180 of the bundle H(A)21/180, of this press conference.

Mr Berezovsky is being asked questions, Q, and at the top of the page you will see that he was asked:

"Did you consult with anyone regarding this list or is it your own decision? And could you name people whom you approached and who turned down the offer?"

Mr Berezovsky says:

"I did not make this decision alone. I made it together with other shareholders. And there are two main shareholders. They are the joint commercial bank, I don't know its exact name, where part of the shares are, and the company LogoVAZ. I am not the only shareholder there. There are other shareholders. And I took counsel on this issue with Mr Dubov, with Mr Patarkatsishvili [and] also... the former ORT General Director [Mr] Shabdurasulov."

Now, Mr Berezovsky seems to have said at the time that he took your advice on the subject of the teletrust. Is that wrong?

A. I think that this is wrong.

Q. I see. You don't think that you might have forgotten?

A. Well -- no, I don't think so.

Q. Surely you were being consulted because if the shares

which Mr Berezovsky controlled in ORT were passed to this teletrust, that would include the 11 per cent that was held by Logovaz, wouldn't it?

A. Certainly.

Q. And you at that time were the deputy general director of Logovaz?

A. That's right.

Q. So it would be logical to consult you as a fellow shareholder in ORT, would it not?

A. No. I think that it will be -- this is not the case because I was only the deputy general director. All kind of formal arrangements that had to be done in relation to teletrust had to be done by the general director himself. He was the only person who could act on behalf of Logovaz without any power of attorney.

Q. Well, I understand that. But taking advice about the teletrust wasn't a formal act of Logovaz, was it?

A. Mr Sumption, Boris didn't need any advice in regard of ORT shares from me. I think that the only person from whom he actually needed advice was Badri.

Q. Well, I suggest to you that Mr Berezovsky must have consulted you or he would not, immediately afterwards, have said on TV6 that he did.

A. Mr Sumption, it's already 11 years ago but if he did consult with me, maybe I would remember about this.

I just don't remember. I don't think that it happened this way.

Q. There's no criticism; you might well have forgotten after 11 years.

A. Yes, certainly.

Q. Now, Mr Gorodilov will give evidence that in November 2000 he participated in detailed discussions with Mr Berezovsky's financial manager, Mr Fomichev, about the sale of the 49 per cent share in ORT to Mr Abramovich.

A. Mm-hm.

Q. Now, I'm telling you that just as part of the background to the next document I want to show you.

A. All right.

Q. In the course of those discussions a document called a reference sheet or a summary was prepared by Mr Gorodilov which outlined the way in which the transaction was expected to go through.

A. Okay.

Q. I'd like to ask you to look at that document: it's in H(A)23/71T.

A. I can close this one?

Q. No, you haven't got it. You can put away bundle H(A)21.

A. Right.

Q. Right. Could you please turn to page 71 in this

document, which is the Russian original, but I will be working from 71T, which is the document immediately before it, which is the English translation. Use the English or the Russian version according to your preference.

A. Okay.

Q. Now, Mr Gorodilov says that this document was drawn up on 13 November 2000 and that date is confirmed by the metadata on the word processing file which shows that the file was created on that date and last modified on that date with an editing time of 31 minutes.

Now, I want you to look at this document, which appears fairly clearly to have been created on 13 November. It was prepared at a stage when it was understood that the price would be 100 million, before it was increased by agreement to 150 million.

What I want to draw your attention to is "Stage III" as described in the document. I'm looking at the English version but you can look at the Russian. "Stage III":

"LogoVAZ... sells its 11% of shares in ORT... at the nominal value (10,000 roubles per share) to a legal entity resident of the Republic of Russian Federation... which is established by one legal entity and is not an affiliate of Sibneft... The total amount of transaction

is [1.1 million] roubles."

Okay? This suggests, does it not, that a price of 1.1 million rubles for the 11 per cent shareholding had been agreed by 13 November 2000?

A. Between whom, Mr Sumption?

Q. It had been agreed in the course of discussions about how the transaction was going to go through between Mr Gorodilov and Mr Fomichev.

A. Mr Sumption, I can't say that I haven't seen this summary before; I've seen it in the disclosure. But I have never seen it in the year 2000. I was never party to any discussions which Mr Gorodilov had with Mr Fomichev.

Q. I understand that you were not party to those discussions and that you would not have seen this document at the time. My reason for putting it to you is that you say something about the price of 1.1 million rubles at paragraph 115 of your witness statement D1/12/285.

A. The first one?

Q. Yes. Paragraph 115 of your witness statement: would you like just to remind yourself what you wrote.

A. Yes.

Q. Now, what you say is that there was a discussion between you and Mr Frolov -- who was the director general of

Logovaz; is that right?

A. That's right.

Q. -- about what should be charged for the Logovaz  
11 per cent shareholding.

A. That's right.

Q. There was a discussion about the tax implications and to  
overcome that, the legal department recommended that you  
should sell the shares for a nominal consideration of  
1.1 million rubles and that was the price duly inserted  
in the contract.

A. That's right.

Q. Now, what I am suggesting to you is that in fact the  
price of 1.1 million rubles had been fixed at least six  
weeks before this, in mid-November.

A. Mr Sumption, as I already said before, I was not party  
to any discussions that Mr Fomichev could or couldn't  
have with Mr Gorodilov. As far as I understand,  
Mr Abramovich was -- also was not a party to these  
discussions.

Q. That is correct.

A. What prompted my exchange with Mr Frolov on  
24 December 2000 was that I got a phone call from  
Mr Abramovich saying that he wants me to sell ORT shares  
to Sibneft and when I asked how much he is prepared to  
pay for it, he said, "I'm paying nothing". This is why

I had to discuss it with Mr Frolov, who was absolutely outraged at this, and then we had to call the head of our legal department to ask what could happen if the deal will go on as Mr Abramovich suggested.

Q. The point is that it had always been agreed between the respective financial managers of Mr Abramovich and Mr Berezovsky that a nominal price of 1.1 million rubles would be paid for the Logovaz 11 per cent.

A. Mr Sumption, let's agree on something: I don't know what was discussed or agreed between financial managers. I know that Mr Fomichev was -- had no authority to decide anything on behalf of Logovaz. At that time we have been very friendly with Mr Fomichev and actually I loved him at that time very much, I considered him as being my friend, but he had no authority for Logovaz at all. Logovaz had its own general director and even myself, being his deputy, never interfered with his responsibilities.

What actually happened, if what you are suggesting is right and if these discussions have been under way for some time, is that neither Roman nor myself have been informed that there is some agreed price on these shares. What I know is that Roman called me on 24 December and said that he is buying ORT shares from Logovaz and he's paying nothing, and that was it.

Q. Mr Dubov, Mr Fomichev clearly did not have authority but Mr Berezovsky had a decisive voice in the affairs of Logovaz, did he not?

A. Up to a certain degree, yes.

Q. And Mr Berezovsky was Mr Fomichev's boss, wasn't he?

A. Mr Sumption, Mr Berezovsky was also my friend, and still is. It was very easy for Boris just to take a phone, to call me and say, "This is what we agreed on, this is what we disagreed and this is what I want you to do". It was absolutely unnecessary to introduce an intermediary, however respected Mr Fomichev is, between Boris and me; no reason at all. The only person who could act as intermediary between Boris and me was Badri.

Q. I'm not suggesting that Mr Fomichev acted as an intermediary between Mr Berezovsky and you; what I am suggesting is that Mr Berezovsky, once the agreement had been made between his subordinates and those of Mr Abramovich, then took the step of giving you instructions to act accordingly.

A. Excuse me? Maybe I missed something. I have to answer this?

Q. I am not suggesting to you that Mr Fomichev acted as an intermediary between Mr Berezovsky and you; I am simply suggesting that Mr Berezovsky contacted you directly

when Mr Fomichev had agreed on his behalf something with Mr Abramovich's staff.

A. Well, Mr Berezovsky didn't contact me directly.

Q. What I suggest, Mr Dubov, is that the 1.1 million rubles price did not originate with the legal department of Logovaz and was not devised at the end of December, as you suggest.

A. Well, Mr Sumption, this is my story. I have great respect for you, you can suggest whatever you like, but this is my story: this is what happened on 24 December 2000.

And may I add something? Because I've been looking through the disclosure provided by your client. As far as I recall, on 27 December there was a letter from Mr Gorenichy to Mr Frolov.

Q. I'm going to come to that.

A. Okay. Right.

Q. Now, was it the practice at Logovaz, as in many other companies, that sometimes board decisions were reached by telephone, without of an actual face-to-face meeting, and then minuted? Did that happen sometimes?

A. I know that -- it's a long time ago, Mr Sumption. I'm afraid that I cannot remember the exact articles of Logovaz charter. I think that we have some provision that shareholders' meeting could be done just by

telephone.

Q. And what about directors' meetings?

A. I think that the directors' meetings should be done in person.

Q. Could you please --

A. I could be mistaken about this, but this is my recollection.

Q. Could you please be given bundle H(A)23/193. Just give me a moment. (Pause)

On that last point, was there a face-to-face meeting of the directors at the end of December, immediately before the agreement to sell the 11 per cent was actually signed?

A. No, there was not.

Q. Was it a board matter whether those things should be sold?

A. Well, maybe I have to explain something about the way in which the decisions have been made in Logovaz. It was agreed, and I think it was before my time, that all important decisions made by the management of Logovaz have to be approved by the shareholders, just because if you look, for example, at the list of the directors here, you will see that out of seven board members, five obviously represent Boris's and Badri's interests.

So it was decided, before my time, as I said, that

the most -- that the important decisions of the management have to be approved by the shareholders. And usually when we had in mind some kind of a business deal in which we were going to enter, it all started with at first myself and then with Mr Frolov calling the shareholders and asking their opinion on this point.

If it was necessary according to the -- to Logovaz charter to have the formal approval of the board, then there was a board meeting which made the -- which approved or disapproved the deal. Well, actually, if the deal was to be disapproved, there was no need to collect the directors together.

Q. Could you please look at page 193R, which is the Russian version of the document that you probably have open in the English translation H(A)23/193R.

A. Mm-hm.

Q. Now, this is a document disclosed by Mr Berezovsky and it's a board minute of Logovaz dated November 2000 and it records a board decision to sell, on your proposal, the company's holding in ORT at 1.1 million rubles. Do you see that?

A. Yes, I do.

Q. Now, what you say about this document in your second witness statement, paragraph 20, is that, as I understand it, it does record the decision of the

board but has been backdated.

A. That's right.

Q. Now, when do you say that this document was actually prepared?

A. I think it was prepared in late December or maybe the first days of January, but I think it was late December.

Q. Why do you say that it was backdated?

A. Because it couldn't happen in November.

Q. So it's because you don't remember it happening in November that you think it must have been backdated?

A. No, Mr Sumption, this is not what I'm saying.

Q. No?

A. I'm saying that it couldn't have happened in November.

Q. What reason could there have been to backdate a Logovaz board minute recording this sale to the previous month?

A. Well, it's rather difficult for me to answer this question --

Q. Yes.

A. -- just because I think that the negotiations about the paper trail to -- the paper trail to the deal had been discussed with Mr Frolov, not with me. After the first and the second phone discussions with Mr Abramovich, I distanced myself from this deal. But I think that this is what was requested from Mr Frolov and we've been trying to understand at what time in November Badri was

still in Moscow. This could explain the reason why no date is put in here.

Q. What is the stamp that we see on the Russian text of this document at page 193R?

A. There are two stamps.

Q. Right.

A. One is Logovaz --

Q. The one on the right side of the page.

A. It's the General Prosecutor Office.

Q. Right. And what is the other stamp?

A. And the first stamp, to the left, is stamp of Logovaz; and stamp to the right is the stamp from the General Prosecutor Office.

Q. Right.

Well now, the stamp from Logovaz, does that indicate that this document came from the records of Logovaz?

A. Yes, certainly.

Q. Now, I ask the question again: why should a board minute prepared at the end of December, recording a decision made at the end of December, have been backdated to November?

A. Well, I have, unfortunately, two answers to one question. The first answer is that there was no board meeting either in November or in December at all.

Why it was backdated? I think that I already

explained. We've been trying -- Badri was not in Russia in December at all. We've been trying to establish some date in which Badri was in Russia in November but obviously we were not successful with this.

Mr Sumption, try and understand: all this is completely against the rules which are given in Logovaz charter. I don't mean to say that Logovaz has been backdating its documents on every occasion but this was not an ordinary business transaction; in fact it was not an business transaction at all. By selling ORT shares we've been paying a ransom for Nikolai, and there are no rules about paying ransom in anyone's charter.

- Q. That doesn't explain why it's necessary to say that the transaction has been approved in November if it's actually been approved in December, does it?
- A. Mr Sumption, I have a very simple answer to this question: Badri was not in Russia in December. There was no opportunity for Badri to sign this document in December at all.
- Q. And that may be one of the reasons why it was actually signed in November.
- A. It was not signed in November. It couldn't happen before Roman called me.
- Q. Do you have any reason for saying that this document was backdated other than that otherwise it would be

inconsistent with your evidence?

A. It's inconsistent -- it's absolutely inconsistent not just with my evidence but with what I remember about the events of December 2000.

Q. In other words, it's inconsistent with your evidence.

MRS JUSTICE GLOSTER: Well, that's comment.

A. Okay, then we put it this way.

MR SUMPTION: And you have no other reason, do you -- do you have any other reason apart from that for saying it must have been backdated?

A. No, I have only one reason.

Q. Now, at paragraph 113 of your first witness statement D1/12/285 you give evidence -- and you've referred to this already -- about telephone conversations that you say occurred on 24 December.

A. That's right.

Q. Do you claim to remember that date or are you relying on some document to tell you that these conversations occurred on 24 December?

A. No. I remember this date.

Q. How do you remember the date all these years later?

A. It's very simple: because on 24 December it was Nikolai's birthday. And call from Roman and subsequent discussion with Boris, who said me -- who told me that this is payment for Nikolai's freedom, coming on

Nikolai's birthday, couldn't be unnoticed.

Q. Where did you understand Mr Berezovsky to be ringing you from when he had the telephone conversation that you describe at paragraph 114?

A. This is not a simple question, Mr Sumption, because I was trying to remember how actually this telephone exchange happened. I know that Boris called me but I also have recollection of trying to get him on phone. Obviously I wasn't successful because I remember that Boris called me. I don't know where he was.

Q. Well, he was actually in the United States.

A. Quite possible.

Q. And Mr Abramovich was in Chukotka on 24 December.

A. Yes.

Q. Now, in fact Mr Abramovich did ring you, but it was on 27 December and not on the 24th, wasn't it?

A. Mr Sumption, Mr Abramovich called me on 24 December shortly after 9 o'clock Moscow time, because I was in my office at 9 o'clock.

Q. Mr Abramovich rang you on the 27th and asked you to arrange the transfer of the Logovaz shares in ORT and he told you, did he not, that Mr Gorodilov would be contacting you with the details and with documents for signature? That is what happened, isn't it?

A. No, this is not what happened because if you have a look

at the sale agreement, it is dated on 25 December.

Q. But it wasn't executed until several days after that, was it?

A. "Executed", what do you mean?

Q. Signed.

A. It was signed by Mr Frolov on 25 December -- no, Mr Sumption, I'm sorry, you are quite right about this. It was signed several days later.

Q. Indeed.

A. But on 25 December this sale agreement was already with Mr Frolov and he was already studying it.

Q. Mr Dubov, the reason why you put 24 December as the date of these telephone conversations is that when you wrote your first witness statement you thought that the sale agreement for the 11 per cent had been signed on 25 December, which is the date that is on it; that's why you appointed 24 December as the date --

A. Mr Sumption, you are suggesting an alternative version to the events that happened. You have your version; I have my own.

I am explaining why I put 24 December: because it was Nikolai's birthday. Of course, I can tell you quite a story of what I thought at that time, why it happened on exactly the same day when it was Nikolai's birthday, why it couldn't happen before, but I don't think that

it's of much interest for this court. But I remember this day because it was Nikolai's birthday.

Q. Now, in fact -- and I think you mentioned this a moment ago -- it was Mr Gorenichy, was it not, who contacted Mr Frolov directly with the details and documents relating to the sale of the 11 per cent? Do you agree?

A. Mr Sumption, I have great respect for Mr Frolov: he is my very good friend and he is my comrade of old standing. But when we actually changed our positions in Logovaz in autumn 1999, nobody knew about it. For a very long time, even in the year 2000 and 2001, people still kept thinking that I was the general director of Logovaz. I don't know why. But anyway, that was the kind of wrong common knowledge.

Mr Gorenichy could call Mr Frolov only after I told Roman that I'm not the general director anymore. Even Roman didn't know that at that time, on 24 December. He thought that I was in charge.

Q. Now, Mr Gorenichy, was he the head of the Sibneft legal department? You don't know?

A. Possibly. I never met him.

Q. Okay. Would you please have a look at H(A)26/118T, which somebody will bring to you.

A. And 23 can be taken back?

Q. Yes, it can.

You will find the Russian version of this on page 118 and the English translation is on the coloured sheet immediately before it.

A. Mm-hm.

Q. This is a letter from Mr Gorenichy and it's addressed, isn't it, to Mr Frolov?

A. That's right.

Q. He is "Yevgeny Patrikeyevich" at the top?

A. Absolutely.

Q. What he says is that:

"On the instructions of [Mr] Gorodilov and with the approval of [Mr] Fomichev I ask that you sign the share sales and purchase agreements and the transfer orders.

"Since the execution of the transaction is scheduled for 28 [December], please sign the power of attorney...

"Please send one copy of the sales and purchase agreement, the transfer order and the power of attorney for A Tuzhilin immediately to... Sibneft..."

And the address is then given and he gives Mr Frolov a telephone number in case there's any difficulty.

Now, did you see this letter when it reached Mr Frolov?

A. No.

Q. You did not.

Now, what I suggest is that you were telephoned by

Mr Abramovich on the 27th; he told you to expect Mr Gorodilov to be in contact with the details; Mr Gorodilov then arranged for Mr Gorenichy to do it, and he contacted Mr Frolov directly because you had said he was the man to contact.

Do you agree or not?

A. Well, I agree with most of what you have said, but let's start with the 24 December. The call from Roman came on 24 December.

Q. Have you finished?

A. Yes.

Q. Now, on paragraph 117 of your witness statement D1/12/286 you say that on 28 December you took the documents to Sibneft and presented them to Mr Abramovich in person.

A. That's right.

Q. Now, what were you, the deputy general director of Logovaz, doing performing in person the menial function of acting as a delivery boy of these documents to Sibneft?

A. Mr Sumption, you can't be serious about this. It was not a menial of function of delivery boy. I wanted to see Roman and I wanted to ask him when Nikolai is going to be released. Do you recall it the menial function of a delivery boy? I was the only one who could put these

questions to Mr Abramovich.

Q. You never saw Abramovich on 28 December, nor did he say to you, as you allege, that Mr Glushkov would be released as soon as the transfers were delivered.

A. Mr Sumption, are you suggesting that I'm lying in my witness statement?

Q. I'm telling you that you are mistaken.

A. No, I am not mistaken. I called Roman on the morning, 28th maybe -- I don't remember was it 28th or 29th -- I called Roman and I told him that I want to see him and he asked me to take with me a copy of my book to sign it for Mr Shvidler. And I came to Sibneft, I gave the signed copy to Mr Shvidler and then I saw Roman. I showed him -- I gave him the share transfer instruction and I asked him when Nikolai is going to be released.

Q. Now, were you aware when you made your witness statement that Mr Berezovsky was alleging that he had had a meeting at Cap d'Antibes shortly before Christmas with Mr Abramovich?

A. No.

Q. You were not aware of that?

A. Absolutely.

Q. Because I've given you one reason why I suggest that the date appointed was the 24th in your witness statement:

namely you thought that was the date of the agreement.  
The other reason was that this particular date had to fit in with Mr Berezovsky's evidence about the date of the meeting at Cap d'Antibes, didn't it?

A. Mr Sumption, believe it or not, but the first time I heard about the meeting at Cap d'Antibes was maybe -- was not earlier than 2004; maybe even later.

Q. And you have also, have you not, sought to fit in your evidence with that of Mr -- sorry, you say you learnt about it in 2004?

A. Yes.

Q. So you did know about it at the time you prepared your witness statement?

A. Of course I did.

Q. I see. I'm sorry, I misunderstood your earlier answer.

At the time you prepared your witness statement you realised that Mr Berezovsky was saying that he'd had a meeting with Mr Abramovich shortly before Christmas?

A. I knew that they met at Cap d'Antibes at that time, certainly I did, but I didn't tie up my witness statement with what Mr Berezovsky was going to say in his witness statements or in his pleadings or wherever.

Q. I see.

A. Are you suggesting that I was just fitting in my evidence with what Mr Berezovsky was going to say?

Q. Indeed I am.

A. That's -- I'm afraid that this is not completely correct, Mr Sumption.

Q. You had been working on this case for a period of four years after your arrival in England and there was no way that you were going to say in your witness statement something that was inconsistent with what Mr Berezovsky was saying in his, was there?

A. I don't know; I never went into any comparison of what I am saying in my witness statement and what Boris is saying in his witness statement. I think that we just put these witness statements together and try to analyse it. There may be some inconsistencies. Where we are saying about the same events, I think that on most occasions we coincide.

Q. And the same applies, does it not, to the evidence that you give at paragraph 129 of your witness statement D1/12/189, when you say that Mr Berezovsky told you in 2004 that it was necessary to wait until Mr Glushkov was out of Russia before suing?

A. Yes.

Q. That's another statement that you have made in order to corroborate what you know to be Mr Berezovsky's case, isn't it?

A. This is what Mr Berezovsky told me. I am not

corroborating anything; I am just repeating his words.  
This what I was told by Boris.

Mr Sumption, I'm not lying here. I'm giving this evidence to the best of my recollection. It's not my task to whitewash Boris or whoever else.

Q. I understand that, Mr Dubov.

A. That's right. Thank you very much.

Q. But when you drew your own witness statement up, you allowed yourself to be guided by what other people recalled about the chronology, in particular by what Mr Berezovsky recalled about the chronology. When remembering, in other words, what the dates were, you were influenced by what other people had said about the timing. That's right, isn't it?

A. Mr --

Q. It's perfectly natural.

A. Mr Sumption, first of all it's completely wrong. And the second point that I would like to make: this is the first time we met. I am not the person who is easily guided by anyone.

Q. Mr Dubov, are you trying to suggest that you drew up your witness statement and Mr Berezovsky drew up his in completely independent compartments, each of you ignorant of what the other had said about the timing of events?

A. Well, I know that Boris drew his witness statement without even reading mine. I'm not sure that he read my witness statement before. I certainly have seen drafts of his witness statement.

Q. When you drew up your own?

A. Before I drew my own.

Q. Yes.

A. That's true. I also seen drafts of Badri's witness statement.

MR SUMPTION: My Lady, I have, I suspect, about 10 or 15 minutes more. Would your Ladyship prefer me to deal with that now or tomorrow?

MRS JUSTICE GLOSTER: I think tomorrow. Only I've got a telephone meeting at 4.30.

THE WITNESS: My Lady, may I just take 30 seconds?

Mr Sumption, just about this correspondence with Mr Gorenichy, just to be sure that we're not cherry-picking here, there was another letter from Mr Gorenichy to Mr Frolov. Do you have it? I think it came around this date.

MR SUMPTION: Are you pointing to a document in the bundle or are you remembering another?

A. I'm remembering.

Q. Right.

A. Because I've seen it in disclosure. It's dated around

27th or maybe 26th, in which Mr Gorenichy is saying, "I'm sorry, Mr Frolov, we're sending you the sale agreement with the right amount of money we are going to pay for ORT shares". If everything was agreed in November and if there were a board meeting of Logovaz, and on both occasions the sum of 1,100,000 rubles have been approved, what kind of wrong amount for Logovaz shares -- for ORT shares could be in the first draft of the sale agreement?

MR SUMPTION: We will look and see if we can find such a letter overnight.

THE WITNESS: Yes, please. I've seen it.

MRS JUSTICE GLOSTER: Right.

Now, Mr Dubov, you mustn't talk about your evidence or the case with anybody overnight. You understand?

THE WITNESS: Absolutely.

MRS JUSTICE GLOSTER: Very well.

MR SUMPTION: My Lady, can I just mention that we have not yet received the agreements relating to the 1 per cent in relation to either Ms Nosova or Mr Lindley, and Ms Nosova is due to give evidence tomorrow. Can I assume that we will receive it promptly?

MRS JUSTICE GLOSTER: Mr Rabinowitz, what's the position on that?

MR RABINOWITZ: I'm told that we have just got them and we

will send them as soon as possible.

MRS JUSTICE GLOSTER: Well, that better be before close of business this evening.

MR RABINOWITZ: I can tell your Ladyship that we're moving as fast as we can on this. It's not entirely within our control. But as soon as we are able, we will send them to Mr Sumption, and I hope that is very soon. I'm not sure I can take it any further.

MRS JUSTICE GLOSTER: Right. Otherwise there may have to be a delay in the cross-examination.

I've got a point to raise and it's this:

Mr Rabinowitz, the application that you made -- or Mr Gillis actually made -- in relation to cross-examining the border control officers, where have we got to on that?

MR RABINOWITZ: Can I leave that to Mr Gillis, please?

MRS JUSTICE GLOSTER: Yes, certainly. Mr Gillis.

MR GILLIS: My Lady, we've received a reply from the border control officials indicating that they're not in a position to provide us information as to the mechanism for gathering information or providing information in relation to the stamps. There are one or two enquiries which we're still in the process of making which we hope we'll be able to resolve in the next day or so and then be able to report back on whether we are continuing with

our application.

MRS JUSTICE GLOSTER: Pursuing your application. Well, I've read the House of Lords case: it puts a slightly different perspective on it, I think.

MR GILLIS: Well, if we need to address that, we can. We think that in actual fact the House of Lords didn't disagree with what Lord Justice Thomas was saying, but we can debate that if necessary.

MRS JUSTICE GLOSTER: Well, I'll need to have submissions on that because what will obviously affect my discretion is what are the consequences if I were to make such an order. That's what I'm interested in.

MR GILLIS: Indeed so.

MRS JUSTICE GLOSTER: If it's a question of weight, it's a question of weight; but if it has some impact on the consequences then I need to know precisely what the position is before I exercise my discretion. Right.

MR SUMPTION: My Lady, we're not entirely happy with that summary of the letter. The position is that the letter that has been received --

MRS JUSTICE GLOSTER: Sorry, the summary of the --

MR SUMPTION: The letter in response to the enquiries made of the Border Guard Service.

MRS JUSTICE GLOSTER: Right.

MR SUMPTION: The position appears to be that the records of

the Border Guard Service about entry and departure from Russia are automatically generated by the process of swiping the passport through an automatic reader. So it's not an exercise that involves a human agency. The passport is stamped and on the occasion when it is stamped it is put through a reader which automatically records the entry and departure, as the case may be, and that is the record which the border guard uses to answer questions like the ones which my learned friends are concerned with.

MRS JUSTICE GLOSTER: Well, maybe I'll have to look at what information you have been provided with.

Very well. Is everybody happy with a 10.15 start?

MR SUMPTION: My Lady, yes.

MRS JUSTICE GLOSTER: I assume that if anybody wants an earlier or a later start, they will let me know.

Who, apart from this witness, do we have tomorrow then?

MR RABINOWITZ: We have Dr Nosova, my Lady.

MRS JUSTICE GLOSTER: Yes. And she'll be all day?

MR RABINOWITZ: I understand she'll be all day.

MR SUMPTION: Just Dr Nosova? What about Mr Voronoff and Mr Goldfarb?

MR RABINOWITZ: I thought that my learned friend was going to be most of the day with Dr Nosova. If he wants

another witness --

MR SUMPTION: No, I'm not. I shall be relatively brief with

Dr Nosova: I think I shall probably be about an hour to  
an hour and a half.

MR RABINOWITZ: We have Mr Voronoff who will be here  
tomorrow.

MRS JUSTICE GLOSTER: Can you just, Mr Rabinowitz --

MR SUMPTION: We can sort this out between ourselves.

MRS JUSTICE GLOSTER: Well, I think I'd like to know so  
I can refresh my memory of the witness statements.

MR RABINOWITZ: If my learned friend can take them, we have  
Dr Nosova, then we will have Mr Voronoff and then we  
will have Mr Goldfarb.

MRS JUSTICE GLOSTER: Mr...?

MR RABINOWITZ: Goldfarb.

MRS JUSTICE GLOSTER: Yes, thank you.

MR SUMPTION: I understand that if we go short, after those  
three there are no other witnesses that are currently  
available to give evidence tomorrow. Is that correct?

MR RABINOWITZ: That's my understanding.

MRS JUSTICE GLOSTER: Right, very well. 10.15 then.

(4.24 pm)

(The hearing adjourned until

Wednesday, 19 October 2011 at 10.15 am)

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