

1 Monday, 18 October 2021

2 [Open session]

3 [The accused entered court]

4 --- Upon commencing at 9.31 a.m.

5 PRESIDING JUDGE SMITH: Good morning and welcome everyone.

6 Mr. Court Officer, please call the case.

7 THE COURT OFFICER: Good morning, Your Honours. This is
8 KSC-BC-2020-07, The Specialist Prosecutor versus Hysni Gucati and
9 Nasim Haradinaj.

10 PRESIDING JUDGE SMITH: Now, as is usual, I would ask the
11 parties to introduce themselves, starting with the Specialist
12 Prosecutor's Office.

13 Ms. Bolici.

14 MS. BOLICI: Good morning, Your Honours. For the Specialist
15 Prosecutor's Office appears today Mr. Alex Whiting, Deputy
16 Specialist Prosecutor; Mr. James Pace, Associate Prosecutor;
17 Mr. Matthew Halling, Associate Prosecutor; Line Pedersen, Case and
18 Evidence Manager. And I am Valeria Bolici, Prosecutor with the SPO.

19 PRESIDING JUDGE SMITH: Thank you, Ms. Bolici.

20 And now the Defence. Mr. Rees.

21 MR. REES: My name is Jonathan Rees, Queen's Counsel. I
22 represent Mr. Gucati. I am assisted by Mr. Huw Bowden,
23 Ms. Eleanor Stephenson, Ms. Faye Wigmore, Mr. Remi Halilaj, and
24 Mr. Joseph Bowden.

25 PRESIDING JUDGE SMITH: Thank you, Mr. Rees.

1 Mr. Cadman.

2 MR. CADMAN: Good morning, Your Honours. Toby Cadman for
3 Mr. Nasim Haradinaj. I am supported today by Mr. Carl Buckley,
4 Ms. Miriam Boxberg, Ms. Poppy Henderson, and Mr. Admir Berisha. And
5 Mr. Haradinaj is here in person.

6 PRESIDING JUDGE SMITH: Thank you, Mr. Cadman.

7 The Court does note for the record that Mr. Gucati and
8 Mr. Haradinaj are present in the courtroom.

9 And now I turn to the Registry.

10 MR. ROCHE: Good morning, Your Honours. My name is Ralph Roche
11 from Judicial Services Division in the Registry.

12 PRESIDING JUDGE SMITH: Thank you, Mr. Roche.

13 Today we start the hearing on the evidence from the Prosecution
14 in this case. In the next two weeks, we hope to hear the evidence of
15 at least two Prosecution witnesses. The Panel plans to sit from
16 Monday to Thursday both this week and next week. We will sit on
17 Fridays only if it is strictly necessary. Any change in the schedule
18 will be duly notified to the parties.

19 Now, before we bring in the first witness, the Panel will
20 address a number of matters.

21 On 12 October 2021, the Defence for Mr. Nasim Haradinaj filed an
22 application for leave to appeal the Panel's decision regarding the
23 admissibility of Prosecution evidence. The Panel denied the
24 application in a decision issued on 15 October 2021 and will proceed
25 to hear the evidence, noting that if and when the declarations of the

1 witness in question are offered by the Prosecution, the Defence will
2 have a full and fair opportunity to object to their admission if that
3 is still their wish and put forth the arguments it considers relevant
4 to this matter, and that the Defence will also have an opportunity to
5 cross-examine these witnesses in respect of issues which it says are
6 relevant to the admission of their declarations.

7 This concludes the notice on the Haradinaj leave to appeal.

8 The Panel also informs the parties that it defers any decision
9 on the materiality and the disclosure Of Rule 102(3) items as the
10 questioning of Witness 4841 and 4842 might have a bearing on the
11 course to be adopted by the Panel in this matter.

12 This means that a consolidated decision on F307, 316, and 361,
13 and any future filing, including responses and replies, will be
14 issued as soon as practical during or immediately after the evidence
15 of these two witnesses.

16 The Panel notes that the materiality and disclosure of the
17 Rule 102(3) items is closely connected to the entrapment allegations
18 raised by the Defence.

19 While evidence pertaining to this matter is still to be offered
20 at trial, the Panel is bound by the jurisprudence of the European
21 Court of Human Rights to consider such allegations with a view to
22 determine whether the claim is, in the language of the European
23 Court, wholly improbable, and if not so, whether the SPO has met its
24 burden in relation to these matters.

25 For these reasons, the Panel considers that a future decision on

1 the Rule 102(3) items could be affected by the evidence of the
2 Witnesses 4841 and 4842 if they are in a position to give evidence in
3 respect of this matter. The Panel will therefore allow direct and
4 cross-examination on matters related to the question of whether any
5 current or former member of the SPO or any private party acting under
6 the instructions or control of the SPO delivered or provided the
7 material in question to the War Veterans Association.

8 Should any of the material concerned by the Rule 102(3)
9 applications be subject to a disclosure order, the Defence could
10 request that either or both witnesses be re-called for further
11 examination in relation to that material.

12 This concludes the notice on the Rule 102(3) items.

13 The Panel also informs the parties that a decision on the SPO
14 motion to strike Defence witnesses, F312, will be rendered after the
15 Defence Preparation Conference and after receiving the Defence
16 filings pursuant to Rule 119(2) of the Rules and the Defence decides
17 to call a case.

18 This concludes the notice on F312.

19 Now, the last time we met, when the case was opened, Mr. Gucati
20 wanted to make a statement, and I told him then that there would an
21 opportunity for this later. I realise that we ended the session and
22 Mr. Gucati did not have his opportunity to speak.

23 According to Rule 142(1) during the trial proceedings, the
24 accused may make unsworn statements relevant to the case. The Panel
25 invites now the accused to make any such statements, provided that

1 they are relevant to the case and do not exceed two to three minutes
2 per accused.

3 If the accused do not wish to make a statement now, the Panel
4 will provide other opportunities.

5 Mr. Gucati, do you wish to make an unsworn statement at this
6 time?

7 THE ACCUSED GUCATI: [Interpretation] If possible, in another
8 session, Your Honour, I would like to do that.

9 PRESIDING JUDGE SMITH: All right. We will honour that and we
10 will give you that opportunity when the time arises.

11 THE ACCUSED GUCATI: [Interpretation] Thank you very much.

12 PRESIDING JUDGE SMITH: Mr. Cadman, you rose.

13 MR. CADMAN: Just before you ask Mr. Haradinaj, I would
14 appreciate the opportunity to take instructions from Mr. Haradinaj on
15 that point, because he hasn't previously raised that he would be
16 making one.

17 PRESIDING JUDGE SMITH: If you want to take a minute now, that's
18 fine.

19 MR. CADMAN: I'm grateful.

20 [Specialist Counsel and accused confer]

21 MR. CADMAN: I'm grateful, Your Honour. Mr. Haradinaj will not
22 be making a statement at this time.

23 PRESIDING JUDGE SMITH: Thank you, Mr. Haradinaj. And as I said
24 to Mr. Gucati, you will be given an opportunity at a later time.

25 Mr. Rees, do I understand that you wanted to make an oral

1 submission at this time concerning some information that was filed
2 the other day?

3 MR. REES: I do, Your Honour.

4 PRESIDING JUDGE SMITH: All right. You can do that at this
5 time.

6 MR. REES: Thank you.

7 Your Honour is aware that during the course of last week the
8 Prosecution held witness preparation sessions with both the witness
9 who is due to begin her testimony this morning and, indeed, the
10 second witness that is scheduled to give evidence at some point later
11 during this two-week window.

12 The parties, of course, are aware of that because the
13 Prosecution sent an e-mail to the Trial Panel and to the Defence,
14 setting out, for example, in relation to 04841, some minor
15 clarifications, changes or corrections to her declarations. They
16 also, in relation to the second witness, 04842, in an e-mail,
17 confirmed that there was to be no clarifications, changes or
18 corrections to his declarations but that he provided the following
19 new information, and then there was an assertion of three paragraphs
20 of material that is not addressed in any of his declarations thus
21 far.

22 I make the point that as an employee of the SPO, a member of the
23 staff, that information, of course, is not new to the SPO at all.

24 Following those two e-mails, the Prosecution sought leave to
25 allow 04841 to rely on notes, the implication being they were notes

1 that were prepared by her during the course of the preparation and
2 finalisation of her declarations.

3 Now, the Defence indicated that, provided those notes were
4 disclosed, there was to be no objection to that course of action.
5 And the Trial Panel, again by e-mail, confirmed that that was to be
6 so. And then on Friday morning, the Defence were provided with, and
7 I think the Trial Panel also had access to, a document which, in
8 fact, were not notes in any conventional sense, certainly not notes
9 prepared during the course of preparation of the declarations. What
10 instead was provided was, effectively, an informal draft amended set
11 of declarations from the witness.

12 When one looks at those notes together with the briefs, witness
13 summaries that have been provided, and the list of exhibits that the
14 Prosecution assert they want to rely upon with -- address with this
15 witness, and, indeed, the content of the Rule 154 application that's
16 also been made in relation to Witness 04841, it is apparent, when one
17 contrasts those items, that they seek to adduce from her testimony
18 which is not addressed in any significant sense in her declarations.

19 We raise the point at this stage because we are concerned that
20 the Prosecution is attempting to evade what are the clear disclosure
21 obligations in the rules and the law by effectively the use of, for
22 example, informal amended declarations referred to as notes, witness
23 summaries that add to the scope of the testimony that a witness is
24 intended to elicit, all of which is inconsistent with the scope of
25 the rules which, in accordance with Article 21(6) of the Law, and

1 Rule 102, we say are very clear. Those, that article of the Law,
2 Rule 102 of the Rules, make it clear that there is a firm obligation
3 on the Prosecution to give proper notice of the evidence that they
4 seek to elicit by way of witness statement.

5 Rule 102(1)(b) provides, within the time limit set by the Panel,
6 no later than 30 days prior to the opening of the
7 Specialist Prosecutor's case, statements of all witnesses whom the
8 Specialist Prosecutor intends to call to testify at trial, all of the
9 witness statements, expert reports, depositions or transcripts that
10 the Specialist Prosecutor intends to present at trial, they should be
11 disclosed.

12 Sub-rule (2) of Rule 102, provides that any statements which
13 have not been disclosed within the time limit and upon which the
14 Specialist Prosecutor intends to call to testify at trial shall be
15 made available to the Defence as soon as possible and accompanied by
16 reasons for late disclosure. And sub-rule (4) makes it clear that
17 that disclosure should all be finalised during the pre-trial stage.
18 Thereafter, the Specialist Prosecutor shall provide notes of any new
19 disclosure accompanied by reasons for the late disclosure.

20 What the Prosecution in this case are purporting to do is to use
21 the informal route of summaries of witnesses and references to notes
22 to evade those strict provisions. If the Prosecution wants to adduce
23 testimony from W04841 that goes beyond the scope of her declarations,
24 they should produce a new declaration, it should be disclosed to the
25 Defence, and it should be accompanied by reasons for late disclosure

1 with an application to the Court for leave to add that evidence to
2 their evidence list.

3 We raise, at this stage, that that has not been done. It's not
4 been done in relation to Witness 04841, and it has not been done in
5 relation to 04842.

6 PRESIDING JUDGE SMITH: Can I just ask, Mr. Rees, and I
7 understand your objection, could you tell me what it is you are
8 seeking?

9 MR. REES: If -- well, we sought confirmation last week, because
10 we didn't want to trouble the Trial Panel, if we were -- if we were
11 jumping the gun. So we sought confirmation from the SPO that they
12 were going to restrain the testimony of these two witnesses to the
13 content of their declarations. They replied in a way that made it
14 clear that they weren't.

15 If that is the case, then they should adduce new declarations
16 from those two witnesses. They should -- if they seek to rely on
17 that, they should serve them upon us formally, together with reasons
18 for late disclosure for why they are coming at this late stage, and
19 there should be an application to the Court for permission to add
20 that evidence to their evidence list.

21 PRESIDING JUDGE SMITH: Is there some new information that they
22 are seeking to put out that you do not have notice of? Something
23 that --

24 MR. REES: Well --

25 PRESIDING JUDGE SMITH: -- isn't in -- I mean, there have been

1 quite a few declarations. And is there something new that is not
2 included in those?

3 MR. REES: Yes.

4 PRESIDING JUDGE SMITH: All right.

5 MR. REES: There is. So, for example, if one looks at what was
6 described as the notes that, in fact, were -- was a draft new
7 declaration of the Witness 04841, if you, Your Honour, have access to
8 that document, you will see new information at paragraph 4 of the
9 declaration 29 August 2000; paragraph 10, significant new information
10 in relation to paragraph 10.

11 We've been asking for disclosure of material, for example, of
12 the names that the Prosecution say are contained within batches, and
13 we're provided for the first time on Friday afternoon by way of an
14 informal -- what's described as a note of that at paragraph 10.

15 PRESIDING JUDGE SMITH: My question was quite simple: What is
16 it you're asking for? What do you want the Prosecution to do?

17 MR. REES: I want a new declaration --

18 PRESIDING JUDGE SMITH: You want to start over with new
19 declarations?

20 MR. REES: -- with reasons for late disclosure and application
21 to the Court for permission by the SPO to rely upon the contents of
22 it.

23 PRESIDING JUDGE SMITH: Okay. Thank you.

24 Does the Prosecution wish to respond?

25 MS. BOLICI: Yes. Thank you, Your Honours.

1 The Prosecution position is that the Defence submissions are
2 both entirely ungrounded, untimely and, under other aspects,
3 premature.

4 They are entirely ungrounded because they are not based on the
5 statutory framework. The statutory framework provides that
6 statements or declarations in this case that have been provided by a
7 witness that a party intends to call be disclosed to the opposite
8 party, and this has been the case in the present proceedings.

9 The rules do not state or imply in any way that information to
10 be elicited from a witness needs to be confined to the specific
11 information that has been addressed by a witness in previous
12 statements or declarations.

13 Article 143 of the Rules provides that the parties may ask
14 questions to witnesses, not questions limited to issues addressed by
15 witnesses in the course of previous statements. It also states that
16 a party may show to the witness any exhibits in compliance with the
17 rules and not exhibits that were previously addressed by witnesses in
18 the framework of the previous statements.

19 The information that the SPO intends to elicit from its
20 witnesses has been notified to the Defence through the Rule 95
21 summaries since April 2020, which have been reproduced with minor
22 amendments concerning ERNs with the information that has been
23 provided with a filing of 1 October 2021. Further notice is provided
24 through the list of exhibits that the SPO intends to address with the
25 witness.

1 In this respect, I'd like to note that in the decision on the
2 SPO bar table motion, the filing F00034, paragraphs 39 and 56, the
3 Trial Panel highlighted that the SPO will have an opportunity to seek
4 admission to a number of items in its exhibit list through the
5 witnesses that it has been called to testify. Not all of these
6 exhibits have been previously addressed in witness statements or
7 declaration, yet the SPO seeks to have the opportunity, as it is
8 granted in the statutory framework, to elicit evidence from its
9 witnesses in relation to exhibits on its exhibit list within the
10 limits of a witness's knowledge.

11 I also would like to underline that the Defence objection is
12 untimely because the notice of the matters to be elicited from these
13 witnesses was available since April 2020, and the last of these
14 declarations, which was an amended version of previous one, was
15 notified on 7 May 2021.

16 It's been several months since the scope of the evidence that
17 these witnesses are to provide to this Trial Panel has been known to
18 the Defence for months now.

19 From another point of view, the Defence objection is premature
20 insofar as the questions that the SPO intends to put to its witnesses
21 have not been put yet. And any objection in relation to the alleged
22 lack of notice about the matters that witnesses can testify about can
23 be posed by the Defence at the stage where the questions are actually
24 asked to the witnesses. Thank you.

25 PRESIDING JUDGE SMITH: Rules 95(4)(b) and 102 regulate what

1 notice the Defence is entitled to receive from the SPO in respect of
2 its witnesses.

3 In this instance, the summaries of the proposed evidence and
4 multiple addendums have been filed. Notice has been given. If the
5 SPO seeks to elicit evidence from these two witnesses in respect of
6 which the Defence says it had no fair notice and that this creates
7 difficulties or unfairness from its point of view, the Defence can
8 seek an adequate relief from the Panel at the time that information
9 is presented.

10 You may ask for additional time for cross. You may ask for time
11 to prepare for cross-examination. You may ask to re-call the
12 witnesses, if necessary, during cross-examination.

13 We ask that the Defence request any of these reliefs if they
14 believe it is necessary when presented with the information about
15 which it maintains that it had no notice, and the Panel will rule on
16 those requests at the time presented.

17 All right. We are ready to begin the evidence stage of this
18 trial.

19 Mr. Court Officer, please bring in the witness, the first
20 witness.

21 MR. REES: [Microphone not activated].

22 There is still objection to the Rule 154 application. We'll
23 raise that, with Your Honours' leave, once the witness is brought in,
24 or would you rather deal with it now?

25 PRESIDING JUDGE SMITH: [Microphone not activated] Go ahead and

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1 bring the witness in first --

2 THE INTERPRETER: Microphone for Your Honour, please.

3 PRESIDING JUDGE SMITH: We'll bring the witness in and have her
4 solemn declaration, and then I will grant you the floor.

5 [The witness entered court]

6 PRESIDING JUDGE SMITH: Good morning, Ms. Pumper. The Court
7 Usher will now --

8 THE INTERPRETER: Microphone for Your Honour, please.

9 PRESIDING JUDGE SMITH: Good morning, Ms. Pumper. The Court
10 Usher will now provide you with the text of the solemn declaration
11 which you are asked to take pursuant to Rule 141(2) of the Rules.

12 Please proceed.

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

17 WITNESS: ZDENKA PUMPER

18 PRESIDING JUDGE SMITH: Thank you, Ms. Pumper. You may be
19 seated.

20 THE WITNESS: Thank you.

21 PRESIDING JUDGE SMITH: Ms. Pumper, we have a preliminary motion
22 or discussion, at least, that's going to occur at this time, so just
23 bear with us for a minute.

24 Mr. Rees, you have the floor. Just briefly. I think I know
25 what your question is about. Go ahead.

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1 MR. REES: On 14 October, the Prosecution made a submission for
2 the admission of declarations by the witness pursuant to Rule 154,
3 together with a list of exhibits that are referred to therein. They
4 also have submitted a larger list of exhibits that the SPO seek to
5 address through this witness.

6 On 17 September, we had previously filed a motion to challenge
7 admissibility of evidence both referring to the content of the
8 declarations that the Prosecution seek to adduce through Rule 154
9 and, indeed, wider matters which relate to some of the exhibits that
10 are provided on the exhibit list that the Prosecution seek to address
11 through this witness.

12 So, in particular, items 134, 135, 174, 175, 177, and 178, and
13 325 on that list.

14 I take it that the Prosecution are still proceeding with their
15 application to adduce the declarations through Rule 154? If that's
16 the case, then --

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 MR. REES: -- I object to that.

19 The declarations amount to, effectively, reports by an
20 investigator of the Prosecutor party in which she has in a very large
21 extent summarised, and, we say, expressed conclusions on documents
22 that have not been disclosed to the Defence, and the SPO do not
23 propose to adduce them in evidence either for either the Defence at
24 trial or, indeed, the Trial Panel to consider for themselves.

25 PRESIDING JUDGE SMITH: All right, Mr. Rees.

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1 THE INTERPRETER: Microphone, please.

2 PRESIDING JUDGE SMITH: I take it -- I understand your
3 objection. Do we need more?

4 MR. REES: Well, it is, effectively, set out in the motion to
5 challenge admissibility of evidence --

6 PRESIDING JUDGE SMITH: Yes.

7 MR. REES: -- which was filing F00317. I am perfectly happy to
8 argue that orally if the Trial Panel wishes me to continue?

9 PRESIDING JUDGE SMITH: No, you don't need to. I will tell you
10 that we understand your objection. We will not admit the
11 declarations until such time as you have -- the direct is finished
12 and you have cross-examined. Then we will make a decision on the
13 admission of those documents.

14 MR. REES: So do I take it the Trial Panel intends to allow the
15 SPO, in effect, to go through --

16 PRESIDING JUDGE SMITH: Yes.

17 MR. REES: -- those declarations --

18 PRESIDING JUDGE SMITH: Yes. We will defer --

19 MR. REES: -- and then rule on admissibility --

20 PRESIDING JUDGE SMITH: On the admissibility of it, yes.

21 MR. REES: I understand.

22 PRESIDING JUDGE SMITH: All right.

23 Madam Prosecutor, are you going to take this witness?

24 MS. BOLICI: Yes. Yes, Your Honour. Thank you.

25 Just for information, we still intend to go through the

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1 formalities of Rule 154 and articulate our requests before the Panel.
2 I also would like to highlight the exhibits that have been indicated
3 in the SPO filings in relation to this witness have been also printed
4 out for the witness's benefit. The folders have been already shown
5 to the Registry, and with the Panel's leave, I would request that
6 these hard copies be made available to the witness.

7 PRESIDING JUDGE SMITH: [Microphone not activated] Stopping to
8 take the motion by Mr. Rees, I forgot to give some instruction to the
9 witness. So if you would just hold off for a moment, please.

10 MS. BOLICI: Absolutely.

11 PRESIDING JUDGE SMITH: Ms. Pumper, I apologise for skipping
12 this, but we'll go over it now.

13 Today we will start your testimony, which is expected to last
14 several days. As you may know, the Prosecution will be asking you
15 questions first. And once they're done, the Defence has the right to
16 cross-examine you. Members of the Panel might also have some
17 questions for you.

18 The Prosecution estimate for your examination is ten hours. The
19 Defence estimate is up to five days. As to each estimate, we hope
20 that the attorneys are just being generous, but you will have to bear
21 with us and answer all of their questions. The Panel may allow some
22 redirect examination if conditions for it are met. Please try to
23 answer the questions clearly with short sentences. If you don't
24 understand a question, feel free to ask the counsel to repeat the
25 question or tell them that you don't understand and they will

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1 clarify.

2 Also, please try to indicate the basis of your knowledge or
3 facts and circumstances that you will be asked about.

4 The Panel understands that you might be asked by the SPO to
5 attest to some corrections made regarding your statements. If and
6 when that happens, you are reminded to confirm on the record that the
7 written statement as corrected by the list of corrections accurately
8 reflects your declaration.

9 Please also speak into the microphone and wait up to five
10 seconds before answering a question, and speak at a slow pace for the
11 interpreters to catch up with you.

12 During the next days while you're giving evidence in court, you
13 are not allowed to discuss with anyone the content of your testimony.
14 If any person asks you questions outside the court about your
15 testimony, please let us know.

16 And now, Madam Prosecutor, you may continue.

17 MS. BOLICI: Thank you, Your Honour.

18 I would just ask the Panel's leave to provide the witness with
19 the hard copies of the exhibits that have been already notified
20 through Legal Workflow.

21 PRESIDING JUDGE SMITH: Yes.

22 MS. BOLICI: Thank you.

23 Examination by Ms. Bolici:

24 Q. Investigator, good morning.

25 A. Good morning.

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1 Q. Would you please state your name and surname for the record.

2 A. My name is Zdenka Pumper.

3 Q. And your date of birth, please?

4 A. 19 May 1972.

5 Q. Investigator, could you tell the Court where do you currently
6 work?

7 A. I work for the Specialist Prosecutor's Office.

8 Q. And for how long have you been working for the SPO?

9 A. Well, I joined the SITF in January 2016 and then moved straight
10 -- in summer moved to SPO.

11 Q. And what is your professional title?

12 A. I am -- my title is investigator, as well internally I am the
13 investigation coordinations leader.

14 Q. Thank you. And what do your tasks and responsibilities entail?

15 A. My tasks are, among many things, I interview witnesses, I review
16 evidence, I prepare workplans for Prosecution. Then I analyse
17 evidence and write reports, interview witnesses, I think I've said.
18 I think that sums it up, more or less.

19 Q. Thank you. And could you briefly tell what is your professional
20 background?

21 A. I've been a police officer with the Austrian police force until,
22 I think, 2008. From 1999 until current date, I've been working for
23 international organisations, always in the role of investigator, in
24 different United Nations missions as well as for the European Union.

25 Q. Thank you. And have you carried out any tasks in relation to

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1 the case Hysni Gucati and Nasim Haradinaj?

2 A. Yes, I was involved in a significant amount of work.

3 Q. Could you outline briefly the main tasks that you have carried
4 out in relation to this case?

5 A. I was the coordinator -- I coordinated the search which took
6 place at the War Veterans Association, planned for this and
7 coordinated the search. I processed some of the evidence which was
8 obtained, reported on the search, and then I reviewed large amounts
9 of material. Specifically, the documents that were seized from the
10 War Veterans Association, which I refer to Batch 1, 2, and 3, as well
11 as the material that was handed over to us by the news outlet.

12 Q. And could you clarify what do you mean with the abbreviation
13 "Batch 1"?

14 A. In my declarations, I have referred to the different packages of
15 documents which were seized from the War Veterans Association. Like,
16 Batch 1 was the one which was seized on 7 September. Then we have --
17 then on the 8th, Batch 4 was handed over by the news outlet, followed
18 by the second seizure, I believe it's the 17th, followed by the --
19 that's Batch 2, followed by the last seizure on the 22nd, which I
20 refer to as Batch 3.

21 Q. Thank you. Have you reviewed press articles or other materials
22 obtained from public sources in relation to this case?

23 A. Yes, I did.

24 Q. Thank you. Did you prepare any written declarations, reports or
25 Official Notes in relation to the tasks that you carried out in the

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1 task against Hysni Gucati and Nasim Haradinaj?

2 A. Yes, I did.

3 Q. Thank you. And did you submit these declarations, reports, and
4 Official Notes into evidence?

5 A. Yes, I did.

6 Q. Thank you.

7 MS. BOLICI: I would like to request the Court Officer's
8 assistance in showing the exhibit with the ERN number 084015 to
9 085026, which is a declaration of this witness dated 29 October 2020.

10 Q. Investigator, you have the hard copy of this declaration as
11 tab 1 in the binders in front of you.

12 MS. BOLICI: And just for the record, it seems I misstated the
13 last number. So it's 084015 to 084026.

14 Q. Have you identified the document in the binders?

15 A. Just a moment --

16 Q. Yes.

17 A. -- to get free. Yes, I did.

18 Q. Thank you. Can you please give a look to the document in front
19 of you.

20 MS. BOLICI: Your Honour, I just seek guidance if -- yes, I will
21 wait for the Court Officer to put it on the screen. Thank you.

22 Q. Can you see the document on the screen as well, investigator?

23 A. Yes, I can.

24 Q. Thank you. Do you recognise the document that is being shown to
25 you?

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1 A. Yes, I do.

2 Q. Can you tell the Court who is the author of this document?

3 A. I authored this document.

4 Q. Can you please look at page 12 of this declaration. That is the
5 page with ERN 084026. Is this your signature?

6 A. It is, yes.

7 Q. And were you given the opportunity to review this declaration
8 prior to your testimony and indicate any corrections or
9 clarifications that might be necessary?

10 A. Yes, I was.

11 Q. And did you make any correction or clarifications to this
12 declaration?

13 A. Yes, I did.

14 MS. BOLICI: I would like to show now the document with the ERN
15 number 103543 to 103544. It's the signed statement of 14 October
16 2021.

17 Q. And, investigator, you have this document in hard copy as
18 document 1 bis in your folder.

19 Can you see now this -- the document that I just called on your
20 screen?

21 A. Yes, I can.

22 Q. Thank you. And do you recognise this document?

23 A. Yes, I do.

24 Q. Can you tell what this document is about?

25 A. This document elaborates on some corrections which I have made

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1 in connection to three of the declarations.

2 Q. And does this document include your clarifications or
3 corrections to your declaration of 29 October 2020 that was shown to
4 you moments ago?

5 A. That is correct, yeah.

6 Q. And considering these corrections and clarifications, is the
7 information provided in your declaration of 29 October 2020, with the
8 ERN 084015 to 084026, accurate and truthful to the best of your
9 knowledge and belief?

10 A. It is.

11 Q. And does the information in this declaration, including
12 corrections and clarifications, reflect what would you say today in
13 court if examined?

14 A. It is, yes.

15 Q. Thank you.

16 MS. BOLICI: I would now like to show to the witness the
17 document with the ERN number 091791 to 091792, dated 9 February 2020.

18 Q. And, investigator, this is the document in hard copy with tab 2
19 in the folder in front of you. Do you have the document on your
20 screen now?

21 A. Yes, I do.

22 Q. Thank you. Do you recognise the document that is being shown to
23 you?

24 A. Yes, I do.

25 Q. Can you tell who is the author of this document?

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1 A. I am the author.

2 Q. And please look at the signature on the second page with the
3 ERN 091792. Is this your signature?

4 A. Yes, this is my signature.

5 Q. Were you given the opportunity to review this declaration prior
6 to your testimony and indicate any corrections or clarification that
7 might be necessary?

8 A. Yes, I was.

9 Q. And did you have any corrections or clarification to make?

10 A. Yes, I did.

11 Q. And were these corrections and clarification reflected in the
12 statement that you signed on 14 October and that was shown to you
13 moments ago, the document with tab 1 bis and ERN number 103543 to
14 103544?

15 A. Yes, the corrections were reflected.

16 Q. And considering these corrections and clarifications, is the
17 information provided in the declaration with ERN number 091791 to
18 091792, dated 9 February, accurate and truthful to the best of your
19 knowledge and belief?

20 A. Yes.

21 Q. And does the information in this declaration reflect what you
22 would say today in court if examined?

23 A. Yes, it does.

24 Q. Thank you.

25 MS. BOLICI: I would like to move now to the document with the

1 ERN number 091927 to 091930, dated 17 February 2020.

2 Q. Investigator, this document is in tab 4 of the folder that is in
3 front of you. Do you have this document on your screen now?

4 A. Yes, I do.

5 Q. Do you recognise the document that is being shown to you?

6 A. Yes, I do.

7 Q. Can you tell who is the author of this document?

8 A. I am the author.

9 Q. And looking at the signature on the fourth page with the
10 ERN 091930, do you recognise your signature?

11 A. Yes, I do.

12 Q. And were you given the opportunity to review this declaration
13 prior to your testimony and indicate any clarification or corrections
14 that might be necessary?

15 A. I was.

16 Q. Did you have any correction or clarification to make?

17 A. Yes, I did.

18 Q. And considering the document that was shown to you earlier today
19 with ERN 103543 to 103544, tab 1 bis, does this reflect the
20 corrections and clarifications that you wanted to make?

21 A. Yes, it does.

22 Q. And considering these corrections and clarifications, is the
23 information provided in your declaration, with ERN number 091927 to
24 091930, dated 17 February 2020, accurate and truthful to the best of
25 your knowledge and belief?

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1 A. Yes, it is.

2 Q. Does the information in this declaration reflect what you would
3 say today in court if examined?

4 A. Yes, it is.

5 Q. Thank you.

6 A. Yes, it does, sorry.

7 MS. BOLICI: So the date is 2021 and not 2020, as I stated.

8 Q. I would like to move to the document in tab 6, investigator, in
9 your folder, which is the document with the ERN number 095533 to
10 095602, dated 7 May 2021.

11 Did you identify the document, investigator?

12 A. Yes, I did.

13 Q. You have it in front of your screen?

14 A. Yes, I do.

15 Q. Do you recognise the document that is being shown to you?

16 A. Yes, I do.

17 Q. And who is the author of this document?

18 A. I am the author.

19 Q. Can you please look at the fourth page with ERN number 095536
20 and tell us whether you recognise the signature.

21 A. This is my signature.

22 Q. Thank you. And were you given the opportunity to review this
23 declaration prior to your testimony and indicate any corrections or
24 clarifications that might be necessary?

25 A. I was.

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1 Q. And did you have any correction or clarification to make?

2 A. I did not.

3 Q. Is the information provided in this declaration accurate and
4 truthful to the best of your knowledge and belief?

5 A. It is.

6 Q. And does the information in this declaration reflect what you
7 would say today if examined?

8 A. It does.

9 Q. Thank you.

10 MS. BOLICI: And, finally, I would like to show to the witness
11 the document in tab 8 of the folder in front of you, which is the
12 document with the ERN number 095603 to 095653, dated 7 May 2021.

13 Q. Do you now have the document on the screen in front of you?

14 A. Yes, I do.

15 Q. And do you recognise the document that is being shown to you?

16 A. I do.

17 Q. Can you tell who is the author of this document?

18 A. I am.

19 Q. And do you recognise the signature on page 2 with ERN number
20 095604?

21 A. This is my signature.

22 Q. Thank you. And were you given the opportunity to review this
23 declaration prior to your testimony and indicate any corrections or
24 clarifications that might be necessary?

25 A. Yes, I was.

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1 Q. And did you have any correction or clarification to make?

2 A. No, I did not.

3 Q. And is the information provided in this declaration accurate and
4 truthful to the best of your knowledge and belief?

5 A. It is.

6 Q. And does the information in this declaration reflect what you
7 would say today in court if examined?

8 A. It does.

9 Q. Thank you.

10 MS. BOLICI: And, Your Honours, I would like to request, at this
11 stage, the admission into evidence of the declarations that were
12 confirmed by the witness pursuant to Rule 154. In particular, the
13 SPO seeks the admission of the items that were just mentioned, their
14 translations, and associated exhibits, as detailed in the Prosecution
15 filing F00363, dated 14 October 2021. I also note that the list of
16 associated exhibits is listed in Annex 2 to this filing, and that in
17 Annex 1 to this filing the Prosecution provided a concise summary of
18 the declarations that it intends to tender into evidence pursuant to
19 Article 93 on the Order of Conduct of Proceedings should the Court
20 wish to have the summary of these declarations read in open court.

21 PRESIDING JUDGE SMITH: As stated to Mr. Rees earlier, we will
22 defer ruling on the submission, including the annexes, at this time.

23 MS. BOLICI: Thank you, Your Honour.

24 I would just observe that I will proceed on the assumptions that
25 the declarations will be admitted into evidence in terms of

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1 articulating the questioning and focusing the questioning of the
2 Prosecution in relation to this witness.

3 Should the declarations not be admitted into evidence, the SPO
4 will seek an opportunity to complete its examination for any part
5 that is covered in the declaration and will not be addressed in the
6 examination-in-chief.

7 PRESIDING JUDGE SMITH: Understood and [Microphone not
8 activated].

9 MS. BOLICI: Thank you.

10 PRESIDING JUDGE SMITH: We need to have them marked for
11 identification also.

12 MS. BOLICI: I didn't understand.

13 PRESIDING JUDGE SMITH: We will need to have all of the deferred
14 items marked for identification at this time. The Court Officer will
15 do that and it will appear on the record.

16 MS. BOLICI: Okay.

17 THE COURT OFFICER: Thank you, Your Honours.

18 ERN 084015 to ERN 084026 will be assigned P86 MFI. Document
19 bearing ERN number 103543 till 103544 will be assigned P87 MFI.
20 Document bearing ERN range 091791 till 091792 will be assigned
21 P88 MFI. Document bearing ERN range 091927 to 091930 will be
22 assigned P89 MFI. Document with the ERN range 095533 to 095602 will
23 be assigned P90 MFI. And document bearing ERN range 095603 till
24 095653 will be assigned P91 MFI.

25 Thank you, Your Honours.

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1 PRESIDING JUDGE SMITH: Thank you, Mr. Court Officer.

2 MS. BOLICI: Thank you, Your Honour. And in relation to the
3 associated exhibits that have also been tendered into evidence, I
4 just would like to clarify that I referred to Annex 2 of the
5 Prosecution filing F00367 and all the exhibits that are referred
6 therein.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MS. BOLICI: Thank you, Your Honour.

9 Q. Investigator, you mentioned today that you reviewed documents
10 that were seized at the KLA War Veterans Association on a number of
11 occasions. I would like to focus on the documents that were seized
12 on the first intervention of the SPO at the War Veterans Association.

13 Do you recall what is the date of the seizure that was carried
14 out by the SPO at the War Veterans Association?

15 A. It was 8 September.

16 Q. Thank you. As for your previous abbreviation, I will refer to
17 the documents that were seized at the KLA War Veterans Association by
18 the SPO on 8 September as Batch 1.

19 PRESIDING JUDGE SMITH: Could you please indicate the year as
20 well?

21 MS. BOLICI: 2020.

22 PRESIDING JUDGE SMITH: All right.

23 MS. BOLICI:

24 Q. Can you please tell how did you determine that you reviewed the
25 documents that were seized at the KLA War Veterans Association on

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1 8 September 2020?

2 A. I understand that you mean how I knew that I reviewed the
3 documents that were seized?

4 Q. Yes, exactly.

5 A. So the -- so I reviewed the Official Note which was drafted by
6 the individuals who were involved in the seizure and this
7 Official Note details the steps taken. And I also reviewed the
8 handover note which was drafted when they took the evidence. And
9 then I reviewed also the submission into our database called ZyLAB.

10 Q. Thank you. And I would like to start by showing you the
11 document which is highlighted as tab 10 in the folder in front of
12 you, and it's the document with the ERN number 083988 to 083991RED.

13 MR. REES: Your Honour, can I raise an objection?

14 PRESIDING JUDGE SMITH: Yes.

15 MR. REES: This is a document that is not produced by the
16 witness. It is a document that was subject to an application to
17 admit pursuant to the bar table. Your Honours refused that
18 application in relation to this document. In that ruling that
19 Your Honour --

20 PRESIDING JUDGE SMITH: Excuse me, a slight misstatement. We
21 deferred ruling on that. We did not refuse it.

22 MR. REES: My understanding was that Your Honours refused its
23 admission through the bar table.

24 PRESIDING JUDGE SMITH: [Microphone not activated] Of course,
25 correct. That's a correct statement.

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1 MR. REES: You did.

2 PRESIDING JUDGE SMITH: [Microphone not activated] We deferred
3 ruling on it at this time.

4 MR. REES: Ruling on its admission through some other route, I
5 follow --

6 PRESIDING JUDGE SMITH: Yes, yes.

7 MR. REES: -- but in relation to the application to adduce it
8 through the bar table.

9 PRESIDING JUDGE SMITH: Yes, you're correct about that. Go
10 ahead.

11 MR. REES: Your Honours noted that the -- that this report,
12 together with others, described "specific events at which one or both
13 of the Accused or their Associates were present, and, in some cases,
14 attribute statements to the former, or ... the manner in which the
15 SPO received from media outlets allegedly disseminated material."
16 That's another matter we'll perhaps come on to in due course.

17 The decision continued:

18 "Out of these reports, only one is authored by an SPO staff
19 member due to testify." That's not this report. "In light of the
20 above, the Panel considers that the Defence must be put in the
21 position to effectively confront the evidence and challenge the
22 truthfully and reliability of the accounts thus recorded. For that
23 reason, the Panel finds that the admission of these items through the
24 bar table is premature. The SPO will have an opportunity to examine
25 its witnesses as to the truth of items' content. The Panel therefore

1 denies admission of these items at this time."

2 The effect of the ruling was clear: That the report itself was
3 not to be admitted through the bar table. This report is created by
4 an SPO officer. The SPO were able, and still are, to call that
5 officer to testify so that the contents of the report and his account
6 can be challenged and the truth and reliability of the account thus
7 recorded effectively confronted. But the SPO have not taken up the
8 Trial Panel's invitation to do that, and they can't evade the
9 consequences of that ruling by seeking to simply adduce it through
10 this witness who has no association with the contents of it, cannot
11 assist on the truth and reliability of the account recorded therein.

12 PRESIDING JUDGE SMITH: Thank you, Mr. Rees.

13 We're going to have to give the Prosecution an opportunity to
14 ask some questions about that to determine whether or not she can
15 testify, and you can renew your objection at a later time and you may
16 cross-examine her if you wish. But right now, she's in a position to
17 testify, she's an officer of that office, and she has the ability to
18 talk about the process in bringing that document to bear.

19 So you may continue.

20 MS. BOLICI: Thank you.

21 Q. Investigator, do you have the document on your screen and in
22 front of you?

23 A. Yes, I do.

24 Q. Thank you. Are you familiar with this document?

25 A. Yes, I am.

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1 Q. Can you please read the heading of this document right below the
2 SPO's logo?

3 A. It reads "Official Note."

4 Q. And based on your experience as an investigator with the SPO,
5 can you tell what an Official Note is?

6 A. Official Notes are records of investigators, analysts, different
7 categories of staff. They document their activities in form of an
8 Official Note, such as this one, and then they submit this into our
9 internal database, ZyLAB.

10 Q. And are you familiar with the template that is generally used to
11 draft Official Notes?

12 A. This is the standard template that we use.

13 Q. The one like in the documents that you see in front of you?

14 A. That is correct.

15 Q. And are Official Notes generally signed by their authors?

16 A. Yes, they are.

17 Q. And you just mentioned that Official Notes are kept in the SPO
18 official records. Can you describe what is the process for
19 submitting an Official Note into the SPO official record?

20 A. The submission process is rather straightforward. What we do,
21 we go into the ZyLAB registration. There, we need to fill out
22 certain boxes, electronically. Then we provide the -- we provide
23 details like what are we submitting, the date of the document, who is
24 the submitter, and a brief description what it is. And then we
25 print -- after we have submitted this registration form, we print it.

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1 And then in this case, usually we take the hard copy of this
2 Official Note and would go to our -- to our evidence unit and would
3 submit both into evidence. We would register it in our -- in a
4 booklet. We would get an individual -- no, it would -- like, when
5 you submit it electronically, it generates a specific number and this
6 specific number would be transferred into this booklet, and that
7 would constitute a submission.

8 Q. By "evidence unit," do you refer to the Case and Evidence
9 Management Unit?

10 A. Yes, I apologise. That is the official title.

11 Q. And this is also referred to as CEMU; correct?

12 A. That is correct.

13 Q. And once the hard copy document and the electronic submission of
14 the document is provided to CEMU, how does CEMU process the document?

15 A. They either -- yeah, they -- if you submit it to them in hard
16 copy, they would scan the document and then upload it in the
17 database, but I'm not privy to this process. Sometimes we also
18 provide them an electronic version, like on a DVD, we submit evidence
19 electronically on a DVD, and they would submit that and upload that
20 into evidence.

21 Q. And do you know what an evidence reference number is, ERN?

22 A. Thank you. Every document -- every piece of evidence which we
23 submit receives such a number. Either it is stamped manually on the
24 document or it is generated electronically.

25 Q. And who does attribute ERN numbers to documents that are

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1 submitted into evidence?

2 A. This is the CEMU unit. CEMU.

3 Q. So once a document is submitted into evidence, it is attributed
4 an ERN number; is this correct?

5 A. That is correct.

6 Q. And the ERN numbers appear on the face of the documents that are
7 registered into evidence?

8 A. Yes, that is correct.

9 Q. Now, looking at the Official Note that is in front of you, can
10 you tell what is the number on the upper right side of each page?

11 A. So it is 083988 on page 1.

12 Q. Yes, apologies, investigator. I wanted to ask which kind of
13 document -- which kind of number this is. Does this indicate an ERN
14 number?

15 A. Yes, it does.

16 Q. And the fact that this document is stamped with the ERN number,
17 does it mean that it was submitted formally into the SPO evidentiary
18 database?

19 A. Yes, it does.

20 Q. Now, looking at the subject of this Official Note, as identified
21 in the heading, can you tell what the subject of this Official Note
22 is?

23 A. The subject is: "Seizure of documents from the KLA War
24 Veteran's Association."

25 Q. And looking at the first paragraph of the document, can you tell

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1 what date the activities that are described in this Official Note
2 refer to?

3 A. The date is 8 September 2020.

4 Q. Thank you. Now please look at the name of the author of this
5 Official Note as indicated in the heading. And without, please,
6 mentioning the name of this person in open court, can you tell the
7 Court whether you know who the author of this note is?

8 A. I know the author.

9 Q. And do you know his professional functions?

10 A. As stated in the Official Note, he is an SPO operations security
11 officer.

12 Q. So in public session, please, let's refer to the author of this
13 Official Note by his professional function, as SPO security officer.
14 Is this person an SPO staff member?

15 A. He is.

16 Q. And was the author of this Official Note an SPO staff member on
17 8 September 2020?

18 A. He was.

19 Q. And as an SPO staff member yourself, had you occasion to speak
20 with the author of this Official Note about the activities that he
21 carried out on 8 September 2020?

22 A. Yes, I spoke to him.

23 Q. And what information did he provide you?

24 MR. REES: Your Honour, can I object again. We have looked
25 previously about the rules under Rule 153 to 155 that deal with

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1 hearsay evidence, effectively, in these rules.

2 The Prosecution are seeking to adduce testimony from the
3 security officer through this witness, asking this witness --

4 PRESIDING JUDGE SMITH: Is your objection on hearsay?

5 MR. REES: My objection is that they are seeking to evade the
6 scope of Rules 153 to 155. And I can expand upon that in the terms
7 as we set out in our response to the bar table motion.

8 PRESIDING JUDGE SMITH: Go ahead, briefly. I understand the
9 rule. I understand the hearsay definition. And you know perfectly
10 well that hearsay evidence is admitted under our rules, and it is up
11 to the Panel to determine the weight to be given to that testimony.

12 MR. REES: We also submit that in other jurisdictions, of
13 course, there is no absolute prohibition on the admission of hearsay
14 evidence. What there is, though, is a clear steer that although the
15 equivalent provision of Rule 138 provides a wide discretion to allow
16 evidence, that should not be used to subvert and avoid the clear
17 effect of Rules 153, 154, and 155, which deal with the admission of
18 statements from witnesses other than through oral testimony.

19 PRESIDING JUDGE SMITH: Okay, Mr. Rees, I understand your
20 objection. We have to make the objection, it's hearsay, and I'm
21 overruling your objection.

22 MS. BOLICI: Thank you, Your Honour.

23 Q. Investigator, you told us moments ago that you spoke with the
24 security officer who authored this Official Note about the activities
25 he carried out on 8 September 2020 in his official capacity. Could

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1 you please tell the Court what information you were provided?

2 A. I can actually now not recall specifically what I have asked him
3 about. I believe to recall that I only asked him whether he has
4 placed the documents into one or two evidence bags. I think that was
5 the issue only.

6 Q. And when you -- if you wanted to identify -- to know more
7 detailed information about the activities that the author of this
8 Official Note carried out on 8 September 2020, to which records you
9 have to turn to?

10 A. As I said earlier, what I reviewed is this Official Note --

11 Q. Yes.

12 A. -- and the handover document which was generated when this
13 security officer seized the evidence. So at that point, a one-page
14 document was produced which was signed by the person seizing it and
15 by the person handing it over with date and time.

16 Q. Thank you. I would just like to ask you to take the time to
17 read, briefly, paragraphs 2 to 6 of the Official Note in front of
18 you.

19 THE COURT OFFICER: Could the Specialist Counsel confirm the
20 page number, please.

21 MS. BOLICI: Oh, sorry. Apologies. On page 083988 to 083989,
22 paragraphs 2 to 6.

23 THE WITNESS: I apologise. To read it quietly or out loud?

24 MS. BOLICI:

25 Q. Yes, not out loud.

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1 And based on the document in front of you, can you tell who
2 within the KLA War Veterans Association delivered to the SPO security
3 officer the documents that were seized on 8 September 2020?

4 A. The person who handed them over was Mr. Faton Klinaku.

5 Q. And looking at paragraph 6 in this Official Note, can you -- I
6 would like to read the relevant part for you. It says:

7 "A form recording the handover was signed by" Faton Klinaku,
8 indicated with an abbreviation, "and" security officer "as well as
9 by," another abbreviation indicating the independent observer.

10 Have you ever seen the handover note that this Official Note is
11 referring to?

12 A. Yes, I did.

13 MS. BOLICI: I would like to now show to the witness the
14 document with the ERN number 080449 to 080449. It's just one page.
15 And it's also already admitted as Exhibit P0056.

16 Q. Investigator, this is the document with tab 11 in the folder in
17 front of you. Have you seen this document before?

18 A. Yes, I did.

19 Q. And can you tell what this document is?

20 A. This is the handover -- what I refer to as a handover note,
21 which was generated by the security officer when he seized Batch 1
22 from Mr. Faton Klinaku.

23 Q. And is the layout of this document familiar to you, the
24 template?

25 A. Yes, it is. This is our standard template.

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1 Q. And please look at the date on this handover note. What is the
2 date indicated therein?

3 A. The date is 8 September 2020.

4 Q. And please look at the section of the form titled "Delivery."
5 Can you tell us who's name appears there?

6 A. Deliverer?

7 Q. Yes.

8 A. Mr. Faton Klinaku.

9 Q. And looking at the section of the form titled "Recipient," can
10 you tell us if you recognise the name of the recipient without
11 reading it out loud, please.

12 A. The recipient is the same security officer who has drafted the
13 Official Note which I spoke about before.

14 Q. And can you tell what the number on the upper right corner of
15 this document indicates? 080449.

16 A. That it indicates or it shows that this document has been
17 submitted into the database, into ZyLAB.

18 Q. Okay. Thank you. And can you tell how did you first access or
19 see this document?

20 A. This document was on the top -- was the first document of the
21 entire batch which was submitted into ZyLAB. So to be clear, it's
22 the -- the documents which were seized, plus this document on top,
23 was submitted together into ZyLAB.

24 Q. Okay. So this was the cover page of the documents that you have
25 reviewed that you indicate as Batch 1?

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1 A. That is correct.

2 Q. Thank you.

3 Now I would like to show to the witness the documents with
4 tab 12 and 13, investigator, on your folder, which are
5 Exhibits P00057 and P00057-ET.

6 MS. BOLICI: And I would like to ask the Court Officer, if
7 possible, to display both pages at the same time on screen. Thank
8 you.

9 Q. Are you familiar with this document, investigator?

10 A. I have to apologise. I'm not sure do I have the same ERN number
11 as you have read out?

12 Q. So it's 081340.

13 A. Thank you, yes.

14 Q. Yes.

15 A. I have --

16 Q. Yes. Are you -- do you see the same document on screen as well?

17 A. Yes, I do.

18 Q. Thank you. And are you familiar with this document?

19 A. I am.

20 Q. And can you tell, first of all, what the number on the upper
21 right side of the document indicates?

22 A. It also shows that this document was submitted into evidence.

23 Q. And can you tell what this document is about?

24 A. This document appears to me to be a note offered by
25 Mr. Faton Klinaku when the documents were seized, a handwritten note.

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1 Q. Can you tell what the date on the document is?

2 A. The date is 8 September 2020.

3 Q. And where did you first see this page?

4 A. This page was the last page of the batch that was submitted into
5 evidence.

6 Q. The batch? What batch --

7 A. 1.

8 Q. Okay.

9 A. I do apologise, Batch 1.

10 Q. Okay. So you're saying that the document in front of you was
11 the last page of the pile of documents that were seized at the KLA
12 War Veterans Association on 8 September 2020?

13 A. That is correct.

14 Q. Thank you. And can you -- do you recall what is the ERN number
15 of the documents of Batch 1 that you have reviewed?

16 A. I am sorry, I cannot remember the number, but I -- I put it in
17 the -- the -- annotations in the declaration which was submitted, I
18 think, on Friday. So if I could consult them.

19 MS. BOLICI: I would ask, Your Honour, the leave of the Panel to
20 allow the witness to consult her notes that were notified to the
21 Panel and to the Defence in advance of this testimony.

22 PRESIDING JUDGE SMITH: Yes.

23 THE WITNESS: Thank you.

24 PRESIDING JUDGE SMITH: Don't read them. Just refer to them and
25 lay them down, and she'll ask the question.

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1 THE WITNESS: Mm-hmm. Thank you.

2 MS. BOLICI:

3 Q. Do you recall, investigator, the ERN number of the documents of
4 Batch 1 that you have reviewed?

5 A. Yes, I can see it.

6 MS. BOLICI: Can I allow -- yes.

7 Q. Can you please state what is the ERN number of the documents
8 that you have reviewed?

9 A. The ERN number is 080450-081340 and 080449-080449.

10 Q. Okay. And --

11 PRESIDING JUDGE SMITH: Ms. Bolici, it's time for a break.

12 MS. BOLICI: Yes.

13 PRESIDING JUDGE SMITH: And maybe we can take this up as soon as
14 we finish the break.

15 So please be back here at 11.30 everyone. Thank you.

16 MS. BOLICI: Thank you, Your Honour.

17 PRESIDING JUDGE SMITH: We're in adjournment. Please escort the
18 witness out.

19 THE WITNESS: Your Honour, excuse me [microphone not activated]?
20 Your Honour, can I leave my documents?

21 PRESIDING JUDGE SMITH: Yes.

22 We're adjourned until 11.30.

23 --- Recess taken at 11.02 a.m.

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

25 PRESIDING JUDGE SMITH: Madam Usher, please bring the witness

1 back.

2 I note that there is no change in the personnel available in the
3 courtroom.

4 [The witness takes the stand]

5 PRESIDING JUDGE SMITH: Mr. Cadman, you seek the floor?

6 MR. CADMAN: Just very briefly, Your Honour.

7 Just to remind the Court that two motions were filed yesterday.
8 We would be grateful if they would be dealt with during the course of
9 today. They are matters of some significance. I'm not going to
10 discuss them now. One of them is a confidential filing.

11 The other point that I would like to raise with Your Honours. I
12 was reluctant to jump up every 60 seconds when the witness was giving
13 her answers. We renew our objections as we have done previously. We
14 had anticipated what the evidence would be today. No proper
15 explanation has been given as to why the Prosecution witnesses that
16 do have direct knowledge over these matters are not being called to
17 give evidence, so we renew our objections.

18 We recognise that Your Honour has already ruled upon Mr. Rees'
19 objection, but we renew our objections to the entirety of this
20 witness's testimony.

21 PRESIDING JUDGE SMITH: Thank you. That's noted.

22 Madam Prosecutor, you may begin.

23 MS. BOLICI: Thank you, Your Honour.

24 Q. So starting back from the point that was addressed right before
25 the break. You told us before the break, investigator, that the

1 Official Note that -- that the delivery document that was shown to
2 you with the ERN number 080449 was the first page of the documents of
3 Batch 1 that you reviewed, and that the document with ERN number
4 081340 was the last page of the documents of Batch 1 that you
5 reviewed.

6 Do I understand correctly that the ERN number of the documents
7 of Batch 1 that you reviewed is included within the ERN range of
8 these two documents?

9 A. That is correct.

10 Q. Thank you.

11 MS. BOLICI: Your Honour, before moving to the contents of the
12 documents that the investigator reviewed, I would like at this point
13 to seek admission into evidence of the Official Note with the ERN
14 number 083988 to 083991RED. Considering that it is relevant as the
15 document concerns events of 8 September, it's probative, and it's
16 been authenticated by W04841 in the course of her testimony today.

17 PRESIDING JUDGE SMITH: [Microphone not activated] Once again,
18 we'll defer ruling on that until later on.

19 Please continue.

20 MS. BOLICI: Thank you so much.

21 Q. Investigator --

22 PRESIDING JUDGE SMITH: [Microphone not activated] I'm sorry,
23 once again I'm --

24 THE INTERPRETER: Microphone for Your Honour, please.

25 PRESIDING JUDGE SMITH: Once again we defer on your request for

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1 admission.

2 Mr. Court Officer, you may assign numbers to those.

3 THE COURT OFFICER: That document, Your Honours, will be
4 assigned P91 marked for identification.

5 PRESIDING JUDGE SMITH: Thank you.

6 Madam Prosecutor.

7 THE COURT OFFICER: Sorry, Your Honours. Just a correction. It
8 will be marked P92 marked for identification.

9 PRESIDING JUDGE SMITH: That correction is noted.

10 MS. BOLICI: Thank you.

11 PRESIDING JUDGE SMITH: P92 marked for identification.

12 MS. BOLICI: Thank you.

13 Q. Investigator, turning to the contents of the documents that were
14 seized at the KLA War Veterans Association on 8 September 2020 that
15 is what is being referred to as Batch 1, can you please describe
16 generally what is the content of these documents?

17 A. A large portion of the documents contained in Batch 1 are
18 coordination requests which were authored by the SITF seeking
19 assistance -- assistance in investigations from the Serbian War
20 Crimes Prosecutor's Office. Batch 1 also includes quite a number of
21 communications between the Serbian War Crimes Prosecutor and
22 different police units, police stations, their -- internal
23 communications where the prosecutor would request the police to
24 conduct certain investigations - for instance, locating witnesses or
25 statements - and the police would then report back on the findings

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1 and provide materials which were requested.

2 Q. Thank you. And you stated that the coordination requests are
3 SITF requests for assistance in criminal matters; is this correct?

4 A. That is correct.

5 Q. And as of 8 September 2020, were records of SITF requests for
6 assistance in criminal investigation publicly disclosed?

7 A. Not to my knowledge.

8 Q. And as an SPO staff member, what is the classification of SITF
9 and SPO records of criminal investigations in criminal matters?

10 A. Well, they're confidential documents.

11 Q. And are requests for assistance in criminal matters issued by
12 the SITF and SPO also part of the records of the SITF-SPO
13 investigation?

14 A. I have to apologise. Would you please repeat this question?

15 Q. Yes. You mentioned earlier that records of SITF and SPO
16 investigations are confidential. And the question is: Are requests
17 for assistance in criminal matters also part of the records of SPO
18 investigations? Are they confidential as well?

19 A. Yes, they are part and they are confidential.

20 Q. Yes. And as an SPO staff member, are you authorised to disclose
21 to third parties, meaning known SPO staff members, the contents of
22 requests for assistance in criminal matters issued by the SITF or the
23 SPO?

24 A. I'm not.

25 Q. And as an SPO staff member, are you authorised to disclose to

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1 third parties, meaning non-SPO staff members, the details of
2 individuals who carry out the execution of requests for assistance in
3 criminal matters issued by the SITF or the SPO?

4 A. No, I am not.

5 Q. Thank you. Do you recall approximately how many coordination
6 requests are included in the documents that were seized at the KLA
7 War Veterans Association on 8 September 2020?

8 A. For accuracy, I would refer to the spreadsheet of the
9 declaration 8 May, but I believe there are, like, over a hundred with
10 a large part of Batch 1.

11 Q. Thank you.

12 MS. BOLICI: I would like to now show to the witness the
13 document with the ERN number 080464.

14 Q. Which is, Witness, the document with tab number 14 in the folder
15 in front of you. Do you have the document on your screen?

16 A. Yes, I do.

17 Q. Have you seen this document before?

18 A. Yes, I did.

19 Q. And in which context have you seen this document?

20 A. This document was among the documents seized as part of Batch 1.

21 Q. Thank you. And can you please read the title of the document,
22 the sentence in bold at the centre of this document.

23 MR. REES: Your Honour, Your Honour earlier invited us to raise
24 any issue about lack of disclosure at the time when a document is
25 referred to, or when we feel there's been no disclosure.

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1 This document I do not believe is on the list of proposed
2 exhibits that the SPO intends to use with this witness. I don't have
3 an objection at this stage but would ask for disclosure of it and a
4 brief break so that we can consider it before progressing further.

5 PRESIDING JUDGE SMITH: Let me ask the Prosecution.

6 Is this in the list?

7 MS. BOLICI: It's in the list, Your Honour. And if I can have
8 just a minute, I will refer to the exact --

9 PRESIDING JUDGE SMITH: Please do.

10 MS. BOLICI: Yes.

11 PRESIDING JUDGE SMITH: Item 483?

12 MS. BOLICI: Yeah.

13 PRESIDING JUDGE SMITH: 483?

14 MS. BOLICI: Yes.

15 PRESIDING JUDGE SMITH: Do you have it, Mr. Rees?

16 MR. REES: [Microphone not activated].

17 PRESIDING JUDGE SMITH: All right. Thank you.

18 MS. BOLICI:

19 Q. [Microphone not activated].

20 THE INTERPRETER: Microphone for whoever is speaking.

21 MS. BOLICI:

22 Q. Could you please read the title of this document, highlighted in
23 bold at the centre of the document?

24 A. The document reads: "Coordination request No. 95."

25 Q. Thank you.

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1 MS. BOLICI: And, Your Honour, I would now request that we move
2 into private session in light of the need to elicit information on
3 the contents of this confidential document.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 THE INTERPRETER: Microphone for Your Honour, please.

6 PRESIDING JUDGE SMITH: For purposes of protection of
7 confidential information, we will move into private session.

8 Will the Court Officer please comply.

9 ~~[Private session]~~ *Reclassified as Public and inserted
pursuant to order contained in F611/A3 of 18 May 2022.*

10 THE COURT OFFICER: We are in private session, Your Honours.

11 PRESIDING JUDGE SMITH: Thank you.

12 Go ahead, Ms. Prosecutor.

13 MS. BOLICI: Thank you.

14 Q. Investigator, can you tell whether Coordination Request 95
15 pertained to SITF or SPO investigations?

16 A. I can confirm in the positive.

17 Q. And how do you know that?

18 A. Well, the -- this is like a standard template of coordination
19 requests. It bears in the left top corner the SITF logo. Then it
20 contains a reference number which is typical SITF reference number.
21 The case number is there, the case number reflected on, I believe,
22 every communication of such nature. Then it's the date, it's

23 *[REDACTED]* *pursuant to order contained in F611/A3 of 18 May 2022.* That's
when the SITF existed. And just

24 from what is written there is just typically -- typically text for a
25 coordination request.

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1 Q. I would like to, besides the layout of the document that you
2 just described, to draw your attention on the contents of the
3 document.

4 In relation to the first paragraph, can you tell what kind of
5 request is articulated by the SITF and addressed to the Office of
6 War Crimes Prosecutor of the Republic of Serbia in the first
7 paragraph of this coordination request?

8 [Private session]

9 [Private session text removed]

10

11

12

13

*Reclassified as Public and inserted pursuant to order contained in F611/A3 of
18 May 2022.*

14 Q. Okay. And are these kind of requests for assistance in criminal
15 matters part of the investigative steps that are normally undertaken
16 by the SITF or SPO?

17 A. This took place before my time joining, but I have seen many of
18 these requests and this is a typical request, yes.

19 Q. Thank you. And looking at the second paragraph of this request,
20 can you tell what's the content of the request that is addressed from
21 the SITF to the OWCP?

22 [Private session]

23 [Private session text removed]

24

25

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1 [Private session text removed]

Reclassified as Public and inserted pursuant to order contained in F611/A3 of 18 May 2022.

2 Q. Yes. And is the activity described in this second paragraph
3 part of the ordinary investigative steps that are undertaken by the
4 SITF or the SPO?

5 A. For the SITF, yes.

6 Q. Thank you. And in relation to the third paragraph, can you tell
7 what the request addressed in this paragraph is about?

8 A. This last paragraph makes reference to another coordination
9 request, 87 to be precise. And here, the SITF requests the Serbian
10 authorities to assist in summoning witnesses to be subsequently
11 interviewed by them, SITF, on a specified period of time.

12 Q. Yes. And are requests for assistance in hearing witnesses'
13 evidence part of the investigative steps that the SITF and SPO
14 normally undertakes in the course of its investigative activities?

15 A. To my understanding, at the time the assistance is limited to
16 locating and summoning witnesses, not sitting in an interview.

17 Q. And are these kind of requests part of the investigative steps
18 of -- typical of the SITF or SPO?

19 A. Yes, this is very standard text which I have seen in many other
20 requests.

21 Q. And did you verify, investigator, if this coordination request
22 is available in the SPO database of official investigative records?

23 A. I can confirm that I found this -- this specific document in
24 ZyLAB. It had been registered, yes.

25 Q. Can you explain how did you make this check?

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1 A. In this instance, I would have made a search in the ZyLAB
2 database, most likely Coordination Request 95, and it would have
3 popped up. That's how I search for all these documents.

4 Q. Thank you.

5 MS. BOLICI: We can move back in public session, Your Honour.

6 PRESIDING JUDGE SMITH: [Microphone not activated] All right.

7 Court Officer, will you please revert us to public session.

8 THE INTERPRETER: Microphone, please.

9 PRESIDING JUDGE SMITH: Please revert to public session.

10 [Open session]

11 THE COURT OFFICER: We're in public session, Your Honours.

12 PRESIDING JUDGE SMITH: Thank you, Mr. Court Officer.

13 MS. BOLICI: Thank you.

14 PRESIDING JUDGE SMITH: Madam Prosecutor, you can continue.

15 MS. BOLICI: Thank you.

16 Q. And, investigator, looking at the ERN number on the top right
17 corner of this document, 080464, can you tell if this ERN number was
18 attributed before or after the seizure of Batch 1 at the KLA War
19 Veterans Association on 8 September 2020?

20 A. This was attributed after.

21 Q. And when the documents -- this document was seized at the KLA
22 War Veterans Association, did it have an ERN number on it?

23 A. Okay. I have to be clear here. The document which was seized
24 from the -- all the coordination requests which were seized from the
25 War Veterans Association, they bear a registration number. It was

1 already there.

2 Q. Sorry, I'm not sure I understood your answer. All the documents
3 that were seized bear an ERN number? For example, in this case,
4 080464, was this attributed before or after the documents were
5 seized?

6 A. It was attributed when we submitted it into ZyLAB.

7 Q. Okay. So before the submission of the seized document into
8 evidence, the document did not bear any evidence --

9 A. Yes.

10 Q. -- any ERN?

11 A. Sorry, now I understand. No, they did not.

12 Q. Okay. And you told us that you identified a copy of
13 Coordination Request 95 when you undertook your review of the
14 documents in Batch 1 in the SPO evidentiary database.

15 A. That is correct.

16 Q. Yes. And the documents that you identified in the SPO
17 evidentiary database, do they bear an ERN number?

18 A. Yes, they do.

19 Q. And is the ERN number of the documents that you identified in
20 the SPO evidentiary database appearing on the documents that were
21 seized at the KLA War Veterans Association on 8 September 2020?

22 A. The documents seized in the database bears one -- the document
23 seized in the -- the document which I found in the database has one
24 ERN number whereas the document which we seized was then stamped with
25 another ERN number.

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1 Q. Okay. And based on your experience at the SPO, what information
2 can you draw from this difference in ERN numbers?

3 The question is: Was the documents that was seized at the KLA
4 War Veterans Association a copy of -- a stamped document as present
5 in the SPO database?

6 A. The document seized of the War Veterans Association is by text
7 the same as I have found in our database with the exception that it
8 did not contain a stamp.

9 Q. Thank you.

10 MS. BOLICI: I would now like to show to the witness a document
11 with the ERN number 095533 to 095602. It's the declaration of
12 7 May 2021. And I would like to particularly refer to Annex 1 to
13 this declaration, which starts with the ERN number 095537.

14 Q. It's tab 6 of the documents in front of you. Do you have it?
15 Yes. Thank you.

16 Looking at the Annex 1 to this declaration that starts with the
17 page with ERN number 095537. Did you prepare this chart?

18 A. Yes, I did.

19 Q. And can you please explain, briefly, what information did you
20 address in this chart?

21 A. Well, I draw attention to the headers of the different columns -
22 page number, language, type of document, title of document, including
23 title of annex, date, description of document, and then author,
24 origin of document, and indicia, indicators suggesting the
25 confidential nature of the document. And at the end is the names

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1 where the names of potential witnesses are contained in this
2 document.

3 Q. Thank you. Looking at the second page, the page with the ERN
4 number 095538. I would ask you to look at the second-last entry in
5 this page. Can you please tell what is the title of the document
6 that is described in this line of the chart?

7 A. The title is Letter, with attached List of Witnesses.

8 Q. This is --

9 A. Oh, sorry, the type of document. Because I don't see the
10 header. Okay. The title. The title is "Coordination Request
11 No. 95," in brackets, "List of witnesses dated 9 March 2015."

12 Q. And did you address in this line of the chart the document that
13 we just discussed? That is, the document with ERN 080464, titled
14 "Coordination Request No. 95"?

15 A. That is correct.

16 Q. Now, based on the entry in this annex, can you tell if the
17 documents that you reviewed, Batch 1, included together with the
18 cover page of the coordination request also another page attached to
19 this coordination request?

20 A. It contained an attachment.

21 Q. And can you explain how you can draw this information from the
22 chart that you compiled?

23 A. Because it is written in the type of document. It says letter
24 with attached witnesses. And then in the second-last column, it's
25 stated "List of Witnesses is attached."

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1 Q. Thank you. And I would like to draw your attention on the
2 column which describes the title of documents, including title of
3 annex. In relation to the row concerning Coordination Request 95, I
4 read, as title, "Coordination Request No. 95 (List of witnesses
5 9 March 2015)." Can you tell what is indicated within the brackets
6 in this part of your table?

7 A. This indicates that there was -- one part of the coordination
8 request was the request 95, and there was an annex to it, a list of
9 witnesses.

10 Q. Okay.

11 A. Dated 9 March.

12 Q. Yes. Now, looking at the last column in the row concerning
13 Coordination Request 95. I see that you marked this information as a
14 yes, and this is information concerning whether names of potential
15 witnesses are included in the documents that you considered. Did you
16 verify whether the Coordination Request 95 or its attachment include
17 the names of witnesses or potential witnesses?

18 A. Yes, I did.

19 Q. And can you explain how did you carry out your review in this
20 respect, and what information is reflected in the column concerning
21 names of witnesses or potential witnesses?

22 A. I would have viewed the coordination request for any names, and
23 then I would have checked at least one name, because the volume was
24 very big, so I would have checked at least one name in order to
25 establish whether this person is registered in our, what we call,

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1 global witness list and has received a witness number. I would have
2 also consulted whether this person was interviewed, whether there is
3 any reference or a note to a meeting. Any such -- I would have
4 obtained any such -- this kind of information. And if it was
5 confirmed in the positive, then I would have written in this column a
6 yes.

7 Q. Thank you. Now, please consider the column concerning the
8 indicia suggesting the confidential nature of the document. And I
9 would like to draw your attention, in particular, on the remark that
10 "letter refers to attached confidential list of witnesses." Can you
11 explain what did you -- what kind of information did you reflect in
12 this part of your table?

13 A. What this refers to is that the -- the cover letter of the
14 coordination request contains this standard text in almost all the
15 coordination requests where there is an annex, that it would say:
16 See confidential list of witnesses. That is a text which is on this
17 page.

18 Q. And you could verify that such confidential marking was present
19 in the cover letter of Coordination Request 95?

20 A. If it is stated in this column, it was present.

21 Q. I would like to briefly -- because I omitted to highlight it
22 before, to briefly go back to the document with ERN 080464, tab 14.
23 Please look at the row that appears right below the signature of
24 the -- at the bottom right corner. Can you read what this row says?

25 A. It states: "Attachment: [CONFIDENTIAL]," and then "List of

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1 witnesses dated 9 March 2015."

2 Q. And when you describe in your table the confidential marking as
3 attachment confidential list of witnesses, did you refer to this line
4 on Coordination Request 95?

5 A. That is correct.

6 Q. Besides Coordination Request 95, are there other coordination
7 requests contained in Batch 1 that contains list of witnesses to be
8 interviewed by the SITF?

9 A. Yes, there are several.

10 MS. BOLICI: I would like to go back to the document with
11 ERN 095537. The full range is 095533 to 095602. Now, going again to
12 the page, please, with ERN number 095538.

13 Q. I would like to ask you to look at the second row from the top,
14 referring to page number 10-11. Can you please read what the title
15 of this document is?

16 A. The title is "Coordination Request No. 96."

17 Q. And can you tell how many pages is Coordination Request 96
18 composed of?

19 A. It's composed of two.

20 Q. And can you tell whether this coordination request included an
21 attachment with a list of witnesses as well?

22 A. Yes, it does.

23 Q. And how can you tell that?

24 A. I can see that in the description of type of document. It says
25 "Letter with attached list of witnesses," as well as from the title,

1 because I have two titles, as well as the indicator suggesting the
2 confidential nature. It is written "List of witnesses is attached."

3 Q. Okay. And now please looking at the column with indicia
4 suggesting the confidential nature of the document, did you also mark
5 here that the letter refers to a confidential list of witnesses?

6 A. That is correct.

7 Q. And does it mean that Coordination Request 96 has the same
8 confidential marking as it could be observed in Coordination
9 Request 95?

10 A. That is correct.

11 Q. Now, in relation to the column referring to the names of
12 witnesses and potential witnesses, I read that you write "yes." Did
13 you make in relation to Coordination Request 96 the same kind of
14 verifications that you explained in relation to Coordination
15 Request 95?

16 A. Yes, I did.

17 Q. Have you provided samples of indicia suggesting the
18 confidentiality of the documents contained in Batch 1?

19 A. Yes, I did.

20 Q. I would like to draw your attention on the document which is
21 headed Annex 2 and is included within the ERN range 095590 to 095594.

22 MS. BOLICI: Sorry. To the Court Officer, it's the same
23 document I was just pointing to, a subsequent page.

24 THE COURT OFFICER: Your Honours, and for the purposes of the
25 record, that is P90 MFI.

1 PRESIDING JUDGE SMITH: Thank you, Mr. Court Officer.

2 MS. BOLICI:

3 Q. Investigator, can you tell what information have you captured in
4 Annex 2 to your declaration?

5 A. Annex 2 depicts -- is -- is a compilation of samples of indicia
6 suggesting confidentiality contained on the documents which were
7 seized in Batch 1.

8 Q. Looking at the indicia suggesting the confidentiality that you
9 marked as letter d. on page 095591. Did you isolate here the
10 confidential marking that we could observe -- the type of
11 confidential marking that we could observe in Coordination
12 Request 95?

13 A. Yes, I documented it here.

14 Q. And can you describe what kind of confidential marking you
15 identified in letter e. right below?

16 A. It's the marking "List of Witnesses is marked CONFIDENTIAL ..."

17 Q. And where would these kind of confidential marking appear, on
18 the coordination request or on the annex?

19 A. On the annex.

20 Q. So every time such confidential marking you refer in your chart,
21 you verified that there is a confidential marking of the same type as
22 you illustrated with the screenshot under letter e.; is this correct?

23 A. That is correct.

24 Q. And in relation to the confidential marking under letter c., can
25 you describe what kind of confidential marking have you isolated

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1 here?

2 A. Letter c. is a confidential marking. It's -- it's a text which
3 is integrated in the request.

4 Q. Okay. You took a screenshot of part of the coordination request
5 that mentioned the confidentiality of the investigation; is this
6 correct?

7 A. That is correct.

8 MS. BOLICI: I will now move to the next topic and ask the
9 Court Officer, please, to show the exhibit with the ERN number 081083
10 to 081083RED.

11 Q. Which is document 15 on the binder in front of you. Did you
12 review this document before?

13 A. Yes, I did.

14 Q. And in which context did you review this document?

15 A. This document was also among the documents which were seized
16 from the War Veterans Association, part of Batch 1.

17 Q. And did you verify if a corresponding document is included in
18 the SPO evidentiary database?

19 A. Yes, I did.

20 Q. Is it included?

21 A. Yes, it is.

22 Q. And can you identify, in relation to this document, any
23 attachment to any list of witnesses?

24 A. This document makes reference to an attachment, this page.

25 Q. Makes no reference?

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1 A. It says:

2 "I respectfully request that the SITF examine the individual
3 listed in the attachment as witness in Serbia on 27th of March ..."

4 Q. Thank you.

5 A. "... 2014."

6 Q. Thank you. I will now move to the following document, which is
7 the document with ERN number 080992 in tab 16.

8 Did you review this document before?

9 A. Yes, I did.

10 Q. And is this document included in Batch 1?

11 A. Yes, it is.

12 Q. And did you verify if a corresponding document is included in
13 the SPO evidentiary database?

14 A. Yes, I did.

15 Q. And can you see any reference to an attached list of witnesses
16 in this document?

17 A. No, I cannot.

18 Q. And can you see if the cover letter of this document refers to
19 any witness or potential witness?

20 A. It states the name of a witness or potential witness.

21 Q. Okay. And in this instance, did you verify whether the name
22 included in this coordination request was among the witnesses or
23 potential witnesses of the SITF or SPO?

24 A. Yes, I did, and I can confirm in the positive.

25 Q. And this information would be reflected in your Annex 1 to your

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1 declaration in the chart that you compiled?

2 A. Yes, I assume so.

3 Q. Thank you.

4 MS. BOLICI: I would like now to move to the following document,
5 which is document with ERN 080565.

6 Q. Have you seen this document before?

7 A. Would you tell me the tab as well?

8 Q. Sorry, yes. It's tab number 17 in the folder in front of you.

9 A. Yes, I have seen this document.

10 Q. And is this document part of Batch 1?

11 A. That is correct.

12 Q. And have you verified whether this document is -- a
13 corresponding document is included in the SPO evidentiary database?

14 A. Yes, I have, and it is included.

15 Q. I would like to draw your attention to the list of names that is
16 included in the last paragraph of this document. And I would like
17 now to draw - one moment - your attention to the description of this
18 document that you provided in your chart.

19 MS. BOLICI: And I would ask the Court Officer, please, to show
20 once again the document with the ERN number 095533 to 095602. And,
21 in particular, I would like to go to page 085545 -- 095545.

22 Q. Now, please look at the fourth row on this page referring to the
23 document titled "Coordination Request No. 112," and, in particular,
24 to the information that you recorded in the column Names of Potential
25 Witnesses, yes/no.

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1 I read that in relation to Coordination Request 111 (sic), you
2 recorded that this coordination request does not include any names of
3 witnesses; is this correct?

4 A. This is correct.

5 Q. And, finally, I would like to show the document with the ERN
6 number 081031, 081031, which is tab 18 in the documents in front of
7 you.

8 Have you seen this document before?

9 A. Yes, I have.

10 Q. And is this document part of Batch 1?

11 A. Yes, it is.

12 Q. And was -- did you verify whether a corresponding document, as
13 in this coordination request, is included in the SPO evidentiary
14 database?

15 A. I have and I can confirm it is.

16 Q. Thank you.

17 MS. BOLICI: Your Honour, at this stage I would like to seek
18 admission into evidence of the documents that the witness has just
19 authenticated, and these are, in particular, the documents with ERN
20 080464 to 080464, the document with ERN 0955 -- no, sorry.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 MS. BOLICI: The document with ERN 081083 to 081083RED, the
23 document with ERN 080992 to 080992, and the document with ERN 081031
24 to 081031, as they are all relevant and probative and identified by
25 the witness as documents among the batch seized at the KLA War

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1 Veterans Association on 8 September 2020.

2 PRESIDING JUDGE SMITH: Any objection by the Defence, Mr. Rees,
3 to those items?

4 MR. REES: Can I ask the Trial Panel defer this decision that
5 deals with it when looking at these issues as a whole at the end of
6 the witness's evidence?

7 PRESIDING JUDGE SMITH: I'm not following your question. Could
8 you ask me what?

9 MR. REES: If the Trial Panel would defer a decision on the
10 admissibility of those documents and deals with it at the same time
11 as dealing with all issues of admissibility at the end of the
12 witness's evidence.

13 PRESIDING JUDGE SMITH: Okay.

14 MR. REES: Thank you.

15 PRESIDING JUDGE SMITH: We'll do that. We'll defer on those.

16 MS. BOLICI: The Prosecution's position is that for these
17 particular documents that have been authenticated in court by the
18 witness --

19 PRESIDING JUDGE SMITH: I understand. I understand.

20 MS. BOLICI: -- there is no reason to defer the decision, but I
21 will ...

22 PRESIDING JUDGE SMITH: So they are marked for identification?

23 THE COURT OFFICER: Your Honours, the first document in the
24 chronological order with ERN 080464 will be assigned P93 MFI. The
25 second document, 081083, will be assigned P94 MFI. The next document

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1 with ERN 080992 will be assigned P95 MFI. The next document, 080565,
2 will be assigned P96 MFI. And the last document, 081031, will be
3 assigned P97 MFI.

4 Thank you, Your Honours.

5 PRESIDING JUDGE SMITH: Thank you, Mr. Court Officer.

6 You may proceed, Madam Prosecutor.

7 MS. BOLICI: I would like to show the witness the document
8 admitted into evidence with Exhibit P00001-ET.

9 Q. Which is, investigator, the document in tab 20 in the folder in
10 front of you.

11 MS. BOLICI: And I would request the Panel to move briefly into
12 private session for the questions that will follow.

13 PRESIDING JUDGE SMITH: For purposes of confidentiality, the
14 Court will move into private session.

15 Since this is a video and we -- that will -- go ahead.

16 MS. BOLICI: Sorry, Your Honour, I actually would like to refer
17 to the transcript. Perhaps I didn't cite it properly. It's
18 P0001-ET.

19 PRESIDING JUDGE SMITH: You did say "ET." My mistake. So we
20 will not need a private or closed session --

21 MS. BOLICI: Yes, the English transcript.

22 PRESIDING JUDGE SMITH: -- and the transcript is being offered
23 or being discussed and it has already been admitted; correct?

24 MS. BOLICI: Yes, already admitted.

25 PRESIDING JUDGE SMITH: All right.

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1 [REDACTED] Pursuant to instruction from Trial Panel II

2 [REDACTED] Pursuant to instruction from Trial Panel II

3 [REDACTED] Pursuant to instruction from Trial Panel II

4 [REDACTED] Pursuant to instruction from Trial Panel II

5 [REDACTED] Pursuant to instruction from Trial Panel II

6 [REDACTED] Pursuant to instruction from Trial Panel II

7 [REDACTED] Pursuant to instruction from Trial Panel II

8 [REDACTED] Pursuant to instruction from Trial Panel II

9 [REDACTED] Pursuant to instruction from Trial Panel II

10 [REDACTED] Pursuant to instruction from Trial Panel II

11 Q. And can you specify in which kind of documents was this name of
12 this individual included? In the cover page of a coordination
13 request? In a confidential annex? In a different kind of document?

14 A. Now, from memory, I can confirm that this name was mentioned in
15 coordination requests, but I apologise, I cannot recall now was he in
16 the confidential annex or in the text itself.

17 Q. Okay. And did you verify whether the information included in
18 Batch 1 also include the professional title of the person that is
19 mentioned in this transcript?

20 A. If I remember correctly, yes, the title was mentioned, but I
21 would have stated that in my declaration. So if I could go to that
22 text.

23 MS. BOLICI: I will ask Your Honour to allow the witness to
24 consider her declaration. It's the declaration of 29 October 2020.
25 It's the declaration with the ERN number 084015 to 084026.

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1 Your Honour, I would just like to have confirmation if we are in
2 private session?

3 PRESIDING JUDGE SMITH: We are not in private session.

4 MS. BOLICI: I thought I had asked to move into private session,
5 Your Honour. I -- perhaps.

6 PRESIDING JUDGE SMITH: I understand you. [Microphone not
7 activated].

8 THE INTERPRETER: Microphone for Your Honour.

9 MS. BOLICI: Okay.

10 PRESIDING JUDGE SMITH: [Microphone not activated] So we will
11 need to have a redaction.

12 MS. BOLICI: Yes, please.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. REES: Yes.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 THE INTERPRETER: Microphone for Your Honour, please.

17 PRESIDING JUDGE SMITH: Do you still wish to be in private
18 session?

19 MS. BOLICI: Private session, yes.

20 PRESIDING JUDGE SMITH: All right.

21 Mr. Court Officer, private session, please.

22 [Private session]

23 [Private session text removed]

24

25

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1 [Private session text removed]

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Reclassified as Public and inserted pursuant to order contained in F611/A3 of 18 May 2022.

23 Q. Thank you. And I read here in paragraph 10 of your declaration

24 that you stated that this information - names and personal details -

25 are included in confidential annexes to various requests among other

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1 witnesses and potential witnesses whom the SITF sought to interview
2 and in relation to whom the record of previous statement was
3 requested.

4 Can you confirm that the names and details of these individuals
5 were included in annexes to coordination requests?

6 A. Yes, I can confirm that.

7 Q. Thank you.

8 You mentioned earlier that besides the coordination requests,
9 Batch 1 also includes other kind of documents. Can you tell,
10 approximately, how many documents are included in this second
11 category?

12 A. I now forgot the figure, but I think it's like over a hundred.

13 MS. BOLICI: Your Honour, we can move back to the public
14 session.

15 PRESIDING JUDGE SMITH: Mr. Court Officer, please move back to
16 public session.

17 [Open session]

18 THE COURT OFFICER: We are in public session, Your Honours.

19 PRESIDING JUDGE SMITH: Thank you.

20 Madam Prosecutor, you may proceed.

21 MS. BOLICI:

22 Q. And can you tell what is the language of these documents?

23 A. Where I refer to Serbian documents?

24 Q. Yes.

25 A. Serbian.

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1 Q. Thank you. And are these documents also described in your chart
2 Annex 1 to your declaration describing the documents in Batch 1?

3 A. I described the English and the Serbian documents in the same
4 way. There is no difference.

5 Q. Do Serbian documents also include the name of individuals?

6 A. Yes, they do.

7 Q. And did you check for the Serbian documents whether these
8 individuals are among the SITF, SPO witnesses or potential witnesses?

9 A. Yes, I did.

10 Q. And when you found that that was the case, you have indicated
11 for each these documents the corresponding information as "yes" in
12 your chart attached to your declaration as Annex 1?

13 A. Yes, I did.

14 Q. And could you identify in the Serbian documents express
15 references to the SITF or requests for assistance in criminal
16 investigation addressed from the SITF to the competent Serbian
17 authorities?

18 A. I -- I saw reference to SITF requests in Serbian documents, yes.

19 Q. And have you noted this information in the chart that you
20 compiled as Annex 1 to your declaration?

21 A. Yes, I did.

22 Q. Have you noticed if the Serbian documents include statements
23 provided by witnesses or potential witnesses?

24 A. Yes, there are statements of witnesses and potential witnesses.

25 Q. And have you verified for these statements whether the

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1 individual who provided the statement was, in fact, an SITF or SPO
2 witness or potential witness?

3 A. Yes, I did.

4 Q. And when your check was positive, did you indicate this
5 information as a "yes" in the column of your annex titled "Names of
6 potential witnesses"?

7 A. Yes, I did.

8 Q. Thank you.

9 MS. BOLICI: I would like to show now to the witness the
10 document with the ERN number 091909 to 091917RED.

11 Q. This is table 22 on the folder in front of you.

12 Do you have the document on your screen?

13 A. Yes, I do.

14 Q. Are you familiar with this document?

15 A. Yes, I am.

16 Q. Who is the author of this document?

17 A. I am.

18 Q. And what kind of document is this?

19 A. This is an Official Note.

20 Q. And what was the purpose of this Official Note?

21 A. The purpose was to submit e-mails which were received by our
22 office into evidence, into ZyLAB.

23 Q. And how did you obtain these e-mails?

24 A. The e-mails were forwarded to me by the person mentioned in the
25 Official Note. I have printed them off, I registered a ZyLAB

1 submission in the registration, and submitted those e-mails with this
2 Official Note into evidence.

3 Q. Okay. And did you speak with the person who forwarded you this
4 Official Note -- these e-mails in relation to the material that has
5 been forwarded to you?

6 MR. REES: Before the witness answers, Your Honour.

7 PRESIDING JUDGE SMITH: Yes.

8 MR. REES: There is a similar objection to the contents of this
9 report and the contents of the e-mails that are provided and the
10 invitation to the witness to repeat what has been said to her.

11 I've heard Your Honours' ruling earlier, and I take it that such
12 matters are deferred until the end of the witness's evidence, so I
13 don't -- I don't pursue that any further at this point. But I do ask
14 that the objection is noted and dealt with in due course.

15 PRESIDING JUDGE SMITH: Your objection is noted, joined by
16 Mr. Cadman.

17 MS. BOLICI:

18 Q. And have you spoken with the person who forwarded you these
19 e-mails at the time when this material was provided to you?

20 A. I don't recall having spoken to him. I believe I only received
21 an e-mail forwarding these e-mails.

22 Q. Thank you. And could you please now look at the pages with the
23 ERN number 091915. Did you familiarise yourself with the contents of
24 this correspondence?

25 A. Yes, I read all these e-mails.

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1 Q. And can you tell what this e-mail is about, briefly?

2 A. It is an e-mail from a specific news outlet informing our
3 spokesperson that -- basically of the leak of Batch 1.

4 Q. And can you look, please, at the correspondence registered with
5 ERN number 091917. Do you know -- can you tell what this
6 correspondence is about, briefly?

7 A. It is another e-mail which refers to the leak of Batch 1.

8 Q. And are you aware if following this correspondence the SPO had
9 any contact with the author of these e-mails?

10 A. Yes. To my understanding is that the author of these e-mails
11 provided us with Batch 4.

12 Q. Thank you.

13 MS. BOLICI: I would like to show the witness the document with
14 ERN number 083986 to 083987RED.

15 Q. Which is in tab 23 of the documents in front of you.

16 MR. REES: The same objection and I'd ask for it to be noted and
17 dealt with in due course.

18 PRESIDING JUDGE SMITH: Noted.

19 MS. BOLICI:

20 Q. Have you seen this document before, investigator?

21 A. Yes, I did.

22 Q. And can you tell what kind of document it is?

23 A. It is an Official Note.

24 Q. And can you tell whether it was submitted in the SPO official
25 records?

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1 A. Yes, it was.

2 Q. And without mentioning the name, can you say whether you know
3 who the author of this Official Note is?

4 A. Yes, I know the author.

5 Q. And what's his professional function?

6 A. He's a security officer.

7 Q. Is this the same person who carried out the seizure at the KLA
8 War Veterans Association on 8 September 2020?

9 A. Yes.

10 Q. And can you tell what is the activity documented in this
11 Official Note?

12 A. The activity documented in this Official Note is the -- is the
13 receipt of Batch 4 from Gazeta InFokus.

14 Q. And can you tell when this handover of documents took place?

15 A. On 9 September.

16 Q. Of which year?

17 A. I apologise. 2020.

18 Q. Thank you.

19 MS. BOLICI: And I would now like to show to the witness the
20 document with the ERN number 078569 to 078569.

21 Q. Which is in tab 24 of the documents in front of you. Have you
22 seen, investigator, this document before?

23 A. Yes, I did.

24 Q. And can you say what kind of document is this?

25 A. This is the document which was composed when Batch 4 was handed

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1 over to the SPO.

2 Q. And can you tell if the person indicated as the deliverer of the
3 document is same person as the author of the two e-mails that we
4 reviewed moments ago?

5 A. I can confirm in the positive.

6 Q. And can you tell, based on the face of the document, whether the
7 recipient of these documents was the author of the Official Note that
8 we reviewed moments ago?

9 A. I can confirm.

10 Q. And if you look at the item section in the row Ref, can you say
11 what kind of documents were documented to be handed over with this
12 delivery form?

13 A. It states here "Documents delivered to Gazeta inFokus."

14 Q. And on the following line, in relation to the content, can you
15 tell what item is indicated in the second line?

16 A. It says "Documentation KLA" War Veterans Association.

17 Q. Now, have you reviewed the documents that were received by the
18 SPO from Gazeta inFokus on 9 September 2020 and that you refer to as
19 Batch 4?

20 A. I have.

21 Q. And can you tell whether these documents had a cover page?

22 A. I believe, to recall, it's the same as with Batch 1, that this
23 delivery document was on top of the batch.

24 Q. Do you recall what is the ERN number that is attributed to the
25 documents that were obtained by Gazeta inFokus on 9 September 2020?

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1 A. Your Honour, may I consult my declaration for the ERN number?

2 PRESIDING JUDGE SMITH: Yes, you may.

3 MS. BOLICI: Just for clarity, Your Honour, I think that the
4 investigator is consulting the notes -- her notes.

5 Q. Yes?

6 A. Yes.

7 MS. BOLICI: Her notes.

8 THE WITNESS: So --

9 MS. BOLICI:

10 Q. Yes. Can you tell what is the ERN of that -- the ERN that
11 was -- that is attributed to the documents of Batch 4 that you have
12 reviewed?

13 A. Sorry, I looked at the wrong one. I apologise. I looked at the
14 wrong one. Here. Batch 4 is registered as 078570 to 079499.

15 Q. Okay. Now looking at the ERN on the document that is in front
16 of you, the delivery document, can you say whether this delivery
17 document was the cover page of Batch 4?

18 A. Yes, I can.

19 Q. Was it the cover page?

20 PRESIDING JUDGE SMITH: Is that a question?

21 MS. BOLICI: Yes, it was a question.

22 Q. Was it the cover page of Batch 4?

23 A. The registration is 078569 --

24 Q. Yes.

25 A. -- which is the number just before what I have just said,

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1 078570. So it would have been the cover page.

2 Q. Thank you.

3 A. Pardon me.

4 Q. Thank you. And can you please describe, generally, what kind of
5 documents are contained in Batch 4?

6 A. Batch 4 is very similar to Batch 1. As I have demonstrated in
7 the declaration 8 May in the annex of the documents of Batch 4, there
8 are only a few documents which are really different to the ones in
9 Batch 1.

10 MS. BOLICI: I would like to show to the witness the declaration
11 with the ERN number 095603 to 095653.

12 Q. Which is tab 8 in the documents in front of you. And in
13 particular, looking at the page that starts with ERN number 095605,
14 can you tell what kind of documents -- what kind of information did
15 you capture in this table?

16 A. I captured the same information as I captured for Batch 1, with
17 the exception here we have two more columns. One is Corresponding
18 Pages in Batch 1 and Differences Batch 1/Batch 4.

19 Q. And looking at the column which is headed Corresponding Pages in
20 Batch 1, can you explain what kind of information is captured there
21 and how did you carry out the comparison between Batch 1 and Batch 4?

22 A. As it is evident here, the composition between of where the
23 pages were was different between Batch 1 and Batch 4 and was rather a
24 tedious work to find the corresponding pages. But we checked -- I
25 checked and was able to come up with this column.

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1 Q. Okay. And can you tell what kind of information have you
2 captured under the column Differences Between Batch 1 and Batch 4?

3 A. What I recall now is annotations, but if I can just consult this
4 annex --

5 Q. Yes.

6 A. -- to just see.

7 THE WITNESS: Can I look at it?

8 PRESIDING JUDGE SMITH: Yes.

9 THE WITNESS: Thank you. So I will just see for samples. Yes,
10 so I have -- for instance, I have documented when there were
11 differences such as that one document -- like, a coordination request
12 was composed of two pages. Batch 1 had the letter and the annex;
13 whereas Batch 4, for instance, didn't have the annex. So these
14 discrepancies I have documented.

15 Or what I can see also for some reason is, like, sometimes
16 documents in one batch were better legible than in the other batch.
17 And if they were, like, illegible, I would also mention that.

18 MS. BOLICI:

19 Q. Thank you. Just to conclude this. So I understand correctly
20 that whenever a page of Batch 4 is also included in Batch 1, under
21 the column Corresponding Pages in Batch 1 you have indicated to which
22 page of Batch 1 that particular page corresponds?

23 A. Yes, that is correct.

24 Q. And in instances where there was no such a correspondence, can
25 you tell what have you indicated in the column Corresponding Pages?

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1 A. I don't understand your question, sorry.

2 Q. So whenever there is a correspondence between pages in Batch 1
3 and Batch 4, you have indicated which page of Batch 1 corresponds to
4 Batch 4.

5 A. Yes.

6 Q. What have you put in this column when there was no such a
7 correspondence? When a page of Batch 4 was not present in Batch 1?

8 A. You're asking me what I put in the Corresponding Page column?

9 Q. Yes.

10 A. I don't recall having put something specific in there, but I
11 refer to the document itself.

12 Q. Okay.

13 MS. BOLICI: I would just like to show the witness briefly the
14 page with ERN number 095612 and, in particular, the second and third
15 rows.

16 Q. I read here in the column Corresponding Pages in Batch 1: "Page
17 not included." Am I correct to read this table that whenever a page
18 of Batch 4 was not included in Batch 1, you have written "Page not
19 included" in the Corresponding Pages column?

20 A. That is correct, yes.

21 Q. So besides the instances when you wrote "Page not included," all
22 the pages of Batch 4 could be found also in Batch 1?

23 A. That is correct.

24 Q. Thank you.

25 MS. BOLICI: Your Honour, considering the time, I would suggest

1 that it's a good moment for a break.

2 PRESIDING JUDGE SMITH: We are about to take a break.

3 Madam Witness, you will be escorted from the courtroom and then
4 we will take a break. Please be back here at 2.30. This is a lunch
5 break.

6 THE WITNESS: Thank you.

7 PRESIDING JUDGE SMITH: Please, once again, ma'am, Ms. Pumper,
8 do not talk with anyone about your testimony.

9 THE WITNESS: I understand.

10 [The witness stands down]

11 PRESIDING JUDGE SMITH: And we'll see everyone back here at
12 2.30. This hearing is adjourned.

13 --- Luncheon recess taken at 12.58 p.m.

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

15 PRESIDING JUDGE SMITH: As Mr. Cadman reminded us earlier, the
16 Panel was seized today with two filings, F374 and F377. The Panel
17 will issue orders in relation to both in this session, but it will
18 first hear from the SPO and the Gucati Defence if they have any
19 submissions to make. Please keep in mind that we are in open
20 session, so phrase your arguments in such a way that no confidential
21 information is provided.

22 Madam Prosecutor, you may respond, if you wish.

23 MS. BOLICI: Thank you, Your Honour.

24 The SPO position is that both motions filed by the Haradinaj
25 Defence yesterday late at night are ungrounded and should be

1 rejected.

2 In relation to the filing with ERN F00377, the SPO observes that
3 all the quotes referred to by the Haradinaj Defence are taken from
4 the opening statements of the Specialist Prosecutor, which were
5 provided in open court in the course of the SPO's opening statement
6 and fall entirely within the prerogatives of the
7 Specialist Prosecutor, and there is no reason not to reproduce
8 excerpts thereof within the web site of the Specialist Chambers.

9 In relation to the Defence application to exclude with filing
10 number F00374, the SPO notes that Article 6(2) of the Code of
11 Professional Conduct for Counsel and Prosecutors states that counsel
12 should be excluded where it is likely that he is going to appear as a
13 witness. The hypothetical possibility that a counsel is called to
14 testify does not fall within the scope of the Code of Professional
15 Conduct.

16 In this case, the counsel that the Haradinaj Defence refers to
17 has been part of the SPO team in this case since September 2020, and
18 the records that the Haradinaj Defence refers to have been disclosed
19 to the Defence since April 2021. I refer to disclosure package 25.
20 The counsel the Haradinaj Defence refers to is not included in the
21 tentative list of witnesses of the Defence as well, and there is no
22 likelihood that this counsel will be called to testify at this stage.

23 Thank you.

24 PRESIDING JUDGE SMITH: Mr. Rees, do you wish to be heard on
25 this?

1 MR. REES: Only to say that we endorse and adopt Mr. Cadman's
2 submissions in relation to both filings.

3 PRESIDING JUDGE SMITH: All right. Having heard the
4 submissions, the Panel now renders two oral orders.

5 The first one relates to F374.

6 On 17 October, the Defence for Mr. Haradinaj filed a Defence
7 application to exclude one of the Associate Prosecutors from
8 appearing in the present proceeding as trial counsel. The reasons
9 advanced by the Defence for that request is that the
10 Associate Prosecutor in question received information relevant to
11 this case as part of the exercise of his function which, according to
12 the Defence, might result in his being called as a witness in respect
13 of the circumstances in which that material was received.

14 The legal basis advanced for the requests are Articles 6.2 of
15 the European Convention of Human Rights and various provisions of the
16 Constitution of Kosovo, Articles 24 and 35 of the Law, Articles 62
17 and 63 of the Rules, and Article 6(2) and (31) of the Code of
18 Professional Conduct.

19 The Trial Panel finds this application to be both out of time
20 and without merit. The application is out of time insofar as the
21 Defence has had notice of the facts and circumstances put forward as
22 basis for this application since at least 28 April 2021 when the
23 document relied upon was first disclosed. In those circumstances,
24 and in the diligent exercise of its obligations, the Defence was
25 required to file any such application in accordance with Rule 117(2)

1 prior to the commencement of the case and in accordance with the
2 deadline set by the Panel for such motions, which was 17 September
3 2021. No reasons were put forward to explain the delay between the
4 notification of these circumstances and the belated filing of this
5 application.

6 Having failed to file such motion within the set deadline, the
7 Defence effectively waived its right to do so at this time.

8 Secondly, the application is without merit as the conduct
9 attributed to the Associate Prosecutor falls well within the scope of
10 his responsibilities under the relevant legal framework. The Defence
11 has failed to establish impropriety or any other circumstances that
12 would warrant the relief sought.

13 The Haradinaj application is therefore dismissed. And this
14 concludes the first oral order.

15 The second oral order is F377.

16 On 17 October 2021, the Haradinaj Defence filed an application
17 for relief pursuant to Rules 62 and 63 of the Rules. In this
18 application, the Defence requests the Panel to order that a summary
19 of the Prosecutor's opening statement, which appeared in the form of
20 a press release on 16 October 2021, on KSC web site, be ordered taken
21 down as a violation of the accused's presumption of innocence.

22 The Defence did not produce the impugned press release.

23 Having reviewed the content of the press release, the Panel has
24 satisfied itself that the impugned press release does not constitute
25 nor involve a violation of the accused's presumption of innocence.

1 It constitutes a summary of what the Prosecutor said in open court on
2 7 October 2021. The content of the statement falls squarely and
3 properly within the framework of the SPO responsibilities under the
4 relevant legal regime. It does not make any claim of guilt that
5 would be inconsistent with the right of the accused to be presumed
6 innocent. Instead, it seeks to provide a general overview of certain
7 facts and certain circumstances considered relevant by the Specialist
8 Prosecutor's Office to its case.

9 For these reasons, the Panel finds the application to be without
10 merit and is therefore dismissed.

11 And this concludes the second oral order.

12 Mr. Cadman?

13 MR. CADMAN: Your Honour, just for the avoidance of any doubt in
14 relation to the first matter you dealt with. There was no suggestion
15 of impropriety being made by the Haradinaj Defence when it was stated
16 that there was a possibility that the person in question may become a
17 witness in these proceedings. I just want to make that clear.

18 PRESIDING JUDGE SMITH: Thank you.

19 [Trial Panel confers]

20 PRESIDING JUDGE SMITH: I've been reminded, Mr. Rees, that you
21 joined in the application, so I will indicate specifically that the
22 adjoined application by your client is also dismissed.

23 MR. REES: Indeed. I understood that, Your Honour. Thank you.

24 PRESIDING JUDGE SMITH: Thanks.

25 So I would like the usher to bring in the witness now.

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1 [The witness takes the stand]

2 PRESIDING JUDGE SMITH: Be seated.

3 Good afternoon, Ms. Pumper. We will now resume your testimony.

4 THE WITNESS: Good afternoon.

5 PRESIDING JUDGE SMITH: We will now resume your testimony,
6 Ms. Pumper.

7 Madam Prosecutor, you have the floor.

8 MS. BOLICI: Thank you, Your Honour.

9 Just briefly before starting the questioning, I would like to
10 note for the record that the SPO also seeks admission into evidence
11 of a number of documents that were shown to the witness right before
12 the break as probative and relevant and authenticated through the
13 witness, and these are the documents with the ERN number 091909 to
14 091917RED, 083986 to 083987, and 078569-078569.

15 PRESIDING JUDGE SMITH: We will defer the decision on that like
16 we did the others, and we will mark the exhibits as identified.

17 THE COURT OFFICER: Thank you, Your Honours. The document with
18 the ERN range 091909 to 091917RED is going to be assigned P98 MFI.
19 The document marked with ERN 083986 will be marked P99 MFI. And the
20 third document, with ERN range 078569, will be marked P100 MFI.

21 Thank you, Your Honours.

22 PRESIDING JUDGE SMITH: Thank you. So marked.

23 And you may proceed.

24 MS. BOLICI: Thank you.

25 I would like to show to the witness the document with the ERN

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1 number 083999.

2 Q. Which is tab 26 bis in the folder in front of you, investigator.

3 Have you seen, investigator, this document before?

4 A. Yes, I have.

5 Q. And can you tell what this document is about?

6 A. This is an Official Note of my colleague who documented having
7 received -- how the SPO received an e-mail from Euronews Albania in
8 regards to the leak -- of a leaked file.

9 PRESIDING JUDGE SMITH: Mr. Rees.

10 MR. REES: Your Honour, I make a similar objection as
11 previously. I ask the Court to note it and deal with the matter in
12 due course, as with the other objections.

13 PRESIDING JUDGE SMITH: Thank you. So noted.

14 You can continue, Ms. Bolici.

15 MS. BOLICI:

16 Q. And have you reviewed the e-mails that were attached to this
17 Official Note?

18 A. Yes, I did.

19 Q. And can you tell whether this Official Note was submitted into
20 the SPO official records?

21 A. Yes, it was.

22 Q. How can you say that?

23 A. Because I reviewed this Official Note and I checked the ZyLAB
24 submission.

25 Q. Thank you. Could you please look at document with the ERN

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1 number 084000 to 084001RED. It's in tab 27 in the folder in front of
2 you.

3 Have you seen this document before?

4 A. Yes, I did.

5 Q. And was this the attachment to the Official Note that we just
6 looked at?

7 A. Yes, it was.

8 Q. And have you reviewed the pictures that were attached to this
9 e-mail?

10 A. Yes, I did.

11 Q. And have you addressed and reviewed the contents of this picture
12 in the course of preparing your declarations?

13 A. Yes, I have.

14 Q. And do you recall what is the content of the pictures that were
15 attached to this e-mail?

16 A. To this e-mail, there were samples attached what was part of the
17 leaked document.

18 MS. BOLICI: I would like to show the witness her declaration
19 with ERN number 091927 to 091930 and, in particular, page 091929.

20 Q. It's tab 4 in the documents in front of you. Please consider
21 the paragraphs from 14 to 20 in pages 091929 to 091930.

22 Did you address in this part of your declarations the pictures
23 attached to the e-mail that we just reviewed moments ago?

24 A. Yes, I did.

25 Q. And can you tell whether the description of the documents

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1 attached in the pictures is described in paragraphs 15 to 20?

2 A. That is correct.

3 Q. And did you verify whether documents corresponding to the
4 pictures that were attached to the e-mail were -- corresponded to
5 pages included in Batch 1 or Batch 4?

6 A. Yes, I did.

7 Q. And did you include this information in the paragraphs that we
8 just considered of this declaration?

9 A. Yes, I did.

10 Q. And could you verify whether these documents were, in fact,
11 included in Batch 1 and/or Batch 4?

12 A. Yes, I could.

13 Q. Thank you.

14 MS. BOLICI: I would like to seek admission, Your Honour, of the
15 documents that we just went through with ERN number 083999-083999,
16 and 084000 to 084001RED.

17 PRESIDING JUDGE SMITH: [Microphone not activated]. Marked for
18 identification number for those items, please.

19 THE COURT OFFICER: Thank you, Your Honours. The first one with
20 ERN 083999 will be assigned P101 MFI. The next one with the ERN
21 range 084000 to 084001 will be assigned P102 MFI.

22 PRESIDING JUDGE SMITH: Thank you.

23 You may proceed.

24 MR. REES: Your Honour, do I assume that means that a decision
25 on admissibility is deferred for those documents?

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1 PRESIDING JUDGE SMITH: Yes, it is.

2 MR. REES: Okay, I'm grateful. Thank you.

3 MS. BOLICI:

4 Q. I would like to move now to the review that you carried out in
5 relation to Batch 2. Can you please tell what the abbreviation
6 Batch 2 stands for?

7 A. Batch 2 is -- I refer to Batch 2 when I talk about the seized
8 documents from the War Veterans Association, the second seized batch
9 of documents.

10 Q. Do you recall the date of this seizure?

11 A. I was just struggling now to remember it.

12 Q. Okay. Would it be correct to refer to the seizure of
13 17 September 2020?

14 A. Yes, correct.

15 Q. Thank you. And can you please tell how did you determine that
16 the documents that you reviewed were the documents that were seized
17 at the KLA War Veterans Association on 17 September 2020?

18 A. It is the same method as it was with Batch 1. I reviewed the
19 Official Note on how the officers who were involved described how
20 they seized it, how it was handled and ended up in the CEMU. As well
21 as I reviewed the handover note, the handover of the batch from the
22 representative of the War Veterans Association to our staff member.

23 Q. And taking this step by step, you mentioned that you reviewed
24 the SPO official records concerning the seizure; is this correct?

25 A. This is correct.

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1 Q. And did you consult SPO official records concerning the
2 placement of the documents that were seized at the KLA War Veterans
3 Association on 17 September into relevant evidence bags?

4 A. Can you please ask your question again?

5 Q. Yes. Did you review the SPO official records concerning the
6 handling of the documents that were seized, and could you verify that
7 they were placed in evidence bags?

8 A. I reviewed the Official Note and what is stated there, this is
9 what I could read, yes.

10 Q. And could you read that the documents that were seized were
11 eventually placed in evidence bags?

12 A. That is correct, yes.

13 Q. And could you verify, based on the SPO official records, whether
14 these evidence bags were delivered to the Case and Evidence
15 Management Unit, that is, CEMU?

16 A. Yes, that is correct, I could.

17 Q. And did you verify the submission into evidence of the documents
18 contained in these evidence bags and which ERN numbers were
19 attributed to these documents?

20 A. Yes, I could.

21 Q. And did you verify that the ERN numbers of the documents that
22 you reviewed were the same ERN numbers that was attributed to the
23 documents that were seized at the KLA War Veterans Association on
24 17 September?

25 A. Yes, I did.

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1 Q. Thank you. I would like to consider the same steps that you
2 just highlighted in relation to the documents that we talked about
3 earlier today in relation to Batch 1.

4 In relation to Batch 1, could you verify that the documents that
5 were seized at the KLA War Veterans Association on 8 September 2020
6 were placed by the officer who carried out the seizures into evidence
7 bags based on the SPO official records?

8 A. Yes, I could.

9 Q. And could you verify whether these evidence bags containing the
10 documents that were seized on 8 September were delivered to the Case
11 and Evidence Management Unit?

12 PRESIDING JUDGE SMITH: Hold up, please. Don't answer that yet.
13 Did you have something?

14 MR. BUCKLEY: My apologies, Your Honour, for asking at this
15 stage. However, the Prosecutor is asking questions of the witness
16 she can't possibly answer. The witness was not present when the
17 documents were seized --

18 PRESIDING JUDGE SMITH: I understand.

19 MR. BUCKLEY: -- and therefore cannot comment on what the
20 Prosecutor is asking of her.

21 MS. BOLICI: I'm asking based on the SPO official records, Your
22 Honour.

23 PRESIDING JUDGE SMITH: Correct.

24 Your objection is overruled.

25 You may continue.

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1 MS. BOLICI: Thank you.

2 Q. And did you verify based on the SPO official records that the
3 evidence bag containing the documents that were seized on 8 September
4 2020 were delivered to the Case and Evidence Management Unit of the
5 SPO?

6 A. Yes, I did.

7 Q. And could you verify based on the SPO official records that the
8 documents that were seized on 8 September were submitted into
9 evidence and attributed an ERN number?

10 A. Yes, I can.

11 Q. And could you verify that the documents that you reviewed as
12 Batch 1 presented the same ERN number as the documents that were
13 submitted into evidence as the documents that were seized at the KLA
14 War Veterans Association on 8 September 2020?

15 A. I have to apologise. Can you say -- it was a long -- like,
16 quite a lot of text. Once more?

17 Q. Could you verify that the documents that were seized at the KLA
18 War Veterans Association on 8 September were attributed an ERN number
19 and that the documents that you reviewed had the same ERN number as
20 the one that was given to the documents that were seized?

21 A. I can confirm that.

22 Q. Thank you. And going back again in relation to Batch 4. Could
23 you verify based on SPO official records that the documents that were
24 received by SPO officials from a media outlet on 9 September were put
25 in evidence bags?

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1 A. Yes, I could.

2 Q. And could you verify that these evidence bags were delivered to
3 the Case and Evidence Management Unit of the SPO?

4 A. Yes, I could.

5 Q. And did you verify based on the SPO records that the documents
6 that were obtained on 9 September from the media outlet we talked
7 about earlier were attributed an ERN number?

8 A. Yes.

9 Q. And were the documents that you reviewed that you referred to as
10 Batch 4, did they present the same ERN number as the documents that
11 were submitted into evidence following the handover of these
12 documents from the media outlet we talked about?

13 A. Yes, I did.

14 Q. Thank you.

15 MS. BOLICI: I would like now to show to the witness the
16 document with the ERN 082010 to 082013RED.

17 Q. And this is the document with tab 27 bis in the folder in front
18 of you. Are you familiar with this document?

19 MR. REES: Your Honour, perhaps Madam Prosecutor could give us
20 the reference number again, please?

21 MS. BOLICI: 082010 to 082011RED. Yes, 1-3. Sorry. I will
22 repeat it once more. 082010 to 082013RED.

23 MR. REES: Your Honour, there's a similar objection in relation
24 to this evidence. Your Honour will appreciate that I ask for the
25 objection to be noted and dealt with in due course as with the other

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1 objections.

2 PRESIDING JUDGE SMITH: Understood. [Microphone not activated].

3 Did you have something, Mr. Cadman?

4 MR. CADMAN: Only to remind Your Honour that your microphone
5 wasn't on.

6 PRESIDING JUDGE SMITH: Oh, it seems like everybody has to do
7 that.

8 The objection is noted and will be ruled on.

9 MS. BOLICI:

10 Q. Investigator, are you familiar with this document?

11 A. Yes, I am.

12 Q. Have you reviewed this Official Note before?

13 A. Yes, I have.

14 Q. Can you tell whether this Official Note was submitted into the
15 SPO evidentiary database?

16 A. It was submitted.

17 Q. How can you say that?

18 A. I can see that it has been ERN'd, the ERN number on the top
19 right corner.

20 Q. Thank you. Please look at the name of the author of this
21 Official Note on the top of page 082010 and on the bottom of page
22 082013. Please do not mention the name in open court. Do you know
23 this person?

24 A. I do.

25 Q. And could you please tell what's his professional title.

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1 A. He is an investigator.

2 Q. And is this person an SPO staff member?

3 A. Yes, he is.

4 Q. And do you know whether this person was an SPO staff member on
5 17 September 2020?

6 A. Yes, he was.

7 Q. And as an SPO staff member yourself, have you had occasion to
8 speak with the author of this Official Note on the official
9 activities that he carried out on 17 September 2020?

10 A. I did have conversations with this investigator, yes.

11 Q. And did you learn which activities he carried out on
12 17 September 2020?

13 A. I did, yes.

14 Q. And what information did you learn?

15 A. We had conversations about this Official Note and the contents
16 therein, and I learned how -- I learned specifics how he seized the
17 batch -- what I refer to as Batch 2 from the War Veterans
18 Association.

19 Q. Okay.

20 A. We share the same office, if I may add that.

21 Q. And could you please look at paragraph 18 of this Official Note.
22 Based on the Official Note, can you tell who within the KLA War
23 Veterans Association signed the handover form relating to the
24 documents that were seized by the SPO on 17 September 2020?

25 A. Based on this paragraph, it reads that Mr. Hysni Gucati signed

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1 on behalf of the War Veterans Association.

2 Q. Thank you.

3 MS. BOLICI: I would like to show now the document with ERN
4 number 079500.

5 Q. It's tab 28 in the folder in front of you.

6 MS. BOLICI: It's also already admitted into evidence with
7 Exhibit P00055.

8 Q. Investigator, have you seen this document before?

9 A. Yes, I have.

10 Q. And can you tell what this document is?

11 A. This is the handover note which was composed when Batch 2 was
12 handed over at the War Veterans Association to my colleague.

13 Q. Can you tell what the date of this document is?

14 A. The date is 17 September 2020.

15 Q. And who is indicated as the deliverer of the documents that this
16 delivery document refers to?

17 A. It is written "Mr. Hysni Gucati, President of the War Veterans
18 Association."

19 Q. And if you look at the recipient, the name that is indicated
20 under Recipient in this delivery document, without mentioning the
21 name, can you tell who this person is?

22 A. This is the same investigator who has composed the Official Note
23 we just spoke earlier.

24 Q. And if you look at what's indicated under the section Content in
25 relation to this delivery document, what does this delivery document

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1 refers to?

2 A. It states: "Documents brought to the" War Veterans Association
3 "by unknown man, 16.09.2020."

4 Q. Thank you. Do you recall what is the ERN number of the
5 documents of Batch 2 that you reviewed?

6 A. I do not recall that by heart. I would like to access my
7 declaration, if I may, for that.

8 PRESIDING JUDGE SMITH: Go ahead.

9 THE WITNESS: Thank you. Shall I read it out?

10 MS. BOLICI:

11 Q. Yes, please.

12 A. So it is registered as 079512 to 080448.

13 Q. Okay. Can you tell if the delivery document that was just shown
14 to you was part of the documents that you have reviewed and you
15 referred to as Batch 2?

16 A. Yes, I can confirm that.

17 Q. And I note that the ERN number that you referred to as Batch 2
18 starts with 079512, and the delivery document that we just looked at
19 starts with 079500. Can you tell whether this delivery document was
20 part of the documents that you reviewed as submitted into evidence?

21 A. Yes, I can explain this. The delivery document was part of it,
22 it was the first page, and then it was followed by the Court order,
23 and then by the first document of the batch, and that's why there is
24 this gap in between.

25 Q. Okay. So the 11 pages between 079500 and 079512 were a copy of

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1 the Court order that is referred to in the delivery document and the
2 Official Note?

3 A. That is correct.

4 Q. And the delivery document was the cover page of the batch of
5 documents that you reviewed?

6 A. That is correct.

7 Q. Thank you. Can you please describe, generally, what categories
8 of documents are included in Batch 2?

9 A. Batch 2 was composed of two categories, really. Batch 2 were --
10 with the exception of a few documents, were Court decisions,
11 different cases, and there were a few documents which were also
12 contained in Batch 1. I believe it's five or six.

13 Q. Thank you.

14 MS. BOLICI: I would like to show the witness the document with
15 the ERN number 079512 to 080448RED. This is the entire Batch 2 in a
16 redacted version, where only the confidential pages are redacted.

17 Q. You have it, investigator, in a separate folder which only
18 includes Batch 2. It's tab 29 but it's a separate binder.

19 A. Thank you.

20 Q. Now, investigator, I understand that it's quite a voluminous
21 batch of documents. However, based on the ERN and by looking at
22 them, can you tell whether these are the documents that you reviewed
23 and you indicate as Batch 2?

24 A. Your Honour, if you allow me, can I again just look at my
25 declaration to check the ERN number, the range?

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1 PRESIDING JUDGE SMITH: Yes, you may.

2 THE WITNESS: Thank you. I can confirm that the ERN range
3 matches the ERN range which I have read out before.

4 MS. BOLICI:

5 Q. And I would like to refer, investigator, if you can look at the
6 binder in front of you, to the pages with ERN 080126 to 080131. The
7 pages in the binder in front of you are redacted. My question is
8 whether you have looked at the unredacted versions of these pages.

9 A. I have looked at the pages which I describe in my declaration,
10 those five, six pages. Because I can't see the pages now. I will
11 make reference to my declaration and to the unredacted version.

12 Q. And we will look at your declaration in a moment, but can you
13 tell the Court what was, in general terms, the content of these six
14 pages that have been redacted?

15 A. I recall that they were coordination requests. Then there were,
16 I think, a couple of Serbian documents.

17 Q. Thank you.

18 MS. BOLICI: I would like to show to the witness the declaration
19 with the ERN number 084015 to 084026, dated 29 October 2020.

20 Q. It's tab 1. And I would like to ask you to look at the
21 paragraphs in pages 084018 to 084019 and, in particular,
22 paragraphs 23 to 27.

23 Investigator, did you describe in these paragraphs the six pages
24 of Batch 2 that contained confidential material?

25 A. Yes, I did.

1 [Specialist Prosecutors confer]

2 MR. REES: Could we just pause and allow the evidence screen to
3 catch up?

4 MS. BOLICI: [Microphone not activated].

5 MR. REES: Thank you.

6 MS. BOLICI: And ERN is not correct. It's 084018. So it's
7 within the range 084015 to 084026.

8 Court Officer, it's not within this document. It's a different
9 ERN range. And in particular, it's the document with the ERN range
10 084015 to 084026; P86 MFI. Thank you.

11 And if we could please put on screen page 4 and 5 of this
12 document with ERN 084018 to 084019.

13 Q. Now, investigator, looking at paragraphs 23 to 27 of your
14 declaration, can you please tell what you do describe in these
15 paragraphs?

16 A. These specific paragraphs contain the six documents which were
17 among Batch 2 other than the Court decisions.

18 Q. Thank you. And did you verify whether the six documents that
19 you describe in these paragraphs were also included in Batch 1?

20 A. Yes, I did.

21 Q. And were they included?

22 A. Yes, they were.

23 Q. And did you verify whether any of the six pages that you
24 describe in these paragraphs included names of witnesses or potential
25 witnesses of the SITF or SPO?

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1 A. Yes, I did.

2 Q. And what was the result of your check?

3 A. I confirm in the positive that there were names of witnesses and
4 potential witnesses.

5 Q. And you describe the details of which documents contain such
6 information in the declarations that we just considered?

7 A. Yes, I did. Yeah.

8 Q. Thank you.

9 MS. BOLICI: Now, I would like to show to the witness the
10 Exhibit P0002-ET, which is a transcript.

11 Q. It's tab 30 in the documents in front of you.

12 MS. BOLICI: And I would request to briefly go into private
13 session.

14 PRESIDING JUDGE SMITH: For purposes of confidentiality, we will
15 go into private session.

16 [Private session]

17 [Private session text removed]

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Witness: Zdenka Pumper (Private Session)

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1 [Private session text removed]

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Reclassified as Public and inserted pursuant to order contained in F611/A3 of 18 May 2022.

15 MS. BOLICI: I will -- before moving, Your Honour, to the next
16 topic, I would like to seek admission into evidence of the documents
17 with ERN numbers 082010-082013RED.

18 Yes, we can move back into open session for that, sorry. I will
19 repeat it.

20 PRESIDING JUDGE SMITH: Judge Mettraux has a question.

21 JUDGE METTRAUX: Just a matter of clarification. You've sought
22 to tender a number of Official Notes prepared by individuals other
23 than the witness.

24 What I would like to clarify is whether you are seeking to have
25 the whole of the notes admitted or only the parts you showed to the

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1 witness? Because you've only gone through a number of limited
2 paragraphs in those notes with the witness. I just want to be clear
3 whether you are seeking admissions of these paragraphs of the notes
4 or the entirety of these documents.

5 MS. BOLICI: We seek admission of the entirety of the
6 Official Note, Your Honour, insofar as it has been authenticated by
7 the witness as an official SPO record that was submitted into
8 evidence by SPO officials.

9 JUDGE METTRAUX: Thank you.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 MS. BOLICI: I didn't understand.

12 PRESIDING JUDGE SMITH: Have you completed your --

13 MS. BOLICI: No.

14 PRESIDING JUDGE SMITH: Okay.

15 MS. BOLICI: And I was noting that we could go back to public
16 session for that purpose, perhaps.

17 PRESIDING JUDGE SMITH: All right. We will go back to public
18 session, then.

19 I'm sorry, in private session?

20 MR. CADMAN: Just to note that our objections remain and should
21 be duly noted.

22 MR. REES: Likewise on behalf of Mr. Gucati, Your Honour.

23 PRESIDING JUDGE SMITH: And it will be the same ruling. We will
24 defer, but the documents will be given an MFI number, and we'll deal
25 with it later.

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1 [Open session]

2 THE COURT OFFICER: We are in open session, Your Honours.

3 PRESIDING JUDGE SMITH: Thank you.

4 Madam Prosecutor.

5 MS. BOLICI: So I will repeat the same request in open session.

6 So we seek admission of the documents with ERN numbers 082010 to
7 082013RED and to the full ERN range of Batch 2, which is 079512 to
8 080448RED.

9 PRESIDING JUDGE SMITH: Have you completed your offer then?

10 MS. BOLICI: Yes, thank you.

11 PRESIDING JUDGE SMITH: All right. The same ruling. We will
12 defer ruling on the admission.

13 The Court Officer will mark them for identification with a P
14 number.

15 THE COURT OFFICER: Your Honours, the first document with the
16 ERN range 082010 to -13RED will be assigned P103 MFI. And the next
17 one with the ERN range 079512 to 080448 will be assigned P104 MFI.

18 PRESIDING JUDGE SMITH: Thank you, Mr. Court Officer.

19 Madam Prosecutor, you may proceed.

20 MS. BOLICI: Thank you, Your Honour.

21 Q. Investigator, have you reviewed the documents that were handed
22 over to the SPO from representatives of the KLA War Veterans
23 Association on 22 September 2020?

24 A. Yes, I have.

25 Q. And to simplify the reference to these documents, consistent

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1 with the abbreviation that has been used throughout these
2 proceedings, I will refer to these documentation as Batch 3.

3 Now, can you tell how did you determine that the documents that
4 you reviewed were the ones that were obtained at the KLA War Veterans
5 Association on 22 September 2020?

6 A. It is the same process that I have reviewed the Official Notes
7 of when it was seized, then the handover note. And in addition,
8 which is different to the other batch, one set I transported myself
9 to the SPO in a sealed evidence bag and opened the second evidence
10 bag when it was transported to the SPO.

11 Q. So could you verify based on the SPO official records that the
12 documents obtained at the KLA War Veterans Association on
13 22 September 2020 were put into evidence bags?

14 A. Yes, I can confirm that.

15 Q. And you transported one of the evidence bags yourself to
16 The Hague; is this correct?

17 A. That is correct.

18 Q. And did you open this evidence bag yourself?

19 A. Yes, I did.

20 Q. And did you submit this document into evidence?

21 A. Yes, I did.

22 Q. And did you receive an ERN number after submitting these
23 documents into evidence?

24 A. Yes, I did.

25 Q. And the ERN number of the documents you reviewed corresponds to

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1 the ERN number that you received after submitting the documents
2 contained in the evidence bag into the SPO evidentiary database?

3 A. That is correct, yeah.

4 Q. Did you also open the second evidence bag containing the
5 documents that were obtained at the KLA War Veterans Association on
6 22 September 2020?

7 A. Yes, I did.

8 Q. And did you submit this document into evidence yourself?

9 A. Yes, I did.

10 Q. And did you receive an ERN number after submitting this document
11 into evidence?

12 A. Yes, I did.

13 Q. And the ERN number of the documents that you reviewed
14 corresponds to the ERN number that you received once submitting the
15 documents of the second evidence bag into evidence?

16 A. That is correct.

17 Q. Thank you.

18 MS. BOLICI: I would now like to show to the witness the
19 document with the ERN number 082014 to 082016.

20 Q. And this is tab 39 in the folder in front of you.

21 Investigator, have you seen this Official Note before?

22 A. Yes, I have.

23 Q. Can you tell if this Official Note was submitted into the SPO
24 evidentiary database?

25 A. Yes, I can confirm that.

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1 Q. Based on what?

2 A. It has been ERN'd. It contains an ERN number.

3 Q. And without mentioning the name, do you know who the author of
4 this Official Note is?

5 A. Yes, I do. He's an SPO investigator.

6 Q. Is he the same SPO investigator who authored the Official Note
7 on the seizure of 17 September?

8 A. That is correct.

9 Q. And as an SPO staff member, had you occasion to speak with the
10 author of the Official Note about the official activities that he
11 carried out on 22 September 2020?

12 A. Yes, I did.

13 Q. Thank you.

14 MR. REES: Your Honour, Your Honour will appreciate there is an
15 objection to the witness address in this Official Note, as with the
16 others, and I ask for that to be dealt with in due course also.

17 PRESIDING JUDGE SMITH: Okay. Thank you.

18 MS. BOLICI:

19 Q. And, Ms. Pumper, are the information that you received from the
20 author of this Official Note consistent with the information that are
21 included in this Official Note?

22 A. Yes, it is.

23 Q. Thank you.

24 MS. BOLICI: Now, I would like to show to the witness the
25 document with Exhibit P00058.

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1 Q. Which is the document with ERN number SPOE00220915 in tab 41 in
2 the folder in front of you.

3 Have you seen this document before?

4 A. Yes, I have.

5 Q. And can you tell what this document is about?

6 A. This document is a handover note of the SPO order to seize
7 Batch 3.

8 Q. Can you please look at the date of this acknowledgement of
9 delivery and tell what the date recorded is?

10 A. The recorded date is 22 September 2020.

11 Q. And without mentioning the name, can you tell who the deliverer
12 of this -- who is indicated as the deliverer of this order?

13 A. It's the same SPO colleague investigator who has drafted the
14 Official Note I've seen before.

15 Q. Thank you. Please look at the section -- at the line with
16 the -- with the form titled "Recipient."

17 Can you tell whose name appears there?

18 A. The handwriting, it indicates to me that it is the name of
19 Mr. Nasim Haradinaj.

20 Q. Thank you.

21 MS. BOLICI: Now, I would like to seek admission, Your Honour,
22 at this stage of the document that was shown to the witness moments
23 ago with ERN number 082014 to 082016.

24 But still, two more questions on this topic.

25 Q. Where have you first seen the acknowledgement delivery that

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1 is --

2 PRESIDING JUDGE SMITH: Just a second. [Microphone not
3 activated].

4 THE INTERPRETER: Microphone, please.

5 PRESIDING JUDGE SMITH: This also will be deferred, this
6 offering, this tender, and the Court Officer shall grant a new P
7 number MFI.

8 THE COURT OFFICER: Your Honours, the ERN range 082014 to 082016
9 will be assigned P105 MFI.

10 PRESIDING JUDGE SMITH: Thank you.

11 Now you may proceed.

12 MS. BOLICI: Thank you, Your Honour.

13 Q. Still on the acknowledgement of delivery that is in front of
14 you, can you recall where did you first see this acknowledgement of
15 delivery?

16 A. I first saw this either in the first evidence bag, set 1 of
17 Batch 3, or in the second evidence bag of set 2 of Batch 3. I cannot
18 recall now which one it was, but it was in one of those.

19 Q. And looking now at the document with ERN number -- so it's the
20 exhibit -- one moment. Now looking at the exhibit with number
21 P00054. Investigator, this is the document in tab 40 of the folder
22 in front of you.

23 Can you tell what this document is?

24 A. This is the Prosecutor's order that I referred to before, which
25 was handed over, and the delivery document was the handover

1 documentation.

2 Q. And where did you see this order first, this document first?

3 A. I -- I have to give the same answer as before, that I'm not sure
4 have I seen it in Batch 1 -- sorry, in set 1 of Batch 3 of the
5 evidence bag or set 2 of Batch 3.

6 Q. And can you clarify what do you refer to when you say "set 1 of
7 Batch 3" or "set 2 of Batch 3"?

8 A. When the SPO attended the War Veterans Association - and I'm
9 referring to now my knowledge based on the note and based on talking
10 to the investigator who seized it - the War Veterans Association
11 handed over four sets of documents, four parts. They took the four
12 and when they reviewed them, they realised that it is they are two
13 copies of the same document. And during the review, like, one
14 colleague was doing one review, the other was doing the other review,
15 and they seized them, subsequently, in two evidence bags. And for
16 proper documentation, I then recorded it as set 1 of Batch 3 and set
17 2 of Batch 3 as opposed to referring to one batch and one set.

18 Q. Investigator, can you generally describe what the documents --
19 what documents were contained in Batch 3 set 1 and Batch 3 set 2?

20 A. It is a narrative -- it's an SPO narrative on evidence which was
21 collected on detention centres.

22 Q. And do you recall how many pages set 1 and 2 are composed of,
23 respectively?

24 A. One was 244 pages, and the other one 245 pages.

25 Q. And what is the language of the document you refer to as

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1 Batch 3?

2 A. The language is English.

3 Q. And do you recall what is the ERN number that was attributed,
4 respectively, to the two copies of the narrative you referred to that
5 were obtained at the KLA War Veterans Association of 22 September
6 2020?

7 A. Your Honours, the same as before. If you allow me, I would
8 consult my declaration. I don't know the ERN by heart.

9 PRESIDING JUDGE SMITH: Go ahead.

10 THE WITNESS: Thank you.

11 PRESIDING JUDGE SMITH: Mr. Cadman.

12 MR. CADMAN: And, Your Honour, just to renew our objection. The
13 witness wasn't present when these were seized. She's commenting on
14 matters that are outside of her knowledge. She's commenting on how
15 many pages that were not recorded in the handover notes. So we renew
16 our objection.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 THE WITNESS: So one set counting 244 documents is registered as
19 SPOE00220920-SPOE00221163. The set containing 245 pages is
20 registered as SPOE00222289-SPOE00222533.

21 MS. BOLICI:

22 Q. Thank you.

23 MS. BOLICI: I would now like to show to the witness the
24 document with ERN number SPOE00220920 to SPOE00220928.

25 Q. It's tab 42 in your folder.

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1 Investigator, can you tell the Court what these pages are?

2 A. These pages, to be precise, is the first page, page 3 -- and
3 page 3 to 10 of Batch 3.

4 Q. And how can you say that? Based on which information?

5 A. I reviewed Batch 3.

6 Q. And does the ERN number that is stamped on this page fall within
7 the range of the ERN number that you reviewed?

8 A. Just one moment, please. Yes, it does.

9 Q. Thank you. Now, please look at the page with ERN number
10 SPOE00220922.

11 Do you recognise any confidential markings on this page?

12 A. This page, like most of the pages in this batch, are marked
13 "confidential" on the top right corner, as well as "confidential" on
14 the bottom left corner.

15 Q. Thank you. And does this page includes any logo of the
16 Specialist Prosecutor's Office?

17 A. Yes, it does.

18 Q. And can you -- you just mentioned that most of the pages of
19 Batch 3 includes similar confidential marking. Can you provide more
20 details about that?

21 A. What I can say is that not every page was copied to the same
22 quality, but most of the pages contain the same, if you want to call
23 it, header in the right corner as/or footer in the left bottom corner
24 and the Specialist Prosecutor's Office in the logo. Some of them,
25 due to the copying, is my assumption, they are just cut off or pieces

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1 or parts are only visible.

2 MS. BOLICI: I would like to refer to the declaration of the
3 investigator with ERN number 095533 to 095602.

4 Q. It's tab 6 in your folder. If you look at page -- yes. If you
5 look at page 095535, and in particular paragraph 8(iii). You write
6 here, if I may, that - one moment - that:

7 "Most of the pages contained in Set 1 display a header and a
8 footer. The header includes the symbol of the SPO and the wording
9 'Specialist Prosecutor Office' at the top centre, as well as the
10 wording 'CONFIDENTIAL, Internal Work Product, JCE Linkage Narrative,
11 December 2019' at the top right corner, while the footer contains the
12 word 'Confidential' at the bottom left corner. On a number of pages,
13 parts of the header and/or footer appear to be completely or
14 partially cut off. Specifically, the review established that on each
15 page of Set 1, the word 'Confidential' is fully legible at least once
16 either in the header or the footer, with the exception of 5 pages, on
17 which the word 'Confidential' was cut off both in the header and the
18 footer, and 13 pages, in which the word 'Confidential' is only
19 partially displayed once, either in the header or in the footer."

20 Is this information accurate?

21 A. Yes, it is.

22 Q. Did you look at each page of Batch 3 in order to make this
23 declaration?

24 A. Yes, I did.

25 Q. And if you look at paragraph 9(iii) on page 095536, there is

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1 similar information in relation to set 2 of Batch 3. Can you confirm
2 whether this information is accurate?

3 A. Yes, I can confirm that.

4 Q. Now, I would like to look into Annex 5 to this declaration that
5 is the pages 095600 to 095602.

6 Can you tell what did you include in that annex?

7 A. This annex provide samples on what I saw on each of the pages.
8 And under a., I gave a sample which contains the complete header and
9 footer. And sample b. are what I referred to as partial wordings in
10 the header and the footer. This is how it was displayed.

11 Q. Thank you. Now, I have a few questions about the contents of
12 the pages of Batch 3 that were shown to you.

13 MS. BOLICI: And I need to ask the Court Officer, please, to put
14 again on screen the document with the ERN number SPOE00220920 to
15 SPOE00220928.

16 Q. And this is, investigator, tab 2 again -- sorry, tab 42.

17 MS. BOLICI: Now, I would ask, Your Honour, to briefly go into
18 private session for the next questions.

19 PRESIDING JUDGE SMITH: For purposes of confidentiality, we'll
20 go into private session.

21 MS. BOLICI:

22 Q. The first sentence --

23 PRESIDING JUDGE SMITH: Just a second.

24 MS. BOLICI: I will wait.

25 [Private session]

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1 [Private session text removed]

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1 [Private session text removed]

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1 [Private session text removed]

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5 [Open session]

6 THE COURT OFFICER: We're in public session, Your Honours.

7 PRESIDING JUDGE SMITH: Thank you.

8 Now you may proceed, Madam Prosecutor.

9 MS. BOLICI: Yes. And I would like to seek admission,
10 Your Honour, at this stage of the document with ERN number
11 SPOE0022920 to SPOE0022928 as part of the documents that were
12 obtained on 22 September 2020 at the KLA War Veterans Association as
13 authenticated by the witness and relevant and probative.

14 PRESIDING JUDGE SMITH: We will defer the decision on admission.
15 The Court Officer is instructed to assign a P number with an MFI.

16 MS. BOLICI: Your Honour, I --

17 THE COURT OFFICER: Your Honours, that will be assigned P106
18 MFI.

19 MS. BOLICI: Your Honour, in considering the time by now, I will
20 not start going through the other disclosed pages of Batch 3 that we
21 seek to tender into evidence. I just would like to receive guidance
22 from the Court whether the Court requires that each and every page is
23 shown to the witness in order to make the request, or the request can
24 be made based on the ERN numbers of these pages that the witness has
25 attested being included within the ERN range of Batch 3. Just to

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1 know whether to start with each and every document tomorrow, or we
2 can make a general request to have all these pages admitted.

3 [Trial Panel confers]

4 PRESIDING JUDGE SMITH: Before deciding, does the Defence have a
5 position on the request just made by Madam Prosecutor?

6 Do you want to go with the general approach of using ERN
7 numbers, or do you want a page-by-page approach?

8 MR. REES: It is a matter for the SPO how they present their
9 case, it seems to me. If the witness can assist, then she should be
10 taken through those pages. But that's a matter for the SPO as to
11 whether she can assist.

12 PRESIDING JUDGE SMITH: I'm not sure I'm understanding what you
13 want.

14 MR. REES: Well, I'm not sure I understand the request from
15 Ms. Bolici, I have to say.

16 PRESIDING JUDGE SMITH: Okay.

17 Ms. Bolici?

18 MS. BOLICI: Your Honour, there are a number of pages of Batch 3
19 that have been included in the list of exhibits to be shown through
20 this witness and to be tendered in evidence through this witness.

21 Now, I can go page by page and require confirmation in relation
22 to every page, or I can make a general request that because these
23 documents are contained within the ERN range that the witness has
24 attested to include Batch 3, the --

25 PRESIDING JUDGE SMITH: Mr. Cadman, do you have a position?

1 [Specialist Counsel confers]

2 MR. CADMAN: Our position -- it goes back to what His Honour,
3 Judge Mettraux, the point he made earlier where -- so I think our
4 position would be is if they're seeking to have the entire document
5 in, then they have to do it page by page.

6 PRESIDING JUDGE SMITH: Sounds like it's page by page.

7 MS. BOLICI: That's fine. Thank you, Your Honour.

8 PRESIDING JUDGE SMITH: All right.

9 MS. BOLICI: Thank you.

10 PRESIDING JUDGE SMITH: All right. We are completed for today.
11 You can please escort the witness from the courtroom.

12 Just a second.

13 THE WITNESS: Thank you.

14 [The witness stands down]

15 PRESIDING JUDGE SMITH: Mr. Cadman, you have the floor.

16 MR. CADMAN: Just before Your Honours rise and depart for the
17 day, Mr. Haradinaj would like me to re-emphasise the point that he
18 has very real concern -- it has been raised by the Defence, but he
19 would like me to re-emphasise his concern that the witness that we
20 have heard today has been testifying on matters that fall far outside
21 her knowledge. She was not involved in any of the events of which
22 she has been giving evidence on today. So I just re-emphasise that
23 point, as Mr. Haradinaj has requested I do so.

24 PRESIDING JUDGE SMITH: All right. The point is noted. She has
25 been testifying today concerning normal operating procedures in her

1 office of which she is aware, and for that reason we have been
2 listening to her testimony and will continue to do so.

3 We will reconvene tomorrow morning at 9.30, as per our previous
4 order. And we'll see you all at that time.

5 We are adjourned.

6 --- Whereupon the hearing adjourned at 4.00 p.m.

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