

1 Monday, 6 December 2021

2 [Open session]

3 [The Accused Haradinaj appeared via videolink]

4 [The Accused Gucati entered court]

5 --- Upon commencing at 9.30 a.m.

6 PRESIDING JUDGE SMITH: Good morning and welcome, everyone.

7 Madam Court Officer, please call the case.

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

11 PRESIDING JUDGE SMITH: Will the Prosecutor please introduce the
12 members of your team.

13 MS. BOLICI: Good morning, Your Honour. For the SPO are present
14 today Mr. Alex Whiting, Deputy Prosecutor; Mr. James Pace,
15 Associate Prosecutor; Mr. Matthew Halling, Associate Prosecutor;
16 Ms. Line Pedersen, Case and Evidence Manager; and I am
17 Valeria Bolici, Prosecutor.

18 PRESIDING JUDGE SMITH: Thank you, Madam Prosecutor.

19 Mr. Rees.

20 MR. REES: My name is Jonathan Rees, Queen's Counsel, I appear
21 for Mr. Gucati. I am assisted by co-counsel Mr. Huw Bowden and
22 Ms. Eleanor Stephenson. I am also assisted by Ms. Faye Wigmore,
23 Mr. Joseph Bowden, and Mr. Muharem Halilaj.

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

25 MR. WORBOYS: Your Honours, I'm Jonathan Worboys, co-counsel for

1 Mr. Haradinaj. In the room today, I am joined by Ms. Miriam Boxberg,
2 Ms. Chelsea Qu. On the screen you have Mr. Cadman, Mr. Buckley, and
3 Mr. Berisha, Mr. Soliman, and Ms. Rodio.

4 And, Your Honours, before I commence, there is one matter that
5 Mr. Cadman would like to address you on which I think you're aware of
6 given the health considerations of our team. And with Your Honours'
7 permission, I'll pass over to Mr. Cadman to make those submissions,
8 but I, of course, remain able to assist the Court further if
9 required.

10 PRESIDING JUDGE SMITH: Go ahead, Mr. Cadman.

11 Turn your microphone on, Mr. Cadman.

12 MR. CADMAN: [via videolink] Good morning, Your Honour. I hope
13 you're all able to hear me. My voice is a little bit shaky this
14 morning [Overlapping speakers] ...

15 PRESIDING JUDGE SMITH: We can hear you fine.

16 MR. CADMAN: [via videolink] As Mr. Worboys said in his
17 introduction, I'm having to join you remotely today because, in some
18 unfortunate circumstances, following the hearing on Friday, I tested
19 positive for COVID-19 and have been suffering from fairly severe
20 symptoms since then.

21 As things currently stand, I'm still suffering from breathing
22 problems, persistent cough, intermittent fever, and a general lack of
23 energy and lack of ability to concentrate. And further to the e-mail
24 communication that we had with the Court staff over the weekend, I'm
25 formally seeking an application to adjourn the current proceedings, I

1 would say on a temporary basis, so that I'm able to take instructions
2 from Mr. Haradinaj.

3 As you can see, Mr. Haradinaj is also in quarantine. We had
4 expected him to be in court today. I have not been able to speak to
5 Mr. Haradinaj over the weekend. I had requested to speak to him over
6 the telephone, at least, to inform him of my present circumstances.

7 The situation is aggravated by the fact that Mr. Buckley, who is
8 in the United Kingdom, his daughter has tested positive, and under
9 the current rules he is not allowed to travel for ten days. His wife
10 is now displaying symptoms, and it may well be that Mr. Buckley, very
11 soon, [indiscernible] suffer from some symptoms as well. And so that
12 will prolong the period of time for which Mr. Buckley, as the next
13 senior counsel, would be able to be in court.

14 That causes, obviously, great difficulties for us. Other
15 members of the team, as you can see, Your Honour, are appearing
16 remotely from the hotel on my instruction because they were in close
17 contact with me on Friday. And whilst they have not displayed any
18 symptoms, it is likely, because of the incubation period of four days
19 for COVID to show, I thought it in the interest of not putting
20 anybody in any danger at the court that they should not attend court
21 today until they've had a negative PCR test after the fourth day of
22 exposure to me.

23 Your Honour, there are five simple reasons, and I will try to go
24 through it as quickly as I can, as to why an adjournment is
25 necessary.

1 At this stage, I'm only seeking a temporary adjournment to be
2 able to hold a Zoom conference with Mr. Haradinaj so I can take full
3 instructions on whether he wants to proceed or whether he wants me to
4 make a longer adjournment application. It is unforeseen and
5 certainly exceptional circumstances that any application would be
6 made. But I would say, first of all, that Mr. Haradinaj is not
7 present, we're not able to take any instructions from him in court.
8 Our translator -- even if Mr. Haradinaj is in court tomorrow, our
9 interpreter, investigator may not be able to attend tomorrow because
10 of the time-period for which he has to wait for a PCR test.

11 We [indiscernible] it is not possible for me or my team to take
12 instructions from Mr. Haradinaj and that is a fundamental problem
13 that goes to the heart of the Defence. As I've said, our team is
14 limited to three members in court today, one of whom has only
15 recently joined the team in October 2021. I accept that he is
16 appointed as Specialist Co-Counsel, but he has only recently joined
17 the team. It would not be appropriate for him to take the burden of
18 having to continue in my absence or Mr. Buckley's absence.

19 As we know, I will not be able to follow these proceedings in
20 private session, and I will only be able to identify what has been
21 stated in private session if -- as and when we receive a transcript
22 of the proceedings. That makes it very difficult to proceed on that
23 basis.

24 There is also no guarantee that other members of the team will
25 not develop further symptoms, and we would say that we cannot

1 guarantee that none of them will develop further symptoms, and this
2 goes to the core of equality of arms which forces the Defence to
3 proceed in these circumstances.

4 Secondly, whilst I do have Specialist Counsel, I am alone
5 responsible for the conduct of the litigation as lead counsel in
6 these matters. I cannot presently perform my function as
7 Specialist Counsel properly because I'm not well enough to lead
8 Mr. Haradinaj's Defence as of today.

9 Now, my condition may improve over the next 24 or 48 hours. I
10 do not know. I cannot communicate with Mr. Haradinaj properly or at
11 all. I cannot be in court because I am in government-mandated
12 quarantine, and I will be so for the next -- at least the next seven
13 or ten days. I've been informed this morning that once I am 24 hours
14 without symptoms, as long as it's seven days after the first date of
15 reported illness, then I am permitted to leave quarantine.

16 I understand, and it is unfortunate, that these proceedings are
17 only listed for this week, and it means that I would be out of action
18 for the entirety of this week. But most importantly, because I'm
19 appearing remotely, as I've said, I will not be privy to the closed
20 sessions which have, as Your Honours will be more than aware, become
21 a central feature of this case so far. It is likely to feature in
22 the Defence case.

23 What I would say furthermore, there is no prejudice to the
24 Defence in giving them an adjournment of a short duration, nor the
25 SPO, nor the Specialist Chambers.

1 As for the Defence, I will take formal instructions from
2 Mr. Haradinaj as this matter has been ongoing for some time already.
3 Then, I would need to take instructions as to whether he seeks a
4 further adjournment or whether he is -- in order to maintain
5 continuity of legal representation, or whether he is happy for us to
6 proceed in these exceptional circumstances. I cannot say that at
7 this time because I have not had an opportunity to discuss it with
8 him. And the first that he will know that I am in this position is
9 this morning hearing me say this. I've not had any opportunity to
10 communicate that to him.

11 I understand that a short adjournment is not opposed by the
12 parties. And, again, we're only seeking an adjournment so that I can
13 hold a Zoom conference with Mr. Haradinaj and with Mr. Berisha so I
14 can take formal instructions.

15 What I would say in short: There is no reason why the
16 Trial Panel should not grant such an adjournment. And, respectfully,
17 I would say forcing the Defence to continue in these circumstances,
18 the Trial Panel would risk not only the safety but also undermining
19 the interest of justice.

20 And let me conclude by saying this. I am consciously aware of
21 the competing interest to move this case forward, none of which, in
22 my respectful submission, justifies proceeding at this stage. Again,
23 I am only seeking a short adjournment which I am sure I will be able
24 to organise during the course of today.

25 It is not a matter that I think that we can start and then I

1 take instructions during the break. I am asking for the matter not
2 to proceed, for me to take formal instructions from Mr. Haradinaj,
3 and then for me to report back to the Court.

4 Your Honour, unless I can assist you any further, those are my
5 submissions.

6 PRESIDING JUDGE SMITH: Thank you.

7 Prosecution wish to respond?

8 MS. BOLICI: Just very briefly, Your Honour.

9 First of all, we are sorry for the current situation Mr. Cadman
10 is in, and we wish him a speedy recovery. We do not oppose a very
11 short adjournment in order for the counsel to communicate with his
12 client and receive further instructions. We hope that this
13 communication can be organised in the next hour or so. And that we
14 could receive further information from Mr. Cadman about what his
15 requests are, and we'll respond to that once a request is formulated.
16 Thank you.

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

18 Mr. Rees.

19 MR. REES: Your Honour, we are, of course, anxious to make
20 progress, but we do understand Mr. Cadman's position, and we do think
21 that his request for a short adjournment to explain the position to
22 his client and take instructions is not an unreasonable application
23 at all.

24 Like Ms. Bolici, we would hope that any remote conference
25 between Mr. Cadman and Mr. Haradinaj could be arranged at short

1 notice, it could take place quickly, and we might be in a position to
2 proceed shortly, perhaps by the -- within the hour.

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

4 [Trial Panel confers]

5 PRESIDING JUDGE SMITH: We will adjourn for one hour.

6 Mr. Cadman, the Court Officer has indicated that they can make
7 those arrangements. We will reconvene at a quarter to 11.00,
8 15 minutes until 11.0. And we join also in hoping you all are well
9 soon, and see you at quarter to 11.00.

10 MR. CADMAN: [via videolink] Thank you, Your Honour.

11 --- Recess taken at 9.43 a.m.

12 --- On resuming at 10.45 a.m.

13 PRESIDING JUDGE SMITH: All right, Mr. Cadman. We're back in
14 session. Could you update us on your discussion?

15 MR. CADMAN: [via videolink] Thank you, Your Honour. And thank
16 you for the time.

17 Obviously, I've only had a brief opportunity to take
18 Mr. Haradinaj through these matters. He has expressed his, I would
19 say, similar concerns that I have in being able to properly proceed
20 with this matter. He believes that he's going to remain in
21 quarantine for the next two to three days.

22 I explained my situation to him in some detail and the fact that
23 I'm not present, Mr. Buckley's not present, and a significant part of
24 our team may be prevented from attending for at least the next couple
25 of days whilst we're waiting the outcome.

1 Obviously, Mr. Haradinaj, as do all of us, want these matters to
2 proceed, and I hope whatever application I make is not interpreted as
3 in any way seeking to delay these matters. Mr. Haradinaj has
4 expressed his desire throughout these proceedings for them to
5 progress expeditiously, and we have at all times tried to ensure that
6 that is followed.

7 But, of course, the only consideration that Your Honour and the
8 Court should have is ensuring that Mr. Haradinaj is guaranteed a fair
9 trial. The convenience of the Court, the scheduling, and the parties
10 should play no part. It is whether Mr. Haradinaj can be guaranteed a
11 fair trial, and not having me present will not guarantee him a fair
12 trial.

13 Now, I'm not seeking to delay these matters extensively. My
14 co-counsel, Mr. Worboys, has been in contact with the Court. There
15 may be the possibility of securing a laptop that I would be able to
16 follow the private sessions. That is my major concern, is not being
17 able to follow the private sessions.

18 Obviously, we want things to proceed, but we want things to
19 proceed in a way where we can properly take instructions and
20 Mr. Haradinaj can properly participate in his trial. I would,
21 therefore, seek to adjourn these matters for two days, to Wednesday,
22 first of all, so that my health condition can improve by that time,
23 and hopefully Mr. Haradinaj will be out of quarantine, Mr. Berisha
24 will be out of quarantine, and so we will be able to have daily
25 contact with Mr. Haradinaj in court.

1 We do not consider this to be an unreasonable request. I think
2 that -- well, I'm asking you to take the request seriously, that we
3 cannot proceed under these circumstances, and it is a very limited
4 delay that we are seeking.

5 Obviously, if you are not with me on that, then we'll come back
6 to you on potentially some other ways that we can remedy the
7 situation. But that is my application, to adjourn these matters
8 until Wednesday.

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

10 Prosecution, do you wish to respond?

11 MS. BOLICI: Your Honour, the Prosecution notes that in the
12 Haradinaj Defence there are currently two co-counsel available; one
13 available online and one present in court. The co-counsel present in
14 court is in the position to follow the private sessions, and for this
15 reason there is no justification for a delay of the scheduled
16 hearings.

17 We defer, in any event, to the Trial Chamber's consideration of
18 this matter.

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

20 Mr. Rees, anything to respond?

21 MR. REES: As I have said before, I have some sympathy with
22 Mr. Cadman's position. We are anxious to proceed, though. And if
23 the major concern is the inability of Mr. Cadman and those online to
24 follow matters in private session, there seems to me to be an easy
25 answer which is we don't go into private session.

1 We submit that Mr. Gucati's evidence should be heard in public
2 session and in public session in full, and we submit that we can
3 proceed properly on that basis.

4 PRESIDING JUDGE SMITH: Anything further, Mr. Cadman?

5 MR. CADMAN: [via videolink] Well, Your Honour, I maintain our
6 position that it is not appropriate to continue in these
7 circumstances. I maintain that. And I'm, frankly, concerned if the
8 Court is to proceed in these circumstances.

9 Obviously, what Mr. Rees has said is very important. We have
10 both stressed, on behalf of Mr. Haradinaj and his co-accused, that
11 these proceedings should be in public as far as possible. I see no
12 reason why any of Mr. Gucati's evidence should go into private
13 session, but I cannot predict that Your Honours will want to go into
14 private session for all of the Defence witnesses coming forward. So
15 I maintain my concerns.

16 PRESIDING JUDGE SMITH: It seems like the biggest stumbling
17 block here is the private sessions. But, Mr. Rees, that's somewhat
18 in your hands.

19 The other day, you mentioned some names that we would not allow
20 again. And if you did want to mention any of those names, which I
21 really don't understand why they're even relevant to your defence at
22 this point, you would have to go into private session.

23 Do you intend to bring up matters that you could reasonably
24 anticipate the Court would want to go into private session? I mean,
25 they're your questions which you're going to ask this witness.

1 MR. REES: And our position is, as far as I can reasonably
2 anticipate, Mr. Gucati's evidence will be heard in public and in
3 public session.

4 PRESIDING JUDGE SMITH: Do you intend to use any names of
5 parties, of people whose names first appeared or appeared in the
6 batches?

7 MR. REES: Any names that will be mentioned are names that have
8 been mentioned in public in full, in public articles that are
9 presently available --

10 PRESIDING JUDGE SMITH: That's not my question.

11 MR. REES: -- online --

12 PRESIDING JUDGE SMITH: Mr. Rees --

13 MR. REES: Well, Your Honour --

14 PRESIDING JUDGE SMITH: -- you know that's not my question. My
15 question is do you intend to use any names in your direct examination
16 that are names that were in the batches?

17 MR. REES: If I was shown the batches, I'd be able to answer
18 Your Honour, wouldn't I? But I haven't seen them, so I can't say.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 [Trial Panel confers]

21 PRESIDING JUDGE SMITH: All right. Mr. Cadman, the Panel cannot
22 entertain your request for the following reasons.

23 First, it is apparent to us that you are able to communicate
24 with your client, either via phone calls or Zoom links. Secondly,
25 you can attend these hearings remotely. In relation to this

1 attendance, the Panel makes the following observations.

2 This institution, including this Panel and the Registry, have a
3 duty to ensure the security and efficiency of the proceedings. One
4 aspect of this duty is to make sure that confidential or non-public
5 information is protected at all times. During hearings, we go into
6 private sessions when we want to protect such information. Now,
7 during these private sessions the Registry needs to make sure that
8 confidential information is not exposed in any way. The Registry can
9 do that in relation to this courtroom and in relation to videolink
10 testimony as provided in the Practice Direction on videolinks, but it
11 cannot ensure the security of information via Zoom links because it
12 cannot generally be present on the other side, wherever that may be,
13 to carry out the kind of assessment that it does for a videolink.

14 And I assume that you understand that in your current situation
15 no Registry staff should be exposed to go to your location and set up
16 a videolink. This is not whether we trust you or not. This is about
17 the duty of this institution to ensure that remote links into this
18 courtroom are, at all times, safe.

19 Since the Registry cannot ensure that the location from which
20 you are participating is not exposed in any way, we cannot allow you
21 to participate in private sessions.

22 Thirdly, the Panel understands that you have access to the
23 realtime transcript and can follow what is being said during these
24 private sessions. So you are, in fact, privy to the content of the
25 private sessions.

1 Lastly, you have co-counsel in this courtroom whose
2 responsibility is to represent your client, regardless of when he was
3 appointed to do so. And we know that you are perfectly capable of
4 exchanging e-mails with your colleagues in the courtroom during
5 private sessions and to give them instructions.

6 Also, and I will come to this in a moment, we are hoping that
7 there won't be many private sessions necessary in the coming days.
8 So we will proceed.

9 Mr. Rees, on Friday, in your opening statement, you mentioned a
10 number of names, some of which were names that had been in the
11 documents seized in the various batches. The Panel decided that
12 rather than picking and choosing which of these names could not be
13 uttered in public session, we would allow you to complete your
14 opening statement.

15 However, during the evidentiary stage of your case, we caution
16 you to refrain from mentioning these names, with the exception of
17 Mr. Vukcevic, whose status and cooperation with the SITF is public.

18 Whether these names are protected or not is something that the
19 Panel needs to decide at the end of this trial, so let's not put the
20 cart before the horse.

21 Furthermore, we note that the Prosecution does not appear to
22 take issue with your suggestion that some of the individuals you
23 named either cooperated with the SITF or the SPO investigations or
24 were sought as witnesses in that context. And you are an experienced
25 counsel, and you know how to ask these questions without saying the

1 names. You bring up a document, you ask the witness to read it, and
2 acknowledge that he or she sees the name without saying it, and then
3 you ask your questions.

4 Your points will still come through even without the names. Of
5 course, if the questions would give away the identity of the person,
6 we will have to go into private session, but we are trying now to
7 minimise that, also in view of your colleagues in the Haradinaj
8 Defence team.

9 Are we clear? Everybody clear on these? Mr. Rees?

10 MR. REES: Yes, Your Honour.

11 PRESIDING JUDGE SMITH: Thank you.

12 Three more points.

13 Further to what was saying during the Defence Preparation
14 Conference, the Panel invited both Defence teams to file bar table
15 motions if they so wished. We just want to note that you can also,
16 of course, tender exhibits through your witnesses if that is your
17 preference. We also ask you to refer to the specific page or
18 paragraph number of documents that you show to the witnesses and to
19 refrain from tendering lengthy statements, especially when only a
20 specific part has been used with a witness.

21 We also ask counsel, for both sides, to be mindful of our
22 repeated indication that we will not admit evidence of a just war or
23 about crimes committed during the Kosovo conflict, nor allow
24 questioning of such issues as they are irrelevant to the present
25 proceedings. Therefore, we ask once again that you focus on the

1 facts and circumstances relevant to this case.

2 Just before we go on, I will issue an oral order on the
3 application of the Gucati Defence for the videolink testimony.

4 On November 15, 2021, the Gucati Defence filed an application to
5 call two unidentified witnesses via videolink.

6 On 29 November 2021, the Gucati Defence informed the Panel that
7 it withdrew one of the witnesses for whom the videolink was
8 requested.

9 On December 3, 2021, the Panel excluded the proposed testimony
10 of Defence Witness 1253. The Panel notes that the outstanding
11 videolink application concerned Defence Witness 1253.

12 For the above reasons, the Panel considers at this stage the
13 application for videolink testimony is moot. This includes the oral
14 order.

15 Today, we start the hearing of the evidence in the Gucati
16 Defence. The Panel plans to sit on all five working days of this
17 week. Today, we will have somewhat shortened time because of the
18 consideration each of you gave to Mr. Cadman having an opportunity to
19 meet with his client on videolink.

20 Next week, we will sit on the 16th and 17th of December; that
21 is, Thursday and Friday. On Friday of this week, we will only sit
22 for the first two sessions. Any change in the schedule will be duly
23 notified to the parties. And the first witness today is Mr. Gucati.

24 Madam Court Usher, you may please escort Mr. Gucati to the
25 witness stand.

Witness: Hysni Gucati (Open Session)
Procedural Matters

Page 2149

1 Mr. Gucati, please join us up here.

2 [The Accused Gucati takes the stand]

3 PRESIDING JUDGE SMITH: Please remain standing, Mr. Gucati.

4 The Court Usher will now provide you with the text of the solemn
5 declaration which you are asked to take.

6 Good morning, Mr. Gucati. The Court Usher has provided you with
7 the text of the solemn declaration which you are asked to take
8 pursuant to Rule 141(2) of the Rules. Please proceed.

9 THE ACCUSED GUCATI: [Interpretation] Good day. Conscious of the
10 significance of my testimony and my legal responsibility, I solemnly
11 declare that I will tell the truth, the whole truth, and nothing but
12 the truth, and that I shall not withhold anything which has come to
13 my knowledge. I will swear that I will say only the truth.

14 WITNESS: HYSNI GUCATI

15 [Witness answered through interpreter]

16 PRESIDING JUDGE SMITH: Thank you, Mr. Gucati. You may be
17 seated.

18 Mr. Gucati, today we will start your testimony, which is
19 expected to last at least two days. As you may know, your counsel
20 will be asking you questions first. And once he is done, the
21 Prosecution has the right to cross-examine you. The Haradinaj
22 Defence may also elect to ask you questions, and members of the Panel
23 may do so as well.

24 The Defence estimate for your examination is two to three hours.
25 The SPO estimate is around ten hours. The Panel may also re-direct

1 examination if conditions for it are met. And we understand that you
2 have some issues with your leg and once in a while it is necessary
3 for you to stand, and we want you to know that you can do that. You
4 will have to make an adjustment to the microphone if you do need to
5 stand, but please feel free to do that if you feel the need.

6 Please try to answer the questions clearly with short sentences.
7 If you don't understand a question, feel free to ask counsel to
8 repeat the question or tell them that you don't understand and they
9 will clarify.

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

12 Please also speak into the microphone and try to wait about five
13 seconds before answering a question, and speak at a slow pace for the
14 interpreters to keep up with you.

15 During the next days while you are giving evidence in this
16 court, you are not allowed to discuss with anyone the content of your
17 testimony, including your counsel. However, you are allowed to speak
18 to your counsel on matters not related to your testimony. If any
19 person asks you questions about your testimony, please let us know.

20 Mr. Rees, before we start, do you plan to tender your client's
21 statement at the end of the examination-in-chief?

22 MR. REES: I do.

23 PRESIDING JUDGE SMITH: Thank you.

24 Mr. Rees, you may begin.

25 MR. REES: Thank you, Your Honour.

Witness: Hysni Gucati (Open Session)

Page 2151

Examination by Mr. Rees

1 So can I begin, please, by asking that the statement of
2 Mr. Gucati is available. It begins DHG0472. And for Mr. Gucati, we
3 have an Albanian version that's typed. The Albanian version is also
4 in the presentation queue at DHG0455. Can I provide that, please, to
5 Mr. Gucati.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 Examination by Mr. Rees:

8 Q. So, Mr. Gucati, can you look, please, firstly, at the end of
9 that statement. At the last page, there's a signature on that
10 statement; is that right?

11 A. Yes, it's right.

12 Q. And that's your signature?

13 A. Yes, it is.

14 Q. And the statement's dated 30 November 2021; yes?

15 A. Yes.

16 Q. And you signed to declare the contents of the statement to be
17 true?

18 A. Yes, everything that's written there is true and the signature
19 is mine. It's true.

20 Q. The statement reflects what you will say in the course of direct
21 examination; is that right?

22 A. Yes.

23 Q. So let me begin by some straightforward matters of background.

24 Your date of birth is 30 March 1967; is that right?

25 A. 1967. Yes, 30 March 1967.

Witness: Hysni Gucati (Open Session)

Page 2152

Examination by Mr. Rees

1 Q. And you were born in the village of Morine in the municipality
2 of Skenderaj?

3 A. Yes.

4 Q. You've been married since 1985 to your wife; yes?

5 A. Yes.

6 Q. How many children do you have, Mr. Gucati?

7 A. I had eight children. One died in 2006 of leukemia. Now I have
8 seven.

9 Q. And your eldest child? How old is your eldest?

10 A. My eldest child is 35 years old. She's married.

11 Q. And your youngest child, how old is your youngest child?

12 A. My youngest child, Korab, is about 25 years old.

13 Q. You grew up in Peja; is that right?

14 A. Yes, since when I was young. Sometimes in 1968, my father
15 worked there. So I've been living in Peja since 1968.

16 Q. And after school, you went to college in 1985 to study
17 commercial studies; is that right?

18 A. Yes, that's right.

19 Q. When you married in 1985, where did you set up the family home?

20 A. In 1983, we moved in Morine, Skenderaj commune. I was married
21 in September, on 1 September 1985.

22 Q. And your family home in Morine, what type of property is that?

23 A. It is a two-storey house with six rooms.

24 Q. And do you remain living in the same home?

25 A. No, because the house that was built by my father was burned

Witness: Hysni Gucati (Open Session)

Page 2153

Examination by Mr. Rees

1 down, like the entire village, in 1998 on 3 August. The entire
2 Morine village.

3 Q. Between 1989 and 1991, did you work?

4 A. Yes, I worked for a while in Mitrovica. In 1991, I was the last
5 generation to be drafted in the Yugoslav Army. I was forcefully
6 drafted. They took me away from my workplace and they recruited me
7 for the Yugoslav Army.

8 Q. Were you asked to fight at any point for the Yugoslav Army?

9 A. Yes.

10 Q. Where was that?

11 A. I was a member of the Yugoslav Army, JNA, and I was in Varazdin,
12 Croatia, barracks. It was called [indiscernible] Partisan at that
13 time. And they asked us -- they sent us to protect Yugoslavia from
14 the foreign enemies in Slovenia. It was about June, I think, 1991.

15 Q. How long did you remain there with the army?

16 A. I remained in the army about nine months. Eight months,
17 actually -- oh, no, sorry. About six months. Then on 28 July 1991 I
18 deserted.

19 Q. Why did you do that?

20 A. Because I saw what Milosevic and Serbs were pursuing. I didn't
21 want to be an enemy of any people in the Balkans or in Europe, so I
22 wanted to desert the Yugoslav Army. I didn't want to be a victim of
23 Serbia or to cause victims to others.

24 Q. Where did you go when you left the army barracks?

25 A. After deserted, I and some other Albanian friends that left the

Witness: Hysni Gucati (Open Session)

Page 2154

Examination by Mr. Rees

1 Yugoslav Army, we -- I went to a cousin of mine in Slovenia where I
2 stayed for about six weeks and then I returned to Kosovo and joined
3 my family.

4 Q. Between 1991 and 1994, did you live peacefully at home in
5 Kosovo?

6 A. Not only me but others too didn't live peacefully, because we
7 were subjected to the extreme measures by the butcher regime of
8 Milosevic. Not only myself, but many other youngsters left Kosovo
9 and went abroad because many citizens were mistreated. My house was
10 raided two times. In 1992, they wanted to send me to the court
11 martial because of my desertion. And the second time, it was in 1994
12 when my father and my cousins were mistreated.

13 THE INTERPRETER: Could the witness be asked to slow down when
14 he speaks, please.

15 MR. REES:

16 Q. Mr. Gucati, the interpreter has asked you just to slow down the
17 pace. Okay?

18 A. Thank you.

19 Q. What happened to your father?

20 A. My father was captured in Skenderaj, then called Srbica. He was
21 detained for over 72 hours at the police station, and he was so badly
22 beaten that he lost consciousness. My uncle, Shaban, and his son,
23 Shahin [phoen], were also taken by the police. So three members of
24 my family were mistreated by the police.

25 Q. You mentioned earlier that your village was subject to a

Witness: Hysni Gucati (Open Session)

Page 2155

Examination by Mr. Rees

1 burning. Do you remember the year that took place?

2 A. Yes, the village was burned on 3 August 1998. It was a very
3 large-scale offensive undertaken by the Serbs army and Chetniks.
4 They attacked many villages.

5 THE INTERPRETER: I couldn't catch the name, sorry.

6 MR. REES:

7 Q. Did the Serbs return to your village the following year?

8 MS. BOLICI: Your Honour, if I may, I would just like to raise
9 an issue of relevance of this line of questioning in light of the
10 Trial Panel's guidance that was issued earlier this morning. Thank
11 you.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 We've allowed you a certain amount of leeway, but we really need
14 to focus on the substantive part of his witness statement and not the
15 nature of the war, which really doesn't have much relevance to the
16 proceedings today.

17 MR. REES: In my submission, it has relevance to Mr. Gucati.
18 Part of the exercise of calling a witness to give testimony is so
19 that you, as a Trial Panel, learn who he is and can judge his
20 credibility in light of the knowledge as to the person that he is.

21 So I do not intend to take much time. Your Honours have the
22 assistance of a full and complete disclosure from us as to the course
23 of his testimony, but I do wish to take a little bit further time
24 just allowing him to explain to you who he is and where he has come
25 from.

Witness: Hysni Gucati (Open Session)

Page 2156

Examination by Mr. Rees

1 PRESIDING JUDGE SMITH: That's why I said we've allowed you a
2 little bit of leeway, but we expect you to bring that to a close and
3 go on with the rest of the statement soon.

4 MR. REES: And I understand that, Your Honour. And I'm very
5 grateful. Thank you.

6 PRESIDING JUDGE SMITH: All right.

7 MR. REES:

8 Q. Mr. Gucati, can I just remind you, it's important to slow down
9 when you give your answers. I think the interpreter missed a name
10 that was mentioned previously. So just take it slowly.

11 Let me ask you again: Did the Serbs return to your village the
12 following year?

13 A. Yes, the Serbs returned. A colleague of mine was killed, four
14 persons were wounded, and Hajrija Mziu, a citizen about 94 years old,
15 was killed on the same day. Zenel Mziu was the other killed.

16 Q. Did you join the KLA?

17 A. Yes, I joined the KLA at the end of 1997.

18 Q. And did you serve as a soldier during the war?

19 A. Yes.

20 Q. Did you fight in a battle in Morine itself?

21 A. Yes, I personally took part in the offensive of 3 August 1998.

22 Q. Did you suffer a loss during the course of that battle on
23 3 August 1998?

24 A. Yes, we had losses. A colleague of mine, Zenel Mziu, he was a
25 last year university student. Hajrija Mziu was also killed. She was

Witness: Hysni Gucati (Open Session)

Page 2157

Examination by Mr. Rees

1 paralysed, and she was -- she was killed with an axe. So 13 per cent
2 of the citizens of Morine were killed; nine were disappeared, among
3 them is my -- Halim Gucati, my cousin. 39 were killed, 11 went
4 missing.

5 Q. Did you yourself suffer any injury during the war?

6 A. Yes, I was injured on 2 June in the last offensive of 1999 by
7 Frenki's unit in Berisha mountains in a place called Guri i Vogel,
8 above Llapushnik.

9 Q. Where on your body did you suffer that injury?

10 A. I was injured in my right leg, in femur. I sustained 27
11 surgeries.

12 Q. Where were you treated?

13 A. I was treated the first day in our improvised hospital in
14 Berisha mountains. The second treatment was given to me in the
15 military hospital in Tirana on 8 June, airlifted by the British
16 forces to Tirana. They had brought eight fellow citizens. So they
17 took me and others to Tirana for treatment.

18 Q. Did you remain in Tirana for the entirety of your treatment or
19 not?

20 A. No. In Tirana, I remained until about the mid-June of 1999.
21 Then my family came and fetched me and took me to Prishtine hospital,
22 where I stayed about three days. And then after that, they sent me
23 to Munich, Germany.

24 Q. You told us that you had a number of operations then on your
25 leg; is that right?

Witness: Hysni Gucati (Open Session)

Page 2158

Examination by Mr. Rees

1 A. Yes, it's true. I had 27 operations all in all.

2 Q. And over what period of time?

3 A. End of July and the entire year until December, I had about
4 12 operations in Germany in the same hospital. After -- in 2000, I
5 also had another operation in Germany, and then I was operated in
6 Turkey, Istanbul, in a Turkish-American hospital there. In 2015 or
7 2016, I am not very sure, the last operation I had was in Kosovo.

8 Q. Do you still suffer consequences from that injury?

9 A. Yes. I was supposed to have another operation last year but
10 was -- I came here, and so I couldn't do that.

11 Q. So you are still awaiting further surgery on your right leg; is
12 that right?

13 A. Yes. This is proven also by Dutch doctors. I have been to
14 hospital for checkups and this is true. You can prove it with the
15 relevant documentation. I do need to undergo another operation.

16 Q. Following your treatment in Germany and your return to Kosovo in
17 2001, did you become involved with the KLA War Veterans Association?

18 A. Yes. After my return from Germany, in 2001 and 2002, I was
19 elected chairman of the War Veterans Association for Drenica zone.

20 Q. How long did you fulfil that role for?

21 A. In Skenderaj, I was chairman of this association for three
22 mandates in Skenderaj.

23 Q. Does the War Veterans Association have a central committee?

24 A. Yes, there is the presidency, the leading council, the
25 structures that we have to lead this organisation.

1 Q. And presumably the headquarters are based in Prishtine; is that
2 right?

3 A. Yes, the headquarters is based in Prishtine. We are branches
4 covering all the cities. So we cover all Kosovo.

5 Q. Do you recall when you became involved in the national
6 organisation as well as the regional organisation in Drenica?

7 A. Yes. In 2002, I was a member of the presidency in Prishtine.

8 Q. Have you remained a member of that central committee since?

9 A. Until 2017, I was a member of the central committee. On
10 15 October, I am chairman of the veteran organisation at the central
11 level.

12 Q. Is that position an elected or appointed position?

13 A. It is elected. Delegates are elected by all branches. They
14 come to the assembly and the assembly elects the chairman of the KLA
15 war veteran organisation.

16 Q. What are the general duties of the chairman of the KLA war
17 veterans organisation on a day-to-day basis?

18 A. In general, if I may, I would like to explain. The chairman is
19 responsible for protecting the interests of the veterans of the
20 organisation, taking care of their economic and social welfare,
21 meeting other institutions - government, president, parliament - is
22 involved in the drafting of laws on the veterans. We organise
23 academies for the martyrs of the nation and other things that the
24 chairman and the presidency are involved in.

25 Q. To what extent does the chairman assist individual veterans? I

1 say "the chairman," the chairman and the association in general. How
2 does it help individual veterans?

3 A. In real terms, we are registered as a non-government
4 organisation, and usually we apply to the prime minister's office or
5 the president's office or the minister of finance to assist veterans,
6 especially when they need to go abroad for medical treatment, or
7 those who are in difficult economic situation. This is one of the
8 main tasks for the chairman.

9 But also the chairman pressures, in a way, the members of
10 parliament to draft proper laws to protect the veterans for them to
11 enjoy their rights.

12 Q. The War Veterans Association is a member of the World Veterans
13 Federation; is that right?

14 A. Yes, it's right. It's over ten years we are members of the
15 world veterans organisation. I am also a member of the council of
16 that organisation.

17 Q. And, in fact, you have spoken at the World Veterans Federation
18 headquarters as a member of the council of that organisation; is that
19 right?

20 A. Yes, because the KLA WVA is an equal member in the world
21 federation, which has over 107 members. And on one occasion, I was
22 given the floor, and there I spoke also about the Specialist Chambers
23 that was imposed on Kosovo.

24 Q. And your role as chairman involves meeting with KFOR officers
25 representing NATO; is that right?

Witness: Hysni Gucati (Open Session)

Page 2161

Examination by Mr. Rees

1 A. Yes, it's true. We meet KFOR, especially the British, American,
2 French, Austrian KFORs, but also with different or various embassies
3 based in Kosovo. Our most frequent meetings are with the British,
4 American embassies. We have meetings with all NATO countries. Also
5 the German KFOR. With all the countries, so that I don't miss
6 someone here.

7 Q. How regularly would you meet with representatives of national
8 embassies?

9 A. Most frequent meetings we have with the American and the British
10 embassies, but also with the French embassy we have had some
11 meetings. Maybe two, three meetings, I would say, with different
12 embassies.

13 Q. And meetings with KFOR officers, how regularly would that take
14 place?

15 A. The KFOR meetings are almost regular. We have every second
16 month a meeting with the German KFOR. Then we have meetings with the
17 English KFOR. We have very good bilateral relations. We have joint
18 lunches. We have meetings with the Austrian and Italian KFOR. So
19 the meetings with the KFOR representatives are regular.

20 MR. REES: Your Honour, does the Trial Panel intend to break at
21 this point?

22 PRESIDING JUDGE SMITH: I was waiting for a chance to mention.
23 No, we are not going to break at this point. We're going to go till
24 12.30, and then we'll break for lunch at that time and come back at
25 2.00 and proceed until 4.00.

Witness: Hysni Gucati (Open Session)

Page 2162

Examination by Mr. Rees

1 MR. REES: Your Honour.

2 Q. You have also held the position as an elected councillor; is
3 that right?

4 A. Yes. In 2007, I was elected local councillor in the Skenderaj
5 municipality. I was the one who received the latter number of votes
6 in Skenderaj at that time, and I held that position for two years.

7 Q. And that period was 2007 to 2009; yes?

8 A. Yes, it was between 2007 and 2009. Kosovo declared its
9 independence in 2008, and some of the competences passed to the
10 president, and that's why our mandate at the time was two years.

11 Q. And you have also worked as a secretary at a local elementary
12 school in Skenderaj; is that right?

13 A. Yes, I worked at that school from June 2007 and continued to
14 work there until I became chairman. So it is lawful for me to hold
15 that position, and I still do to this day. But for the moment, this
16 position is frozen.

17 Q. Let me ask you then about 7 September of last year, 2020. Okay?
18 Do you recall the time at which you arrived at the offices of the KLA
19 WVA?

20 A. Yes. On 7 September, at around 8.30 in the morning, I usually
21 have my coffee in a cafeteria opposite our offices, so with a
22 colleague of mine at 8.30 I had a coffee there. And just before
23 9.00, I went to my office.

24 Q. So if we can just take a moment to describe the location of your
25 offices. They are present in a multi-storey building; is that right?

Witness: Hysni Gucati (Open Session)

Page 2163

Examination by Mr. Rees

1 A. Yes, that's right.

2 Q. How many storeys are there in the building?

3 A. Five.

4 Q. And does the KLA WVA offices occupy the whole of the building or
5 not?

6 A. No. We occupy the 4th and the 5th floor, and the meeting room
7 is on the 5th floor.

8 Q. What other businesses are present in the building, then?

9 A. The Association of War Invalids, of families of martyrs. On the
10 ground floor, there is a bank, ProCredit Bank, if I'm not mistaken,
11 and some other NGOs. I don't know what they do because I don't have
12 meetings with them. And there is also the Association of Second
13 World War Veterans. There are still some of them who are alive to
14 this day, but they also operate in that building.

15 Q. So the location where you had coffee, where is that in relation
16 to the KLA WVA offices?

17 A. I did not measure it in metres, but approximately 22 metres, I
18 would say. It's not further than from the place where I work.

19 Q. So it's another business occupying the building that the KLA WVA
20 shares; is that right?

21 A. No, this is a different café. The place where I have my morning
22 coffee is outside the building where our offices are. It is close to
23 our offices but still apart. There's only a corridor separating the
24 two of us.

25 Q. And who did you meet there at around 8.30 that morning?

Witness: Hysni Gucati (Open Session)

Page 2164

Examination by Mr. Rees

1 A. I usually have my morning coffee there with a cleaner, with
2 Faton Klinaku, Taibe Miftari, the technical secretary. Generally,
3 with work colleagues, with people I work together. So these are the
4 people with whom I usually have my morning coffee.

5 Q. Was Nasim Haradinaj there when you arrived at around 8.30?

6 A. Nasim, if I'm not mistaken, arrived at around 9.00, just before
7 9.00, in my office. And we had -- I had my second coffee with him in
8 my office.

9 Q. While you were having that coffee with Nasim, did you become
10 aware of anything unusual taking place?

11 A. No, it was a routine thing. Just like every other day. There
12 was nothing new.

13 Q. Did you become aware that morning of something unusual taking
14 place?

15 A. Not at that time. Until 9.30, I did not notice anything
16 unusual.

17 Q. What happened at 9.30 in the morning?

18 A. This happened for the first time for us, and it took us by
19 surprise, all of us. It had never happened before. A package
20 arrived, a suspicious one. It was left in the office of
21 Taibe Miftari, the technical secretary, at the reception area on the
22 table.

23 Q. Where were you when that happened, when the files were left?

24 A. As I said earlier, I was in my office with Nasim and Faton
25 having coffee. I was assigning daily tasks and duties, because for

1 that day we had planned meetings with government representatives.

2 Q. How did you become aware, then, that a delivery had been made of
3 files?

4 A. At that moment, Taibe knocked the door heavily. She was very
5 scared, and I still have this scream in my ear. She thought there
6 was a bomb in the package. She said, "A masked person came and left
7 a package on my table." This is what was said at that time.

8 Q. Did you learn what the delivery man had said when he left the
9 box?

10 A. After that, we learned that he said, "I will bring you other
11 packages as well, and this one now is for those who speak on TV."

12 Q. Did you see the man who made the delivery yourself?

13 A. No. I saw that person only on camera. We have the cameras,
14 security cameras in the corridor. When you go out of the lift,
15 there's the corridor and there's the security cameras. So that's
16 where I saw him. But in person, I never saw him.

17 Q. So with Taibe telling you that a box had been delivered, did you
18 approach the box?

19 A. To tell you the truth, we were also scared now. We have to be,
20 since here this was the first time that something like that happened.
21 We approached the package very carefully and slowly. Maybe it sounds
22 like a joke to you, but with a stick we opened part of the package
23 and saw that there were documents there. So we did this because of
24 fear. We thought that there could be a bomb there. Kosovo is still
25 at risk from its enemies, so basically we thought that there might be

Witness: Hysni Gucati (Open Session)

Page 2166

Examination by Mr. Rees

1 a bomb and that could explode in the building.

2 Q. When you did manage to look inside it, did you learn what was
3 inside the box?

4 A. There were materials in the box, but we could not see them
5 because there was a white paper on top of them. And there was a note
6 with a writing, but I lost it. And on that white paper, there was
7 this note: We will bring another 7.000 files.

8 And then we took the package and brought it in my office. This
9 is the truth.

10 Q. What happened to that note, the handwritten note?

11 A. I took that white paper and threw it away in a garbage bin, and
12 I'm telling you now that it was a mistake. I should have kept it as
13 an evidence so that the Judges could see it. It was in handwriting:
14 I will bring another 7.000 files. Nothing else was written on that
15 piece of paper.

16 Q. Jumping ahead for the moment to 17 September 2020 when an SPO
17 investigator attended. If you look, please, at paragraph 15 of your
18 statement, you will see his name.

19 A. I know this person in person. I had meetings with him.

20 *[REDACTED]* Pursuant to In-Court Redaction Order F477RED. is known by
all of us in Kosovo not only from 2020

21 but from before. There is no way -- there is no need for this
22 person's name to be kept secret.

23 Q. So just pausing there. In relation to that investigator, did
24 you speak to him about that handwritten note when you saw him on
25 17 September 2020?

1 A. Yes. I personally met with [REDACTED] Pursuant to In-Court
Redaction Order F477RED. for the first time on the
2 17th. He asked me about this piece of paper, and I told him that
3 unfortunately I had thrown it away. I didn't know at the time that
4 it had any value. And I'm saying again, had I known that it would be
5 important, I would have kept it as evidence.

6 MS. BOLICI: Your Honour, if I may, perhaps counsel has omitted
7 to inform his client that names of SPO staff members should not be
8 mentioned in open court, so we would like to have this reminder for
9 the accused. Thank you.

10 MR. REES: Well, Your Honour will appreciate that I do not
11 accept that as a proposition. I'm aware of the Trial Panel's
12 position, and I see no reason why that investigator's name should not
13 be mentioned in public. But I am, as always, in the Trial Panel's
14 hands.

15 PRESIDING JUDGE SMITH: Mr. Rees, what's important is what is
16 important to the Panel, and the Panel has said not to use the names.
17 And I hope you have told your client that. And that name will be
18 taken from the record, and you may proceed.

19 MR. REES: Mr. Gucati, of course, has been present throughout
20 and has concentrated throughout and followed the proceedings and has
21 heard the Trial Panel express its position on a number of occasions.
22 And again.

23 PRESIDING JUDGE SMITH: Well, I hope that he understands it now.

24 MR. REES: Well, I'm sure he's heard Your Honour again.

25 Q. Let me take a step back then, sorry, to --

1 PRESIDING JUDGE SMITH: I'm sorry. One more thing. Please
2 redact the name from the record.

3 MR. REES:

4 Q. Sorry, Mr. Gucati, to have brought you forward to the 17th of
5 September. I'm going to take you back to the 7th, if I may. So
6 we've reached the stage where Taibe had told you that a box had been
7 delivered. It was left on a desk in the front office in her -- in
8 the reception area that she sits at. You went out to look at the box
9 as it was on the desk in the front in that reception area.

10 Did you leave the box there or did you take it anywhere else?

11 A. We brought the box to my office.

12 Q. Who was present in your office with the box?

13 A. I was present, Nasim, Faton, the technical workers who came to
14 the door just to see what was going on. If I'm not mistaken, there
15 were two or three members of the presidency. I think Cele was there.
16 So in general, workers who work there. Fatoni was there, if I failed
17 to mention his name.

18 Q. Did you look through the documents?

19 A. Very little. And the reason for that was that we were not very
20 interested. We saw the logo of KSC, we saw some documents in
21 English, some documents in Serbian. But as I said, very little. We
22 didn't have much time to go through the documents.

23 Q. Some background before we move on, Mr. Gucati. Do you read
24 English?

25 A. To tell you the truth, I don't. Very little. Almost not at

Witness: Hysni Gucati (Open Session)

Page 2169

Examination by Mr. Rees

1 all.

2 Q. Do you speak English?

3 A. No, I don't. Unfortunately, I don't speak English.

4 Q. Do you speak Serbian?

5 A. To tell you the truth, we learned Serbian in the Yugoslav system
6 and in the Yugoslav Army. When Kosovo was part of Yugoslavia, in
7 primary and secondary school, we had two lessons per week in Serbian.
8 And this is how I partly learned Serbian. And I also learned Serbian
9 in the JNA. I do understand it, not very well, but I do understand
10 it.

11 Q. So you said that you saw some documents in English, some in
12 Serbian. You didn't have much time to go through the documents. Did
13 you go through every page or not?

14 A. No, that was not possible. There were so many copies. And to
15 go through all of them, that would take us hours, days, and nights.
16 It was impossible to go through all of them.

17 Q. Did you discuss what to do with the documents with others?

18 A. Yes. With members of the leadership of the presidency, we
19 discussed what we should do with these documents.

20 Q. What did you decide to do with them?

21 A. We decided to invite the media from Kosovo to inform them, and
22 there was a very simple reason why we wanted to do this.

23 Q. What was that reason?

24 A. The reason was very simple. Since these documents came to the
25 KLA WVA, we thought that these documents could be in the hands of a

1 thug who can distribute them to other locations. So to remove this
2 burden from us, from people saying that our organisation had the
3 documents and distributed them to public locations, we decided to
4 inform the media. And that is why we called for a press conference.

5 Q. How was the press conference called?

6 A. As an organisation, we have the right to call a press conference
7 at any time. So I authorised Faton, as the secretary of WVA, to do
8 this. So Faton, through the official web page of the organisation,
9 informed the media about the time and the location of the conference,
10 of the extraordinary press conference.

11 Q. Was there a time set down for that press conference?

12 A. Of course. Usually you set the time and the place where the
13 conference will take place.

14 Q. How many members of the press attended for the conference?

15 A. To tell you the truth, I do not know the exact number. I cannot
16 take this responsibility. It's the duty of the secretary to do this.
17 But I know that the meeting room was full, maybe 12, 15, 20 of them
18 were there. I cannot give you a specific number. But there were.

19 Q. Other than members of the KLA WVA and members of the press, was
20 anybody else at the press conference?

21 A. As far as I know and as far as I remember, it was only us and
22 representatives of the media. There were no guests.

23 Q. Where were the documents themselves at the time of the press
24 conference?

25 A. At that moment, all the documents were in my office. And from

Witness: Hysni Gucati (Open Session)

Page 2171

Examination by Mr. Rees

1 my office, we took them to the conference room.

2 Q. Where were they placed?

3 A. All the documents were placed on a table. There is a recording,
4 if I'm not mistaken, showing that. Nothing was kept secret or hidden
5 from WVA. We were opening and transparent at all times. The
6 documents were all spread over the table.

7 Q. Were there copies of the documents?

8 A. From our side, there weren't. All the documents that were in
9 the box were put on the table. Maybe there were six batches
10 organised from these 9.000 or so documents that we received. It
11 wasn't in our interest to make any copies of these documents.

12 Q. So no one at the KLA WVA made any copies; is that right?

13 A. 1 million per cent correct. And this was proven by the
14 investigators of the Special Court. Those who think and say that
15 there were copies made by the WVA, that's a lie. Not a single copy
16 was made. Not a single line was copied. It wasn't in our interest
17 to make copies of the documents. And members of the SPO know best
18 how these documents leaked from their office and came to Kosovo.

19 Q. But you are saying that there were copies of the documents that
20 were already in the box as delivered to the KLA WVA; is that right?

21 A. Yes, that's right. In that box, there were copies. Where they
22 copied these documents, where they did it, that I don't know. I
23 called the representatives of the Special Court to come and check.
24 My job here is to tell you the truth and reality what I did and what
25 I spoke in front of the media.

Witness: Hysni Gucati (Open Session)

Page 2172

Examination by Mr. Rees

1 Q. Can you look at paragraph 19 of your statement, please,
2 Mr. Gucati. Can you see there you said there were four identical
3 copies of the documents? Is that right?

4 A. To what I could see and read, as I said, there were four copies
5 bound together, identical copies.

6 Q. And in the press conference, you referred to there being
7 4.000 pages. Where did you get that figure from?

8 A. We always spoke in approximate terms. We never counted. But
9 they were this thick, the batch. And this is what I said in front of
10 the media. I said about 4.000, could be less or more. So to my
11 logic, judging from the thickness of the batch, there were about
12 4.000.

13 Q. Before the conference began, was there any script that had been
14 written to be presented at the press conference?

15 A. No. Neither myself nor Nasim or the others wrote any script as
16 to what we were going to say in the conference, because we don't know
17 what the journalists or reporters were going to ask us about.

18 Q. Was there any discussion about who would speak at the press
19 conference before the conference was held?

20 A. After I had called the conference, it was up to me, being also
21 the chairman of the organisation. But at the same time, I wasn't
22 feeling very well. I took the floor, spoke about five or seven
23 minutes or even less, but I was the one who gave the opening speech
24 and the notification, the reason why we called that extraordinary
25 conference.

Witness: Hysni Gucati (Open Session)

Page 2173

Examination by Mr. Rees

1 Q. Did you expect Nasim to speak at the conference also?

2 A. Yes. I had already told him that, "You are going to speak."

3 After I spoke, I gave the floor to Nasim.

4 Q. The press conference was broadcast live; is that right?

5 A. I heard that it was broadcast live from some media outlets, but
6 there were also other portals there. Representatives from other
7 portals.

8 Q. Did the KLA WVA itself broadcast the press conference or not?

9 A. No, we don't have our own medium. We don't have any television
10 or radio, but someone might record it and broadcast it. But ours,
11 our organisation doesn't have any medium of its own.

12 Q. The press conference was recorded and you have seen, have you
13 not, a transcript of the press conference? In fact, you've watched
14 it back yourself; is that right?

15 A. Yes, afterwards. Yes, after the conference was over I saw it.

16 Q. Did you, in the course of that conference, reveal and distribute
17 confidential, non-public information?

18 A. No, it can't be so. It's never happened that I asked someone,
19 "Take this document." You can see everything in the transcript. I
20 only said that we received a package at about 9.30 or 9.40, and that
21 in this package there are documents from the Special Court. That was
22 my -- what I said. That is all.

23 Q. Did you threaten anybody during the course of that press
24 conference?

25 A. I am 54 years old, and in my life so far I have never threatened

Witness: Hysni Gucati (Open Session)

Page 2174

Examination by Mr. Rees

1 anyone, irrespective of the Serb -- only the Serb military, Chetniks
2 or police. Other than those, I have never threatened anyone else.

3 Q. Did you hear Nasim reveal and distribute confidential and
4 non-public information during that press conference?

5 A. I don't think that Nasim can fall to that level, knowing what
6 his family has gone through. Altogether, they have been subjected to
7 37 years of prison. And knowing who Nasim is, his capacity, I don't
8 think he would have done that. I don't think he might have
9 threatened any journalist, "Take this" or "make this public." At
10 least I didn't hear him do that.

11 Q. What did you think the journalists would do with the
12 information?

13 A. We thought that journalists would bring out the truth, what we
14 have always opposed the Special Court for. Because we knew that the
15 Special Court cooperated with the court -- Serbs, with some
16 criminals, with Milosevic, that was why we did that. We wanted to
17 tell the truth. We wanted to make clear why we were opposed to that.

18 We had some problems also in Kosovo. Some people were telling
19 us, "Why are you opposing this court?" We wanted to convince the
20 citizens, the parliament of Kosovo that this Court cooperates with
21 Serb criminals, especially with [REDACTED] Pursuant to Post-Session
Redaction Order F495RED, who is known
22 by the entire public in Kosovo. That was our reason. We are not
23 against justice. I have always reiterated it. I am not at all
24 against justice. I have fought for justice, because Kosovo never had
25 any justice being oppressed by Serbs. No one in Kosovo is against

1 justice, but we are against injustice. That was why we made public
2 this documentation.

3 Q. Did you anticipate any of the professional journalists present
4 threatening anybody as a result of that press conference?

5 A. I don't believe that a professional or amateur journalist or
6 myself or Nasim Haradinaj or other colleagues are so mad as to thea
7 name of a witness. When we talk to the journalists, we told them
8 that you can say that these documents are fake but not mention the
9 name of any witness, because privacy is a right that should be
10 protected. And you can see everything that I said in the
11 transcripts. I've always asked for a witness and evidence to be
12 protected and not be subjected to any misuse by anyone.

13 So we and the media maintained a very correct stand in that
14 regard.

15 Q. On the same day, 7 September, you were interviewed on
16 television, do you recall that, following the press conference?

17 A. Yes, I appeared on 7 September. I appeared in several
18 television. I don't know which one you're asking me about.

19 Q. Well, let me ask you this. Did you ever mention an Albanian
20 name in the context of that material when you were interviewed on TV?

21 A. I don't think so. I don't believe I have mentioned any names of
22 any Albanians. [REDACTED] Pursuant to In-Court Redaction Order
23 F477RED. is a name that is known by all the
24 people of Kosovo and the entire Balkan public. I am not afraid to
25 mention his name, a person who participated in the Meja massacre and
then he's called to be a witness. A person who cooperated with Serb

Witness: Hysni Gucati (Open Session)

Page 2176

Examination by Mr. Rees

1 collaborators, oppressors, and occupiers, those who committed 460
2 massacres. I cannot protect that person, [REDACTED] Pursuant to In-
Court Redaction Order F477RED. It's my
3 right to speak freely. I am in favour of this freedom of speech.
4 Maybe you are talking about this name. Among Albanians, I mean.

5 MS. BOLICI: Your Honour, in relation of the last exchange, I
6 would like to highlight that Your Honours' ruling in the morning was
7 clear about mentioning witness names. It appears that the accused is
8 ignoring the Panel's ruling. We would like to have a warning in this
9 respect not to mention names in open court.

10 PRESIDING JUDGE SMITH: There is only one name that was allowed
11 this morning, Vukcevic.

12 MR. REES: Yes, Your Honour. And Mr. Gucati heard that,
13 Your Honour.

14 I obviously asked a specific question. He did answer it. I
15 asked whether, without referring to a name, whether he mentioned any
16 Albanian name in the TV interviews, and he said that he didn't, which
17 is, in fact, accurate. Mr. Gucati, no doubt, will hear Your Honour
18 now remind him as when he expanded on his answer that he didn't need
19 to do so.

20 PRESIDING JUDGE SMITH: Mr. Gucati, we have emphasised that you
21 are not to use names. If a name is to be used, your attorney will
22 ask you specifically for the name. I don't think he's going to do
23 that, but that's how you will know. Other than that, you are only to
24 mention people by referring to them in a general way, not by name.
25 Do you understand?

1 THE ACCUSED GUCATI: [Interpretation] Thank you, Your Honour.

2 If --

3 PRESIDING JUDGE SMITH: No, I'm not asking you for a speech.

4 I'm asking you do you understand?

5 THE ACCUSED GUCATI: [Interpretation] I understand. I am not
6 going to make a speech. But I took an oath, and I have to tell only
7 the truth.

8 PRESIDING JUDGE SMITH: Do you understand you are not to mention
9 names unless you are specifically asked to?

10 THE ACCUSED GUCATI: [Interpretation] I understand.

11 PRESIDING JUDGE SMITH: Go ahead, Mr. Rees.

12 MR. REES:

13 Q. Let me ask you about this, Mr. Gucati. Do you have any issue
14 with a person telling the truth to the Specialist Chambers?

15 A. Never in my life. Not only here before this Court but in every
16 court where truth is told, I support that. We have to fight
17 injustices. We have suffered from injustices, because that led --
18 this was what led to the establishment of the Kosovo Liberation Army,
19 because we were violated in every aspect of our lives.

20 Q. Do you take an issue with a person lying to the Specialist
21 Chambers?

22 A. Everyone who comes here and lies is to be opposed. I don't
23 think there is anyone in the world who wouldn't oppose such a person
24 who comes here to tell the truth and doesn't do so. I am against
25 such a person, even if that person were my father or my mother in

Witness: Hysni Gucati (Open Session)

Page 2178

Examination by Mr. Rees

1 whose belly I stayed for nine months. I would have opposed her.

2 Q. The TV interview you gave on 7 September is, of course,
3 recorded, and you have seen the transcripts of all the recorded TV
4 appearances, and, indeed, you have seen the clips of them yourself,
5 haven't you?

6 A. Yes.

7 Q. And if you look for a moment at paragraph 22 of your statement,
8 just read that to yourself for a moment. You accept, don't you, that
9 in that TV programme on the 7th, you are shown to be showing your
10 mobile phone to the television camera? Why did you do that?

11 A. If I'm not wrong, I was -- I appeared in the RTK, which is the
12 state-owned television, and in another private one. It's true that I
13 showed my phone before the camera. In Recak massacre, the Serb
14 forces interviewed a man, an old man, and then finally they killed
15 him. They wanted to make him to lie. You have the recording for
16 that. So the Serb forces took by force a false statement by him, and
17 then at the end they killed him.

18 When I showed my telephone, I showed the person who is dead. I
19 took a statement from that -- that is from that person. That is a
20 reality. This is what I have always said. If there is genuine
21 justice, that that justice should deal with people who tell the truth
22 and not with those people who were forced to lie during the war of
23 1989 -- 1988, 1989 -- sorry, 1998.

24 Q. So you referred to victims who suffered at the hands of the
25 Serbian authorities and were pointing out the SPO wanted to

1 collaborate with those same authorities; is that right?

2 A. Since I cannot mention names, about 17 witnesses are wanted by
3 Interpol, and they are called as a witness by this Special Court.
4 These had been collaborators of Serb criminals. You have their names
5 and last names. In Meja, Prekaz, Likoshan, Izbice, Poklek, Qyshk i
6 Pejes, and many other cities of Kosovo. Over 460 massacres had been
7 perpetrated in Kosovo. This is a reality. You cannot deny that.

8 Q. Mr. Gucati, read to yourself paragraph 23 for a moment, please,
9 of your statement. You referred in the same TV programme to the
10 locations of Vranje, Nis, and Belgrade. Why did you refer to those
11 locations?

12 A. The answer will be very simple, Your Honour. If this Court was
13 established by the parliament of my country, by the members of my
14 parliament, why shouldn't this Court question the witnesses in Kosovo
15 rather than in Serbia? If they are citizens of Kosovo and the
16 victims, as this Court considers them, why shouldn't they be
17 questioned in Kosovo but be questioned in a country which is our
18 enemy of Kosovo, killed us, massacred us, violated, and raped over
19 20.000 women. That was why my opposition was about. Why wouldn't
20 this Court, being a Kosovo court, ask them in Kosovo?

21 This court is supposed to protect the interests of the citizens
22 of Kosovo. That was what my opposition was about.

23 Q. I think you said earlier that when you became aware of the
24 delivery of the box on 7 September, you thought the documents would
25 have been delivered elsewhere as well; is that right?

Witness: Hysni Gucati (Open Session)

Page 2180

Examination by Mr. Rees

1 A. Yes, that was our fear. That's why we called the press
2 conference, because we were afraid that some bad person might take
3 these documents to a third or fourth country, distribute them, and
4 blame it on us. That's why we called the conference.

5 Q. And you said that it was a complete surprise to you when the
6 delivery took place; yes?

7 A. Yes, it was the first time for this occurrence. It was the
8 first time that a package arrived at our premises without any desire
9 on our part.

10 Q. Did you know anything about how the documents had left the SPO's
11 offices and reached the offices of the KLA WVA?

12 A. To be frank, my greatest desire, my personal desire, but I
13 believe also of my friends, is to discover from the distinguished
14 Prosecutors who leaked such documents. Maybe it is one of their own
15 men. So I really wish and I have publicly called to the Prosecutors
16 of the Specialist Court to discover who that person was that involved
17 me and my -- and the War Veterans Association in this thing.

18 I consider it a trap against the KLA, myself, Nasim Haradinaj,
19 and the entire organisation, so you might as well ask this question
20 of these distinguished persons on this part here. Only one piece of
21 paper -- if such a paper leaks from my organisation, I would not
22 remain there for longer than one second. I swear to God that I would
23 present my resignation if a document leaks my office.

24 So I wouldn't comment on their work. But because of the moral
25 and work ethics, I think that this wouldn't happen. This Court,

1 Kosovo Court, is in Holland because of the security issues, and from
2 this, it turns out that there is no security at all.

3 Q. And when you called the press conference, did you want to make
4 it clear publicly that you knew nothing about how the documents had
5 left the SPO offices?

6 A. I can assure you that I have not even dreamt of such a thing
7 that such documents can leak from a super-protected court, that such
8 documents end up in Prishtine and particularly to the war veteran
9 organisations. This Court knowing very well that we are against it.
10 I have repeated it several times, and base it on very strong reasons.

11 Just one example. Why doesn't this Special Court investigate
12 the Panda case when six Kosovar Serbs were killed by Serb Chetniks?
13 Why doesn't this Court discover what was the case, why it happened?
14 That's why I have lost my trust in this Court.

15 Q. Let me take you a step back, Mr. Gucati. I'm going to ask you
16 to listen carefully to the question. Just answer the question for
17 the moment. I asked you when you called the press conference, did
18 you want to make it clear publicly that you knew nothing about how
19 the documents had left the SPO offices. What's the answer to that
20 question, please?

21 A. Yes, I wanted to make it clear that we have nothing to do with
22 these documents or the way they -- how they were leaked and ended up
23 in our organisation.

24 Q. On 8 September then, the following day, were you in the KLA WVA
25 offices?

Witness: Hysni Gucati (Open Session)

Page 2182

Examination by Mr. Rees

1 A. No. I had made plans for my summer holidays, like anyone else
2 in Kosovo who plans their holidays. So on 8 June, I had planned to
3 take my vacation in Albania by the sea. And at 5.00 at the morning,
4 I travelled towards Durrës, Albania.

5 Q. Sorry, Mr. Gucati. You said "June." Do you mean 8 September?

6 A. Yes, September. In the morning of 8 September, I travelled
7 towards Albania.

8 Q. And who did you travel to Albania with?

9 A. Myself and my wife. We went with my private car.

10 Q. And how long did you remain in Albania for?

11 A. I can mention even the hotel. It's called Fafa, at a place
12 called Shkëmbi i Kavajës. Until 14 September I stayed at that hotel.
13 On the 14th, I checked out and I went home. And on the 16th, I
14 started work again.

15 Q. Did you speak, though, to Mr. Klinaku on 8 September 2020?

16 A. Yes. Mr. Klinaku sent me a message, and the investigators of
17 this Court saw it. I called him and he answered that investigators
18 from the Special Court have arrived at the veterans association.

19 Q. Did he say anything about a document being given to him?

20 A. No. I saw the document which was the delivery document of the
21 documents. He sent me a photo of that document that the
22 investigators of the Special Court gave him, that is, to acknowledge
23 receipt of document -- of documents.

24 Q. Did he say anything to you about an order from the Court?

25 A. To my recollection, no, not on the phone. To my recollection.

1 Usually I have a good memory. It's only one year and two, three
2 months have passed. I don't believe he told me anything else. But
3 he asked me on the phone "whether I should give back these documents
4 to the investigators." I said, "Yes, it's not" -- "they are not our
5 documents, so you should deliver them to the investigators."

6 Q. In relation to the documents delivered on 7 September then, and
7 made available at the press conference, as far as you're aware, did
8 anyone else take pages of those documents other than on 7 September?

9 A. To my recollection, I am talking about 7 September, only the
10 media representatives took documents from the WVA.

11 Q. Thank you, Mr. Gucati.

12 MR. REES: That's a convenient point to break.

13 PRESIDING JUDGE SMITH: All right. We will break for lunch.
14 Please be back at 2.00. And as I said earlier, we will then go until
15 approximately 4.00 p.m. We are adjourned.

16 [Microphone not activated].

17 THE INTERPRETER: Microphone, please.

18 PRESIDING JUDGE SMITH: Did you have something to say,
19 Mr. Cadman?

20 MR. CADMAN: [via videolink] Thank you, Your Honour. Only that
21 in light of us continuing against my objections, I will need to be
22 able to arrange to speak to Mr. Haradinaj in the breaks. So I only
23 ask that the Court Management can organise for me to have a Zoom with
24 Mr. Haradinaj during the breaks [Overlapping speakers] ...

25 PRESIDING JUDGE SMITH: The Court Officer will make that

Witness: Hysni Gucati (Open Session)

Page 2184

Examination by Mr. Rees

1 arrangement. Thank you.

2 --- Luncheon recess taken at 12.30 p.m.

3 --- On resuming at 2.03 p.m.

4 PRESIDING JUDGE SMITH: Mr. Rees, feel free to continue when
5 you're ready.

6 MS. BOLICI: Just, Your Honour, for the record, Mr. Whiting is
7 not present in this session.

8 PRESIDING JUDGE SMITH: Oh, I'm sorry. I should have looked
9 around. Thank you.

10 Anybody else missing? Thank you.

11 MR. CADMAN: [via videolink] Yes, Your Honour, if I could address
12 you very briefly.

13 PRESIDING JUDGE SMITH: Yes.

14 MR. CADMAN: [via videolink] We've also lost another member of
15 our team, Ms. Chelsea Qu, our Case Manager, as her partner is now
16 displaying symptoms of COVID. And so, in the circumstances, she has
17 been sent back to the hotel. So she won't be joining almost
18 certainly for the rest of this week.

19 The other matter that I must raise is that the detention unit
20 were unable to secure a Zoom link with Mr. Haradinaj. We've been
21 trying to resolve it all throughout the lunch break, which,
22 obviously, from our position, is unacceptable that in the
23 circumstances in which we're put we cannot have any communication
24 with Mr. Haradinaj.

25 And so I would only ask, Your Honour, that whatever needs to be

Witness: Hysni Gucati (Open Session)

Page 2185

Examination by Mr. Rees

1 done is done so that we can continue to have communications with
2 Mr. Haradinaj even in these exceptional and very difficult
3 circumstances.

4 PRESIDING JUDGE SMITH: I've made inquiry and I understand
5 they're still working on that link, and it's possible, if you need to
6 have 15 minutes with him later on, on Zoom, because they get it
7 hooked up, we can accommodate that.

8 MR. CADMAN: [via videolink] Yes, for some reason there has been
9 a change in the system which has never been before. I don't
10 understand what has changed from this morning [Overlapping
11 speakers] ...

12 PRESIDING JUDGE SMITH: Thank you. I don't know that. They are
13 working on that.

14 MR. CADMAN: [via videolink] We can't -- I'm raising the
15 objection again. We cannot continue in such a way if we are not able
16 to have any communication with him, and I have to stress that very,
17 very strongly [Overlapping speakers] ...

18 PRESIDING JUDGE SMITH: Did you not have a phone conference with
19 him? Hello? Did you have a phone consultation with him?

20 MR. CADMAN: [via videolink] I did, but I couldn't patch in the
21 interpreter. It's not an appropriate way to be taking client
22 instructions, Your Honour.

23 PRESIDING JUDGE SMITH: All right.

24 All right, Mr. Rees. You may continue.

25 MR. REES:

Witness: Hysni Gucati (Open Session)

Page 2186

Examination by Mr. Rees

1 Q. So 15 September then, Mr. Gucati. You were back in Prishtine
2 and you attended the office that day; is that right?

3 A. Yes.

4 Q. When did you arrive at the office?

5 A. My usual schedule is 9.00, 9.10. At 8.30 I usually have my
6 coffee, as I mentioned earlier, just opposite the office, at the café
7 opposite the office.

8 Q. Before you returned to the office, had you noticed any
9 particular car or had anything come to your attention about you being
10 aware of somebody watching you?

11 A. I had been followed from the 16th or 17th. I know that a car
12 followed me. But the day we are talking about, 15 September, I
13 didn't notice anyone following me.

14 Q. When you got to the offices, did you discuss with anyone else in
15 the offices about cars parking in the area of the KLA WVA?

16 A. It is true that where I park my car -- my friends park the cars
17 behind the building. It's a private parking. And a worker there
18 told us that our car was photographed by two persons. So he told me
19 that my car was photographed by two persons, so it was the first time
20 that a photograph of my car was being taken by someone.

21 Q. The following day, 16 September, what time did you arrive at
22 work, please?

23 A. It could be the same -- around the same time. I'm careful with
24 work. As I said, I have a long working experience, from 1989, 1990,
25 1990, so I always was careful and responsible, paying attention to

Witness: Hysni Gucati (Open Session)

Page 2187

Examination by Mr. Rees

1 going on time to work. So unless I was sick, I always respected the
2 working hours.

3 Q. Who else was present at the KLA WVA offices that day?

4 A. Usually with staff that I work with, the cleaner, Tusha [phoen],
5 Faton, Taibe, Cele, who is chief of protocol, Cele Gashi. So usually
6 the people I work with, the technical secretary working there. So
7 these were the persons that were with me at work then.

8 Q. When did you first become aware that something unusual had
9 happened that morning?

10 A. I don't know the exact time, but it was after the 15th or 16th
11 that we became aware that we were being followed by a car. So
12 starting from 7 September onwards, I was being followed regularly by
13 a car.

14 Q. I follow that. But let's concentrate for the moment on
15 16 September 2020. At what time did you become aware that something
16 unusual had happened at the office that day?

17 A. I don't know the exact time. I can't give you that. But on
18 that day, we received a second package. We called the person in
19 question Lightning 1, 2, and 3, because that person would leave
20 immediately afterwards after leaving the packages at the KLA WVA.

21 Q. Well, let's concentrate on Lightning 2, then, for the moment.
22 How did you first become aware of Lightning 2?

23 A. It was as if in the same style. I don't know whether it was the
24 same person as the first time because I didn't see him. But he was
25 wearing a mask, glasses, a cap. And just like the first time around,

Witness: Hysni Gucati (Open Session)

Page 2188

Examination by Mr. Rees

1 he did the same thing the second time with the documentation and the
2 package. He left the box at the same location.

3 Q. Okay. Let's take this in stages, please. If you can listen to
4 the question, Mr. Gucati. How did you first become aware of
5 Lightning 2?

6 A. I became aware in my office. If you're referring to 7 September
7 events, I was in my office.

8 Q. No, 16 September. Okay. So Lightning 2, how did you first
9 become aware that something unusual was happening in the office?

10 A. I was in my office. And at Nasim's office, if I'm not mistaken,
11 there was a meeting. Taibe again came and told me that an anonymous
12 person had come and left a box at the reception area.

13 Q. Just pause there. Did you see the man who delivered the box
14 yourself?

15 A. No, because I cannot run because of my leg injury. You know
16 that I sustained an injury during the war. I have problems. I
17 cannot run. I just went up to the door of my office, to the
18 corridor, and I could not see the person. He ran away very quickly.
19 And that's why I called him Lightning 2.

20 Q. Did anyone follow the man?

21 A. As far as I know, if I'm not mistaken, but I think I'm right, I
22 know that Faton followed him up to the third floor of the building,
23 but he didn't dare go to the lower floors because this person moved
24 his hand to the waist and Faton returned for security reasons. He
25 thought that the person might be carrying something with him.

Witness: Hysni Gucati (Open Session)

Page 2189

Examination by Mr. Rees

1 Q. Carrying a weapon, you mean?

2 A. Since I didn't see him -- if someone, in general, puts his hand
3 around the waist area, he could be armed. And that's why Faton came
4 back. And myself and my colleagues, actually, scolded Faton, told
5 him that shouldn't do that for security reasons and that the police
6 is there to do those sorts of tasks, not us.

7 Q. Did you look out the window of the offices towards the car park
8 that you had mentioned a short while ago?

9 A. Yes. Behind my office is the toilet, and Faton and I went out
10 to see the car. We took a photograph. That was on my phone, and I
11 showed it to the SPO investigator. This is true. The car that was
12 following me was occupied by two persons, a man and a woman. I don't
13 know their names. But it is true that these two persons took a
14 photograph of my car and were following me.

15 Q. So the car you took a photograph of on 16 September, had you
16 seen that vehicle before?

17 A. I was suspicious about a car from earlier. I think that the
18 same car had followed me when I was coming back -- coming to work
19 from Skenderaj. In Sllatine, there is a petrol station where I
20 usually have coffee with former colleagues, and that car was parked
21 there three times. And as I said, I was regularly followed after the
22 7th, but I think even earlier they started to follow me.

23 Q. And the investigator that you showed that photograph to was the
24 same investigator that you named earlier this morning; is that right?

25 A. The investigator whose name I mentioned earlier, I met with him

Witness: Hysni Gucati (Open Session)

Page 2190

Examination by Mr. Rees

1 for the first time on the 18th, if I'm not mistaken. I cannot say
2 with certainty whether this same investigator was in the car.

3 Q. No, I didn't ask that, Mr. Gucati. I asked you to confirm that
4 the investigator you showed the photograph of the car to was the same
5 investigator that you mentioned this morning; is that right?

6 A. Yes, that's right. This investigator, I showed him the
7 photograph. I gave him the photograph from my phone to his phone.
8 So I and Faton showed this photograph to this investigator.

9 Q. What had the man delivered to the offices on 16 September?

10 A. Some materials. I don't know the exact number. A box with
11 materials belonging to the Special Court.

12 Q. Did you look inside those boxes -- sorry, the box?

13 A. Yes, I saw information, but I didn't go through them in detail.
14 I could see the titles in Serbian and in English, and I supposed at
15 the time that those were from the Special Court.

16 Q. Did you discuss with others at the KLA WVA what to do about
17 those documents?

18 A. Yes. Although I am chairman and authorised to take decisions on
19 my own, but I never do it. I never take decisions without taking the
20 advice of my friends and colleagues. So we discussed this on the
21 second occasion as well.

22 Q. And what did you decide to do?

23 A. We decided to call the media. And I authorised Faton, the
24 secretary, to do so, to invite the media at a certain place and time
25 for a press conference and inform them that our office has received

1 again documents that are unknown to us. Although, we suppose that
2 those were from the Court. Once the investigators confirmed that
3 these were, indeed, documents from the Court, we also confirmed it to
4 the media.

5 Q. Can you look at your statement please, Mr. Gucati, at
6 paragraph 36.

7 MS. BOLICI: Your Honour, I have an objection in relation to the
8 use of the statement of the accused without previously putting
9 questions to the accused in respect to the specific matter.

10 MR. REES: Your Honour, I've asked --

11 PRESIDING JUDGE SMITH: I'll overrule the objection at this time
12 based upon what the paragraph is for.

13 MR. REES: I'm using it to refresh his memory --

14 PRESIDING JUDGE SMITH: I understand you are.

15 MR. REES: [Overlapping speakers] ...

16 PRESIDING JUDGE SMITH: I understand you are and you may go
17 ahead.

18 MR. REES: Thank you.

19 Q. So, Mr. Gucati, look at paragraph 36 of the statement and read
20 that to yourself for the moment, please.

21 Now, in that paragraph it refers to two Serbian names that you
22 mentioned during the course of the press conference, and you've seen
23 the recording of the press conference and the transcript from it. So
24 without talking about referring to the names, who did you
25 understand -- or, rather, what role did you understand those two

Witness: Hysni Gucati (Open Session)

Page 2192

Examination by Mr. Rees

1 Serbian names to play?

2 A. If I'm not allowed to mention these names publicly, I can tell
3 you that these are well known to the Kosovo public and Serbian public
4 because of their acts in Kosovo. And this was the reason that I
5 mentioned the names of these two men, Serbian Chetniks, who committed
6 massacres in Meja, Gjakove municipality.

7 Q. So help us again with this: What offices do they hold?

8 A. I know that these two men are public figures at that time. I
9 don't know what they do currently. But at the time, and as far as I
10 remember, they were both in uniforms. One of them, if I'm not
11 mistaken, was a chief of police.

12 Q. So both public officials. And did you think they were
13 witnesses?

14 A. When we saw the names on the documents, we thought that they
15 could be witnesses. One was a worker in the Serbian war crimes
16 court. So we thought that we did not do anything in violation with
17 the law because these were public Serbian officials, and that's why
18 we mentioned their names.

19 Q. How were you feeling during the course of that press conference?

20 A. During the second conference, and not only myself but my friends
21 will confirm this, I interrupted the conference on two occasions. I
22 wasn't feeling well. Taibe brought me water. And this can be seen
23 on the camera. I had not used the therapy for my leg for a long
24 time, and I was in great pain. But as it was the innocence of
25 myself, of my friends, and of the entire organisation in question, I

Witness: Hysni Gucati (Open Session)

Page 2193

Examination by Mr. Rees

1 thought it necessary to come out and -- for the press conference.

2 Q. In relation to the documents themselves, can you tell us what
3 language they were in?

4 A. If I'm not mistaken, the second box brought by Lightning 2, most
5 of the documents were in Serbian and in English.

6 Q. Did you recognise what any of the documents were about?

7 A. Some were documents of the ICTY Limaj case. So these were
8 documents of the former war crimes tribunal for Yugoslavia.

9 Q. The following day then, 17 September, you returned to the
10 office; is that right?

11 A. Yes, as usual.

12 Q. Two investigators from the SPO and an independent observer
13 arrived at the offices; is that right?

14 A. Yes, correct.

15 Q. Do you recall what time that was?

16 A. I believe after 10.00. It was after 10.00 when these two
17 persons came to my office. Much after 10.00.

18 Q. One of the investigators was the investigator that you have
19 previously named and you told us you showed the photograph to; is
20 that right?

21 A. Yes, the investigator that is known to us, to you, and to the
22 entire public opinion, and that is not an issue because we don't have
23 anything personal against him. So I will not mention his name. He
24 came to my office and I spoke to him in Albanian, and he spoke very
25 good Albanian.

Witness: Hysni Gucati (Open Session)

Page 2194

Examination by Mr. Rees

1 Q. He spoke Albanian. The other investigator didn't. He was a
2 Swedish officer; is that right?

3 A. Yes, Swedish.

4 Q. And your conversation with the first officer, that was in
5 Albanian only; is that right?

6 A. Yes, correct.

7 Q. The Albanian-speaking officer, did he say to you that he had
8 been following the news?

9 MS. BOLICI: Your Honour, I've not been objecting so far to a
10 number of leading questions that have been put by counsel. But now
11 they are only leading questions being put, so I will object from now
12 on to this kind of formulation.

13 PRESIDING JUDGE SMITH: Please don't lead the witness, Mr. Rees.

14 MR. REES:

15 Q. What did the officer, the Albanian-speaking officer, say about
16 the news to you?

17 A. The honoured officer, during the first meeting, greeted me,
18 "Good morning," "Good morning," "Are you Hysni Gucati?" "Yes, that's
19 me." He entered the office, sat. I offered him a coffee. Since we
20 Albanians, it's our tradition when somebody comes to see you we offer
21 them coffee. So we started the conversation, and he said, "Last
22 night, I heard on the news that a second package arrived at KLA WVA
23 offices."

24 And there's no need for the lawyer to lead me or tell me what to
25 say, Your Honours.

Witness: Hysni Gucati (Open Session)

Page 2195

Examination by Mr. Rees

1 Q. Did he say anything about names?

2 A. I would like to thank him very much. The person said, "I thank
3 you and your staff for never mentioning any names of Albanian
4 witnesses." That was explicitly what he said in Albanian, this
5 *[REDACTED] Pursuant to In-Court Redaction Order F477RED.*

6 Q. What did you discuss with him about the people who had delivered
7 the documents to the KLA WVA premises?

8 A. He suggested to me that, "If another package arrives, you would
9 do good to tell us," and that he suggested that we don't deal with
10 these documents and not make them public. He told all this to me
11 orally. And that to be very careful with their names and their
12 statements. My answer was, "We are not investigators. We are not
13 police. We don't work in the Special Court, and it's not our duty to
14 protect the documentation of anyone. Every person, every institution
15 has a duty to preserve their own documentation and to protect them."

16 Q. So what did you discuss with the Albanian-speaking officer about
17 the people who had delivered the documents to the KLA WVA premises?

18 A. I asked them for their assistance. I told them, "Come and
19 discover who the person is, who is bringing the documents, where are
20 they leaking from." He replied that, "It's not in my power to do
21 that without taking any orders from above," about the person who
22 brings these documents to the WVA.

23 Q. Did you make any suggestion to him as to how he might catch the
24 people responsible?

25 A. Yes, because the place where we live and work, it's not a big

Witness: Hysni Gucati (Open Session)

Page 2196

Examination by Mr. Rees

1 place. It's not a European capital, Berlin or London, or a city of
2 millions of people. It's a small place. In that premises where we
3 are, there is only one road where cars pass by. So it was very easy
4 for any policeman or investigator to check on that part to find out
5 where -- who is bringing those documents, because there are CCTV
6 cameras everywhere.

7 Q. Do you have CCTV at the KLA WVA offices?

8 A. Yes, it's true. We do.

9 Q. Did you invite the Albanian-speaking investigator to take the
10 CCTV recordings?

11 A. Yes. Faton is the first person who told him, "If you are
12 interested, here it is, the CCTV. So you can take any material that
13 you want." He said, "It's not in my power to get any recordings
14 without asking my superiors."

15 Q. Did you discuss with the Albanian-speaking investigator passing
16 the files to him?

17 A. The Albanian-speaking officer said that, "We are here to get the
18 files," and we said to him that, "You can't get them without the
19 presence of Kosovo police."

20 Q. What did he reply to that?

21 A. I'm saying exactly what he said, quote, he said: "You can keep
22 these documents for one more month in your office, but the Kosovo
23 police cannot come and be here -- be involved," you know, regarding
24 these documents.

25 Q. Who else was present during this meeting with the

Witness: Hysni Gucati (Open Session)

Page 2197

Examination by Mr. Rees

1 Albanian-speaking investigator?

2 A. You mean from our organisation or from the investigators?

3 Q. From your organisation.

4 A. It was myself, Hysni Gucati, Nasim Haradinaj, Faton Klinaku,
5 Metush Kryeziu, and Pren Marashi, if I am not mistaken. So we were
6 there members of the presidency of the leading council.

7 Q. Did the Albanian-speaking investigator take the documents at the
8 end of the meeting?

9 A. After Tome Gashi, who is the lawyer of our organisation, and I
10 want to thank him for what he's done for our organisation, and on his
11 advice, in his presence, we agreed to hand over these documents to
12 them.

13 Q. So he attended at the offices, gave advice, and you handed the
14 documents over. There was then a short interview at which you were
15 present when Tome Gashi spoke to members of the press; is that right?

16 A. Yes, Tome Gashi and myself appeared before the media and spoke.
17 That's correct.

18 Q. On 22 September, you were back in the office; is that right?

19 A. Yes.

20 Q. When did you become aware of a third delivery of documents to
21 the office?

22 A. On 22 September, there was not a package. From the camera, from
23 what I saw, I saw a person coming out of the lift, and he dropped the
24 documents on the corridor. There were not so many. Maybe hundreds
25 of them. He left them on the corridor on the floor. I suppose you

1 may see them in the recording. It's very clear, how he came out of
2 the lift and left -- dropped the documents on our corridor, on the
3 floor.

4 Q. How did you become aware that that had happened?

5 A. From those who work in our organisation, because I was in my
6 office waiting for someone to come, and then they informed me. My
7 staff informed me of that.

8 Q. Who else was present at the KLA WVA offices that morning when
9 the third delivery took place?

10 A. To my recollection, all the staff, because after such sudden
11 events came, then all the staff came to the office. So I may make
12 mistakes regarding who, the names of them, but I know Faton, the
13 cleaning maid, we -- all of us were there.

14 Q. Was anybody who was not part of the KLA WVA organisation present
15 when that third delivery was made?

16 A. Maybe, yes. If you could remind me of that part.

17 Q. Have a look at paragraph 46 of your statement and read that to
18 yourself for the moment.

19 A. Yes, it is correct. In Nasim's office, there were
20 representatives from the German KFOR in the context of our regular
21 meetings. Haradinaj was responsible for keeping contacts with KFOR
22 representatives in Kosovo.

23 Q. Did you see the male who made the delivery on the third
24 occasion, Lightning Strike 3?

25 A. No. To be frank, no. I saw him only through the CCTV

Witness: Hysni Gucati (Open Session)

Page 2199

Examination by Mr. Rees

1 recording.

2 Q. Could you hear anything on the CCTV recording?

3 A. Yes, you can hear something. I'm not good at these technical
4 devices as someone who works with them, but I saw it. The
5 investigators also saw the recordings, [REDACTED] Pursuant to In-Court
Redaction Order F477RED. investigator
6 [overlapping speakers] ...

7 MS. BOLICI: Your Honour, if possible, it's the third time that
8 the accused keep repeating the name of the investigator after being
9 warned, so I would ask again to remind the accused not to repeat
10 names of staff members in public.

11 PRESIDING JUDGE SMITH: Thank you.

12 Mr. Gucati, once again we remind you, as the Prosecutor has
13 pointed out, that you are not to use those names. When you do, we
14 have to go and redact it from your testimony. So please pay
15 attention and do not use the name.

16 THE ACCUSED GUCATI: [No interpretation].

17 MR. REES:

18 Q. What did the man who made the delivery on the third occasion,
19 Lightning Strike 3, say when he made the delivery?

20 A. I didn't hear it from close up but from others. He said that,
21 "In the future, I am going to bring discs." As to where he would get
22 these CDs, I don't know. But this is what he said: "In the future,
23 I am going to bring you CDs."

24 Q. Did you consider the material that he had brought that day with
25 others at the KLA WVA?

1 A. To be frank with you, we didn't look very thoroughly at them.
2 But the German KFOR also looked at them in my office. Yes, we looked
3 at part of them but -- maybe some 20 pages, because it was clear that
4 -- what it was about. It was the indictment against Mr. -- the
5 president then, Mr. Thaci.

6 Q. Did anyone take images of the documents at that stage?

7 A. No, only the German KFOR took photos. I don't remember anyone
8 else.

9 Q. And what did you decide to do with the documents?

10 A. The same thing as we did during the first and second case. We
11 held a press conference. We laid them out on the table. The media
12 representatives were there. They took photos. The same routine.

13 Q. Other than members of the KLA WVA and the journalists, was
14 anybody else present at the press conference?

15 A. I am not responsible to look at that aspect of our work. It's
16 our secretary. I had to play my role as chairman. I didn't notice
17 anyone and nobody told me that there was anyone else other than the
18 media representatives.

19 Q. Was anything prepared in writing ahead of the press conference
20 to be read out at the press conference?

21 A. No, no. Usually when we invite the media, we don't prepare
22 anything in writing because we don't know what questions we shall be
23 asked by the media. So we spoke orally what we thought we should.
24 We didn't have anything written.

25 Q. Where were the documents placed?

1 A. You can see it very clearly. Documents are placed on the table.
2 We were transparent. We didn't want to hide anything. Not a single
3 piece of paper, not a line. Whoever wanted to would get any
4 documents that were there.

5 Q. Were many pages taken by the journalists?

6 A. To be frank, I don't know how many. I can't say. Some of them
7 remained there with us, and I don't know which of the media outlet
8 got what. It was not part of my work to look at that. I was
9 interested only to hear the questions and to respond to them.

10 Q. Did you see cameras in the possession of the media
11 representatives?

12 A. The hall was full of cameras. There were many representatives.
13 I believe that there were also foreign media outlets represented
14 there.

15 Q. Did anyone from the SPO attend?

16 A. As far as I remember, no. No, I don't think so.

17 Q. How long after the press conference, then, did the SPO
18 investigators attend?

19 A. I think some 30 minutes after we concluded the press conference,
20 then the same investigators came to the KLA WVA.

21 Q. So the Albanian-speaking investigator, the Swedish investigator
22 attended again shortly afterwards. Were there any members of the
23 press still present at that stage?

24 A. I can say that there were about 70 per cent of those present at
25 the press conference when the investigators came. You have the

1 transcript. You have the recording. It happened at the corridor of
2 the organisation. There were Kosovo and foreign media
3 representatives.

4 Q. Were you speaking to members of the press when you became aware
5 that investigators from the SPO had re-attended the offices?

6 A. Initially, the investigators came to my office, and the media
7 followed suit, but I sent them out because the investigators didn't
8 want to speak in the presence of the media. And then we discussed
9 together. Faton, Nasim, and some other colleagues and me talked with
10 them.

11 Q. What happened to the material from the press conference? Did it
12 remain with you or did the SPO officers take it?

13 A. After a debate we had with them - and I want to thank again our
14 counsel - we agreed to hand over to them the remaining documents.
15 There were about 150 pages or more, but not many. So all the
16 material that was there was taken over by the investigators of the
17 Special Court.

18 Q. On 25 September, then, you were present when officers of the SPO
19 attended again at the KLA WVA offices; is that right?

20 A. I will never forget this date or the hour or even the minutes of
21 that hour. I won't forget 25 September. It was a Friday. Not
22 because I was afraid, not because I felt guilty or anything, but
23 because of the way that they came and approached us at the KLA WVA.

24 Q. What was it about the way that they came and approached you that
25 was unforgettable?

1 A. On 25 September they came without any warning. There were about
2 60 armed forces of the EULEX special unit together with the
3 Albanian-speaking investigator and Mrs. Pumper, who led the
4 operation. They came to my office. About eight persons came to my
5 office. All of them were carrying long-barreled weapons and snipers.
6 At that moment, I was with a distinguished guest there, the director
7 of the Institute of History of Kosovo.

8 Q. You said that on the 25th they came without warning. Can I take
9 you back, please, to 17 September. Did you know that the
10 Albanian-speaking investigator was to attend the KLA WVA offices that
11 morning?

12 A. No, I didn't.

13 Q. So did you have warning before they attended on the 17th or not?

14 A. No, I didn't.

15 Q. Back to the 25th, then. The SPO officers that had attended at
16 the offices, did they say why they were present?

17 A. They told me that I was under arrest. They showed me a summons,
18 telling me that from this moment I was arrested by the Specialist
19 Court. That's all they told me.

20 Q. Who else was present when you were arrested?

21 A. Myself and the director of the Institute of History of Kosovo.
22 The others were in their respective offices.

23 Q. What did they say their intentions were in relation to the
24 offices themselves? Did they say they were going to do anything in
25 the offices?

1 A. After showing me the arrest warrant, they showed me another
2 document which, according to them, they -- entitled them to search
3 the offices, and that I would invite Tome Gashi to be present during
4 the time that they were going to search the organisation, including
5 Nasim Haradinaj.

6 Q. Did they say whether you were allowed to be present during the
7 search?

8 A. No. They told me, "You cannot be present here because you are
9 arrested." And after some 40 minutes, if I am not mistaken, they
10 removed me from my office and took me to the office of
11 Nasim Haradinaj, deputy chairman.

12 Q. Tome Gashi was subsequently present during the search; yes?

13 A. Yes, Tome Gashi and Faton Klinaku were present, both.

14 Q. But you were taken away and transported to The Hague; is that
15 right?

16 A. Yes, I was taken away and taken to the Prishtine airport, to a
17 detention centre there. And from there, they took me -- brought me
18 to The Hague.

19 Q. Do you support justice?

20 A. I and my own comrades and all the members of the KLA, headed by
21 the legendary commander Adem Jashari, have reported injustices and
22 have fought for justice to be brought to Kosovo, and I am very much
23 in favour of justice. Even if I lived 100 more years, I have
24 declared and declared that I won't support this Court, but I will
25 support justice up to the last day of my life, because I know what

1 justice means and that's why I will support it.

2 Q. At the start of this trial, you heard the Specialist Prosecutor
3 say that it was okay to criticise this Court and to say why. Tell us
4 why you criticise this Court.

5 A. If we have fought for a different opinion and for the free
6 speech, I am entitled to do so. My opinion and that of my friends
7 and of the citizens of Kosovo is that this Court is collaborating
8 with the enemy of my country, of my nation, with Serb criminals who
9 are wanted by Interpol, and this is why we oppose this Court.

10 Why doesn't this Special Court discover massacres perpetrated in
11 Kosovo in Likoshan, Cirez, Rrezalle, Izbice, and many, many other
12 places, a total of over 460 massacres. If this Court brings me and
13 others like me and fails to discover the perpetrators of these
14 crimes, I won't support it. So this Court has not convinced me and
15 my friends that it is discovering such crimes.

16 How can I support it when it is one-sided? Let the Prosecutor
17 of -- Jack Smith of the Special Court tell me that in the whole world
18 there is such a court, then I will have to pay for what I am accused
19 of.

20 Q. Do you accept that you acted unlawfully during that period from
21 7 September to the end of September 2020?

22 A. I don't believe I've acted unlawfully. I have not read the
23 statements of any witnesses. I haven't mentioned any witnesses,
24 other than those two, three Serb public officials who work in Serbia.
25 So I believe that I am fully innocent. Me, myself, and my friend

Witness: Hysni Gucati (Open Session)

Page 2206

Examination by Mr. Rees

1 Nasim Haradinaj, we have upheld the interests of our citizens, of our
2 nation, of our country. So I am repeating that I don't think we are
3 guilty in this regard.

4 Q. Did you threaten any witness during that period commencing from
5 7 September to the end of the month?

6 A. No, not me, as Hysni or as the chairman of the veterans. But
7 none of my colleagues, none of the members of the presidency, neither
8 Haradinaj or Klinaku, have said that we have mentioned them. None of
9 them. Let them come here and tell me that we have threatened them.
10 I call on all these witnesses that have lied. Let them come and tell
11 me in my face that, "You or Nasim Haradinaj have threatened me." I
12 feel entirely innocent regarding this.

13 Q. Did you retaliate against anyone for giving evidence?

14 A. Never in my life have I retaliated against anyone. This is not
15 the tradition in my family or in myself. I was wounded in 1999.
16 Serbs live in Kosovo. I have never thought of retaliating against
17 anyone. It's not part of my mentality or my family's mentality.

18 Q. Did you take actions to harm witnesses or set out to?

19 A. I don't think I have undertaken any deliberate actions to harm
20 any witnesses. I have only declared these documents without
21 mentioning any names. In all television appearances, I have declared
22 that these documents have leaked from the Special Court. I have
23 wanted to convince the public as to what we have declared, that this
24 Court is collaborating with criminals who have been against my nation
25 and country.

Witness: Hysni Gucati (Open Session)

Page 2207

Examination by Mr. Rees

1 Q. Did you reveal the identity of any witness?

2 A. Again I'm saying if there is any witness that thinks that myself
3 or Haradinaj have revealed any names of Albanian or Roma or Turkish
4 or Bosnian witness living in Kosovo, let them come and face me
5 directly. That is my answer.

6 Q. Well, let's -- give us a direct answer: Did you reveal the
7 identity of any witness?

8 A. Only [REDACTED] Pursuant to In-Court Redaction Order F477RED.
Vukcevic. These are the names that I have
9 revealed. These are -- [REDACTED] Pursuant to In-Court Redaction
Order F477RED. is a member of parliament,
10 chairman of the commission on all crimes in Serbia. Vukcevic was a
11 prosecutor of the special court for war crimes. So these -- I have
12 mentioned the names of those who have -- these three were commanders
13 of the forces that committed massacres in Kosovo, so they were three,
14 four Serb names. Others, I've never mentioned.

15 Q. Did you intend to induce any witness to refrain from making a
16 statement?

17 A. No. Many veterans have told me that they have been invited to
18 give testimony here. I have never told any one of them not to come
19 and testify. In Epoka e Re newspaper, I have called on these
20 witnesses that, for the sake of the wars, martyrs, to cooperate in
21 order to discover those who have committed crimes. You have the
22 newspaper, you have the article there, and everywhere that I have
23 spoken.

24 Q. Did you put pressure on journalists to reveal or publish any
25 confidential material?

1 A. Never in my life. I did not pressure a single journalist. Ask
2 all the journalists who I know whether I or Nasim Haradinaj or our
3 organisation in general has exercised any pressure on them, and you
4 will get the answer.

5 Q. Did you think by informing the press in those conferences about
6 the materials, that that might have a negative effect on witnesses?

7 A. Frankly, I didn't think at the time. I did not read their
8 statements, and I didn't think that I would cause any harm to them or
9 to the Special Court. I did not read a single personal detail of
10 them, name, address or town or village where they lived. I never
11 mentioned any detail in any appearances on TV or media. That should
12 remain in the conscience of those who have alleged that or in the
13 conscience of this Court. I personally have nothing to do with
14 revealing any personal details of witnesses.

15 Q. Have you ever sought to bring anybody to harm in relation to
16 these documents?

17 A. I remain convinced that I never intended nor I ever harmed any
18 potential witness of the Court. It's not in my personal interest or
19 the interest of the KLA WVA to cause any harm to any witnesses of
20 this Court, so we did not even think about this.

21 Q. When the Specialist Chambers were created, what was your
22 understanding as to cooperation between the Specialist Prosecutor's
23 Office and Serbian authorities? What did you understand to be the
24 position?

25 A. We heard in 2015 that a special court would be created, and we

1 thought that that court would be for the benefit of all the citizens
2 of Kosovo. We believed that this court would uncover all the crimes
3 committed in Kosovo, and the opposite happened. And that happened
4 against our will. And we were convinced that this special court is
5 to our damage, that it cooperated with Serb criminals.

6 Q. Did you threaten any SPO member of staff in that period in
7 September last year?

8 A. No. Unfortunately, because I'm again kind of urged to mention
9 the name, but I will not mention the name of the witness. I am
10 alive, Nasim is alive, and all the others are alive. If any SPO
11 investigator feels threatened by me or Nasim, why don't they come to
12 this Court and tell me in my face that, "I feel threatened by Gucati
13 or Haradinaj or anybody else." We never intended, and we still do
14 not intend, to impede the work of the Specialist Court.

15 Q. What is your concern about the KSC and the SPO receiving
16 evidence that has come from Serbian authorities?

17 A. There are many arguments and facts why we are concerned about
18 the work of the KSC or SPO. This Court was established by my
19 country, by the MPs of my parliament, and by the Government of
20 Kosovo. So it would be good that this Court deals with all the
21 victims and not criminals who lie, produce fabrications in their
22 statements, took the witness and killed him. There was a concrete
23 case that I mentioned, the person in Recak, and that person's
24 statement can be used here. So this was our main concern, that this
25 Court collaborated with such persons who took statements from elderly

1 people and forced them to say untrue things.

2 So if this Court worked with victims, supposed victims, or with
3 our people, and if these people are interviewed in my country, then I
4 would trust this Court. But if the witnesses are taken to Serbia, to
5 a country that had occupied my country, my people, and was against my
6 country and people, then I cannot trust this Court.

7 Q. And if Lightning Strike 1, 2, and 3 had not delivered the
8 documents to the KLA WVA, saying, "Make them available to the people
9 who speak to the TV," would you have called those press conferences?

10 A. No, because it wasn't my responsibility to do that. Had those
11 documents gone to different media, I wouldn't have done that. I
12 would have maybe just reacted and said, "Thank God the truth has come
13 onto surface."

14 Q. Thank you, Mr. Gucati. If you wait there, there will be some
15 more questions from the SPO for you.

16 MR. REES: I should say, we do tender the statement for
17 admission under Rule 154.

18 PRESIDING JUDGE SMITH: All right. We'll defer admitting that
19 until the end of the cross-examination. Thank you very much,
20 Mr. Rees.

21 Ms. Bolici.

22 MS. BOLICI: Your Honour, just for confirmation, that the SPO is
23 going to start with the cross-examination and not the counsel for the
24 co-accused? I believe that in the Order on the Conduct of
25 Proceedings, it was indicated that the counsel for the co-accused

Witness: Hysni Gucati (Open Session)

Page 2211

Cross-examination by Ms. Bolici

1 would start, but I'm happy to start if you consider it's best.

2 [Trial Panel confers]

3 PRESIDING JUDGE SMITH: Mr. Cadman, given the circumstances, I
4 don't know what your answer might be, but do you want to do any
5 cross-examination of Mr. Gucati?

6 MR. CADMAN: [via videolink] Your Honour, considering I've not
7 been able to take any proper instructions from my client, and I don't
8 have any access to my client, I would ask that you direct the SPO to
9 ask their questions first. And if I have any follow-up questions, I
10 will ask them afterwards.

11 PRESIDING JUDGE SMITH: Is that all right with you, Ms. Bolici?

12 MS. BOLICI: It's all right with us. Yes, thank you.

13 PRESIDING JUDGE SMITH: Mr. Rees, you have no objection? All
14 right.

15 All right. Go ahead, Ms. Bolici.

16 MS. BOLICI: Thank you.

17 Cross-examination by Ms. Bolici:

18 Q. Mr. Gucati, good afternoon. In the morning of 7 September, you
19 didn't know that documents were going to be delivered to the KLA; is
20 this correct?

21 A. Correct.

22 Q. And you had no conversation with anyone beforehand about the
23 delivery of the documents?

24 A. No, I was in my office when the documents were brought.

25 Q. You personally did not speak with the person who delivered the

Witness: Hysni Gucati (Open Session)

Page 2212

Cross-examination by Ms. Bolici

1 documents?

2 A. I wish I did speak to the person and knew that person so that I
3 could bring him here right before you.

4 Q. But you did not; is it correct?

5 A. I think I answered your question. If I knew that person, I
6 wouldn't be the one standing here at trial but that person would.

7 Q. And Ms. Taibe Miftari reported to you what this person has said,
8 and the only thing that this person has said was to bring the box to
9 the person who speaks with the media; correct?

10 A. Yes, correct. That's what I said earlier.

11 Q. And similarly, in the morning of 16 September, you did not know
12 that documents were going to be delivered to the KLA War Veterans
13 Association; is it right?

14 A. To tell you sincerely, that's correct. I didn't know.

15 Q. And you did not speak with the person who delivered the
16 documents?

17 A. No.

18 Q. You only saw the back of this person as he was leaving?

19 A. Very little. Very little.

20 Q. And at this time, Ms. Taibe Miftari told you that this person
21 had not said a word to anyone; it's correct?

22 A. As far as I remember, he didn't. That's correct.

23 Q. And again on the morning of 22 September, you did not even see
24 the person who delivered the documents; right?

25 A. Only through cameras. Otherwise, I didn't see that person.

Witness: Hysni Gucati (Open Session)

Page 2213

Cross-examination by Ms. Bolici

1 Q. You did not speak with him?

2 A. Never in my life. I don't know him.

3 Q. And you were told that he said that the next time he would bring
4 compact discs; correct?

5 A. Yes, correct.

6 Q. Who told you so that he would -- he said that he would deliver
7 compact discs the following time?

8 A. They were colleagues who were at Taibe's office, and on the
9 third occasion he threw the documents on the ground in the corridor.
10 He just came out of the lift, threw the documents on the ground, and
11 left.

12 Q. Who told you that he said that the next time he would bring CD?

13 A. I told you the colleagues, Taibe and other colleagues who were
14 there present having coffee in the office, and the office is opposite
15 to the lift. And you can see this in the recording as well, that he
16 just came out of the lift and threw the documents. You can see this
17 in the recording, video recording.

18 Q. So Taibe told you that this person said, "The next time I will
19 bring CD"?

20 A. Just a moment. She did not say this directly to me. There were
21 three, four colleagues, together with Taibe, who said this person,
22 this gentleman who threw the documents on the ground said that next
23 time he will bring CDs. I did not say that she addressed me
24 directly.

25 Q. So how did you learn this information?

Witness: Hysni Gucati (Open Session)

Page 2214

Cross-examination by Ms. Bolici

1 A. From the friends that were there. I told you.

2 Q. Okay. Besides Taibe, who else?

3 A. Faton and other friends who worked there, the cleaning lady, the
4 technical secretary. So four or five people. They were all together
5 in Taibe's office.

6 Q. Did Cele Gashi tell you that this person said that he would
7 bring CDs the next time?

8 A. I didn't hear Cele say that.

9 Q. Do you recall who did you hear say that?

10 A. I really apologise, but this is becoming too much. I'm telling
11 you frankly some persons, together with Taibe, said this and this.
12 I'm not making this up. You asked me the same question two, three
13 times, and I answered it. But you can go on and ask it as many times
14 as you wish.

15 Q. And was Taibe present when you were told that the person said
16 that he would bring CDs the next time?

17 A. I told you Taibe and other friends were there, and four, five
18 other people were there.

19 Q. So she was there when you learned this information; correct?

20 A. Taibe, a technical secretary, she worked from 9.00 in the
21 morning. Of course she and the others were at work. The person who
22 came and brought the documents threw them on the ground, told them
23 that next time he would bring CDs. And there's no reason for me to
24 lie to you or to say something else. This is what I was told.

25 Q. Okay. So Taibe also heard this information, I understand, from

Witness: Hysni Gucati (Open Session)

Page 2215

Cross-examination by Ms. Bolici

1 your answer. Just to be --

2 A. No, that's not true that only Taibe. There are six other
3 persons, including Taibe. So please don't change my answer or your
4 question. I did not say that Taibe told me this. I said that there
5 was Taibe and four, five other persons who heard that.

6 Q. Thank you for the clarification. My question is Taibe was
7 present when you learned this information; is this correct?

8 A. As I said, Taibe and five or six other persons.

9 Q. Thank you. So to be clear, on the three occasions when the
10 documents were delivered to the KLA War Veterans Association, you had
11 no conversation with the person delivering the documents either
12 before or during the delivery; is this correct?

13 A. Can you please repeat your question?

14 Q. In all the three occasions when documents were delivered at the
15 KLA War Veterans Association, you had no conversation with the person
16 who delivered the documents? You didn't speak with him; is it
17 correct?

18 A. If you are referring to the person who delivered the documents,
19 as I said earlier, I don't know that person, I did not speak to that
20 person, and I had never seen that person in my life except for seeing
21 them on the camera with a mask.

22 Q. Thank you. And you had no conversation with anyone who claimed
23 to be responsible for delivering these documents; is this correct?

24 A. No, no.

25 Q. Thank you. And with respect to all the three deliveries, you

Witness: Hysni Gucati (Open Session)

Page 2216

Cross-examination by Ms. Bolici

1 said you held a meeting with Nasim Haradinaj, Faton Klinaku, and the
2 other close members of the KLA War Veterans Association committee who
3 were present and decided each time to call a press conference;
4 correct?

5 A. Very correct.

6 Q. You discussed what would be the best course of action and you
7 took your decision; is this correct?

8 A. What I said earlier, I will repeat it again. It was our right
9 and --

10 Q. Mr. Gucati --

11 A. -- being afraid that these documents could have fallen in the
12 hands of --

13 Q. Yes, Mr. Gucati. It's a simple question. You discussed what to
14 do among yourselves and you decided what to do; is this right?

15 A. We discussed what to do with the documents and decided to invite
16 the general opinion and media and inform them that we had been
17 delivered certain documents that we suppose belong to the
18 Special Court.

19 Q. And nobody forced you into calling the press conferences and
20 sharing the documents with the media; is this correct?

21 A. Only God can force me to do something. I'm the chairman of that
22 organisation, and not a single person can force me to hold a press
23 conference on certain issue. Only God can order me to do that, if
24 you believe in God.

25 Q. And nobody had to persuade you to call the three press

Witness: Hysni Gucati (Open Session)

Page 2217

Cross-examination by Ms. Bolici

1 conferences and share the documents with the press; is this correct?

2 A. I will say it again. I'm the chairman of WVA. I have two
3 deputy chairmen. So nobody can convince me to do this or that. I
4 can get the advice of friends from within the organisation or outside
5 the organisation.

6 Q. Thank you. And who is the second deputy chairman of the KLA War
7 Veterans Association?

8 A. First of all, I wish him good health. It's a comrade of ours.
9 He had a stroke. Migjen Shala is his name, and I wish him a quick
10 recovery. His left side has been paralysed. It's Migjen Shala. I
11 respect him for his work and deeds for the WVA.

12 Q. And he was not present on the 7th, 16th and 22nd of September,
13 was he?

14 A. I don't think he was present on the 7th. On the 16th, he was.
15 He fell ill at the end of 2020. So every now and then he would -- he
16 comes to the offices. His sons would bring him so that he can have
17 somebody to socialise with. Although, he's not in a very good
18 condition, health condition.

19 Q. And on 16 September, he was present in the course of the
20 discussion about what to do with the documents. Can you confirm
21 that?

22 A. I'm not sure. I cannot confirm it. But Migjen could have been
23 there. Any of your investigators can visit him. He is ill. He
24 cannot walk. He cannot hear. He cannot speak. So I cannot give you
25 a direct answer about Migjen because he is ill.

1 Q. Okay. You don't have a clear recollection on which occasions he
2 was present?

3 A. Migjen was present the day of my arrest. He was at that café
4 near the organisation. And if I'm not mistaken, he was also present
5 on the 17th or the 22nd September. I may be wrong, but I know that
6 he was in the month of September in the offices of the organisation.

7 Q. Thank you. And, Mr. Gucati, after each of the three deliveries,
8 you and Mr. Haradinaj publicly stated that you would publish and
9 disseminate any materials that would arrive to the KLA War Veterans
10 Association; is this correct?

11 A. I don't know what -- how you understand the dissemination. But
12 myself and Nasim Haradinaj did not disseminate any documents. We
13 left them in our organisation. And when the media was there, we did
14 not say to a journalist, "Take them." So we had no interest to
15 disseminate documents to anybody.

16 Q. Mr. Gucati, after the three deliveries, did you publicly state
17 that any time materials from the SITF, SPO, Specialist Chambers would
18 be delivered to the KLA War Veterans Association, you would make it
19 available to the press? Did you?

20 A. If need be, I will repeat it for the umpteenth time. I am not
21 responsible for the documents that have leaked your office. Every
22 time they come --

23 Q. Mr. Gucati --

24 A. -- I will make them public.

25 Q. Okay. Yes. So every time they come, you would make them

Witness: Hysni Gucati (Open Session)

Page 2219

Cross-examination by Ms. Bolici

1 public. And you stated several times to the media that every time
2 documents would be delivered to the KLA War Veterans Association, you
3 would make them public; correct?

4 A. I gave my answer.

5 Q. Did you state it to the media between the 7th and 22nd
6 September? Did you say to the media that you would make public
7 documents delivered at the KLA War Veterans Association?

8 A. I repeat it again. I am not responsible to secure the documents
9 of anyone --

10 Q. Yes, Mr. Gucati --

11 A. Please, don't interrupt me.

12 Q. No, Mr. Gucati --

13 A. Let me finish.

14 Q. No. You need to answer the specific question, Mr. Gucati.

15 A. I can [Overlapping speakers] ...

16 Q. It's a specific question --

17 MR. REES: Your Honour.

18 PRESIDING JUDGE SMITH: Please, Mr. Gucati.

19 MS. BOLICI:

20 Q. Mr. Gucati --

21 PRESIDING JUDGE SMITH: She's asking you direct questions that
22 call for a "yes" or "no" answer.

23 MR. REES: Your Honour, perhaps if there are any specific
24 quotations that Ms. Bolici wishes to put --

25 MS. BOLICI: I first --

Witness: Hysni Gucati (Open Session)

Page 2220

Cross-examination by Ms. Bolici

1 MR. REES: -- she could do that and --

2 PRESIDING JUDGE SMITH: She's able to ask that question.

3 MS. BOLICI: Yes.

4 MR. REES: -- that might advance matters more quickly.

5 MS. BOLICI: I wish to first put these kind of questions and
6 then I will go to the specific quotations when necessary.

7 PRESIDING JUDGE SMITH: Mr. Gucati, she's going to ask you
8 questions. I want you to respond in a "yes" or "no" manner, if
9 possible. Do you understand?

10 THE ACCUSED GUCATI: [Interpretation] I can keep silent if you
11 wish. My answer is given. I am not responsible to secure and
12 protect your documentation. Every time I will appear before the
13 media if the case be. If you don't want me to talk, I won't.

14 MS. BOLICI:

15 Q. Mr. Gucati, it's a very simple question which requires a very
16 simple answer. Between the 7th and 22nd September, did you state
17 publicly to the media that you would keep publishing any material
18 that would be delivered to the KLA War Veterans Association; yes or
19 no?

20 A. I don't have an answer for that.

21 Q. You don't recall having made such declarations to the media?

22 A. I am well aware of what I do. I remember the day when I
23 deserted from the Yugoslav Army --

24 Q. I'm not asking about the day when you deserted from the Yugoslav
25 Army, Mr. Gucati.

Witness: Hysni Gucati (Open Session)

Page 2221

Cross-examination by Ms. Bolici

1 PRESIDING JUDGE SMITH: Excuse me, Mr. Gucati, you're not
2 answering the question.

3 THE ACCUSED GUCATI: [Interpretation] I answered it.

4 MR. REES: Your Honour, the question has changed. The first
5 question was made public. The second question was [Overlapping
6 speakers] ...

7 PRESIDING JUDGE SMITH: The question was a valid question and he
8 needs to answer it.

9 MR. REES: Your Honour, the first question was put to him to
10 make public, the second time was put to him to publish it. It may be
11 the quickest route is for Ms. Bolici to put specific quotations to
12 him and then he can see it, can't he?

13 PRESIDING JUDGE SMITH: Mr. Rees, it's her cross-examination.
14 She can ask the question.

15 MS. BOLICI: Yes.

16 PRESIDING JUDGE SMITH: And your client will answer the question
17 "yes" or "no."

18 MS. BOLICI:

19 Q. So, Mr. Gucati, between the 7th and 22nd September, within this
20 time-period, did you make public statements to the press saying that
21 you would keep publishing any materials that would be delivered to
22 the KLA War Veterans Association; yes or no?

23 A. I already said publicly to all television and media outlets, I
24 am not responsible for protecting such documentation. I will make it
25 public, because I don't want to be blamed for that.

Witness: Hysni Gucati (Open Session)

Page 2222

Cross-examination by Ms. Bolici

1 Q. Mr. Gucati -- okay. So you said so between the 7th and the
2 22nd; is this correct?

3 A. I answered it once. I don't have anything else to say.

4 Q. Is your answer "yes"?

5 A. I said so once. You can ask me as many times as you wish.

6 Q. I call for an answer. Mr. Gucati, you cannot avoid that. So is
7 your answer "yes" or "no"?

8 A. I am not afraid of saying anything. I'm not afraid for what I
9 have done. I said every document that comes to my office to the
10 detriment of my country, I will make it public.

11 Q. Thank you. And you said so even between the 7th and 22nd of
12 September. And between the 7th and 22nd September, did you and
13 Nasim Haradinaj publicly encourage the person who delivered the
14 documents to bring you more documents? Is this right?

15 A. It's not true. I don't know that person, first of all. And I
16 would never inspire someone to bring me documentation that would make
17 me end up in prison. How can I say that? There is no logic in that.
18 How can I say to someone, "Bring me documents and then make me end up
19 in jail in The Hague"? This is not true. It doesn't stand to
20 reason.

21 Q. You didn't make any such invitation through your public
22 statements to the media, didn't you?

23 A. Never in my life have I said to the said person that I don't
24 know, I've never seen him, to bring me documents from the
25 Special Court and then that I will make them publish. Find it

1 somewhere. If you have facts, prove it to me and to the honourable
2 Judges.

3 Q. Here they are. I'm referring to the third press conference, to
4 start with the first example.

5 MS. BOLICI: And this is Exhibit P0035. And I'm referring to
6 page 2 of the transcript.

7 Q. And in that occasion, Nasim Haradinaj stated in front of the
8 camera, with you sitting next to him:

9 "He left a message saying that from now on he would bring CDs,
10 and we will welcome him again even if he brings CD."

11 Do you recall such circumstance, Mr. Gucati?

12 A. I haven't heard. I regret having not heard Nasim Haradinaj
13 saying that. Neither myself nor Haradinaj have said that, to
14 encourage him to bring us documents or CDs. It's not true that I
15 said to that gentleman, "Please bring me more materials." This
16 doesn't stand at all. I have not told him that, "Please bring us
17 material and CDs."

18 Q. And you didn't hear Nasim Haradinaj mentioning these words while
19 he was next to you, sitting there at the press conference? Is this
20 what you're saying?

21 A. I don't need to lie. I am the father of eight children, and I
22 have ten granddaughters and grandsons. I am very frank. I did not
23 hear Nasim Haradinaj say that. We don't need -- neither of us need
24 to lie. Even though I was sick, I don't think I heard anything.

25 Q. In the course of the same conference, still on 22 September, at

Witness: Hysni Gucati (Open Session)

Page 2224

Cross-examination by Ms. Bolici

1 a certain point you agreed with Mr. Haradinaj that if the person who
2 delivered the documents would bring these documents again, you would
3 name him with a different nickname and you would call him this time
4 Flying Saucer. Do you remember this anecdote that happened in front
5 of cameras, Mr. Gucati?

6 A. Can you repeat the question, please? If possible.

7 Q. In the course of the third press conference, Nasim Haradinaj
8 stated the following: "He has promised that" -- I'm referring to
9 Exhibit P35, page 8.

10 "He has promised that he will bring CD. We will now rename him
11 the Flying Saucer, Chairman, if you agree, if you accept my proposal.
12 I am declaring this publicly. If he brings CDs, we will call him the
13 Flying Saucer. Can we call him that, Chairman?"

14 To which you laugh.

15 Do you recall this exchange?

16 A. It's the first time to hear that. Maybe Hysni or someone else
17 or myself. But I have not mentioned flying saucer in any media
18 outlet myself, but I have not heard Nasim either. I can't say yes,
19 but I am saying the gentleman said he's going to bring CDs. But as
20 to us having said Flying Saucers, this is something that I have not
21 heard. I don't know it.

22 MS. BOLICI: I would like to show, if possible, the video P0035,
23 and the timestamp is from 00:19:04 to 00:19:40. This is an
24 invitation to the Court Officer, if possible.

25 [Video-clip played]

1 MS. BOLICI: And as the video is prepared, I have another two
2 questions for Mr. Gucati.

3 Q. On the same occasion, a few minutes later, Mr. Haradinaj stated
4 in front of the cameras:

5 "One like this one is welcomed. He is welcomed. I'm telling
6 you. We will not disclose his identity, even if he comes without
7 wearing a mask."

8 To which you reply:

9 "No, it is not our obligation."

10 Do you recall this exchange, Mr. Gucati, from the third press
11 conference?

12 A. Can you please tell me what I have said? I am not understanding
13 you.

14 Q. In the course of the third press conference, Nasim Haradinaj,
15 referring to the person who had delivered the documents to the KLA
16 War Veterans Association, said the following words:

17 "One like this one is welcomed. He is welcomed. I'm telling
18 you. I will not disclose his identity, even if he comes without
19 wearing a mask."

20 And then you intervene and you state:

21 "It is not our obligation."

22 Do you recall having said that?

23 MR. REES: Your Honour, this is not a memory game or test. If
24 Ms. Bolici has got the reference, perhaps she can just play it for
25 Mr. Gucati.

1 MS. BOLICI: Yes, I will. First I would like the witness to --

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

3 MS. BOLICI: -- answer the question.

4 PRESIDING JUDGE SMITH: Mr. Gucati, will you please answer.

5 THE ACCUSED GUCATI: [Interpretation] What you are putting to me,
6 even though Nasim was very close to me, and even though it's not in
7 our purview to discover the person, it's the duty of the police.
8 It's you investigators of the Special Court. If I knew the person --
9 I publicly called on television and saying, "Come and let us find the
10 person." You have the transcript -- we have the transcripts. We
11 will send them to you. This is my answer.

12 MS. BOLICI:

13 Q. Did you or did you not - you and Nasim Haradinaj - state in
14 front of the camera that this person would always be welcome? Did
15 you state that?

16 A. I don't think so. It may be, but I don't think so. Frankly
17 speaking, I don't think so. Maybe. Maybe it is. Even if it is,
18 there is nothing wrong because we wanted to prove something, that you
19 are cooperating with Serb criminals.

20 Q. And did you and Mr. Haradinaj state that the person who was
21 bringing documents at the KLA War Veterans Association was like if
22 someone would bring you baklava? Do you recall that? Do you recall
23 that?

24 A. I have never mentioned that in my life. Please, if you have the
25 recording, show it to the honourable Judges.

Witness: Hysni Gucati (Open Session)

Page 2227

Cross-examination by Ms. Bolici

1 Q. Yes, we are going -- it's available. We'll move to that.

2 A. If I have said so, then I will be held responsible for that.

3 PRESIDING JUDGE SMITH: Please repeat yourself.

4 MS. BOLICI: If the video is available, I would also ask,
5 please, to put on screen for the benefit of the Panel the transcript
6 of the third press conference, which is P00035-ET.

7 PRESIDING JUDGE SMITH: Is this a public?

8 MS. BOLICI: In this particular page, it's public, but we can
9 use the public redacted version, yes. There is no confidential
10 information in the excerpt I am going to show.

11 PRESIDING JUDGE SMITH: All right.

12 MS. BOLICI: Page 8.

13 [Video-clip played]

14 MS. BOLICI:

15 Q. Do you recall, Mr. Gucati, having discussed with Mr. Haradinaj
16 in front of camera that the next time the person would bring you
17 materials, you would name him Flying Saucer?

18 THE INTERPRETER: Microphone, please, for the witness.

19 THE ACCUSED GUCATI: [Interpretation] You cannot attribute that
20 to me. Did you hear carefully? You see me only laughing. I didn't
21 say anything.

22 MS. BOLICI:

23 Q. Okay. So it's only Nasim Haradinaj to be blamed for that? You
24 laughing next to him didn't share these statements from
25 Nasim Haradinaj?

Witness: Hysni Gucati (Open Session)

Page 2228

Cross-examination by Ms. Bolici

1 A. Please, I don't want to blame Nasim Haradinaj. He is not
2 responsible at all. Why? Because he mentioned a pseudonym?

3 Q. Mr. Gucati, did you hear Nasim Haradinaj saying what I just
4 quoted for you, didn't you?

5 A. You initially said: "Hysni Gucati and Nasim Haradinaj said, 'We
6 will say flying saucers.'" I said I didn't mention the words flying
7 saucers. You cannot change the questions put to me. I said it's not
8 a big deal if someone says we can use the pseudonym flying saucer.

9 Q. Yes. Do you accept that in the course of this press conference
10 this is what happened? You accept that the video is accurate, that
11 Nasim Haradinaj proposed you this nickname and you laughed about it?
12 Is this correct?

13 A. If you think I should have cried for the mistake of having the
14 document leaked from here, I won't accept that. Never. I'll smile
15 or laugh because we were surprised how such documentation came out or
16 it was leaked from your office and came -- arrived in Prishtine.

17 MS. BOLICI: I would like now to play the part of the video --

18 MR. CADMAN: [via videolink] Your Honour.

19 MS. BOLICI: -- within timestamps 00:21:28 to 00:21:42.

20 PRESIDING JUDGE SMITH: Before you do that, Mr. Cadman has a
21 question or a comment.

22 MR. CADMAN: [via videolink] Thank you. I apologise for
23 interrupting prosecuting counsel. But remotely, we don't actually
24 get to see any of the videos. We don't get to see the exhibits. I
25 raise that as a further complication to the proceedings.

1 PRESIDING JUDGE SMITH: Thank you, Mr. Cadman. I think you do
2 have the transcripts though, do you not?

3 MR. CADMAN: [via videolink] No, we don't, Your Honour.

4 MS. BOLICI: Each exhibit is available --

5 MR. CADMAN: [via videolink] I'm actually relying on getting the
6 transcripts at the end. Of course we have the transcripts of the
7 videos. But as the video is being played in court as part of these
8 proceedings, in order to participate as counsel in these proceedings,
9 our team should be able to observe those.

10 PRESIDING JUDGE SMITH: Go ahead, madam.

11 MS. BOLICI: Thank you.

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

13 MS. BOLICI: I just want to mention that all the videos have
14 been disclosed in the Prosecutor's presentation queue.

15 MR. CADMAN: [via videolink] That wasn't the point I was making,
16 Your Honour. Of course they've been disclosed. But if we are to
17 participate in the proceedings effectively, we have to be able to
18 participate in the proceedings effectively. Just to --

19 PRESIDING JUDGE SMITH: Mr. Cadman, just a moment.

20 MR. CADMAN: [via videolink] [Overlapping speakers] ... every
21 objection we make is not making things easier, Your Honour.

22 PRESIDING JUDGE SMITH: Mr. Cadman, just a moment. We've been
23 advised that the video can be sent to you so that you can view it.

24 MR. CADMAN: [via videolink] Thank you, Your Honour. I can now
25 see them.

Witness: Hysni Gucati (Open Session)

Page 2230

Cross-examination by Ms. Bolici

1 PRESIDING JUDGE SMITH: You can see it now?

2 MR. CADMAN: [via videolink] I can see -- here, I see AV. So,
3 yes, I can see that now.

4 PRESIDING JUDGE SMITH: Thank you.

5 MR. CADMAN: [via videolink] I'm grateful.

6 MS. BOLICI: I would like to show to the accused the excerpt of
7 the video between timestamp 00:21:28 to 00:21:42, still on page 8.

8 [Video-clip played]

9 MS. BOLICI:

10 Q. Mr. Gucati, did you hear Mr. Haradinaj saying that, "One like
11 this one is always welcomed," and, "I will not disclose his identity
12 even if he comes without wearing a mask"? Did you hear that?

13 A. Yes, I did.

14 MS. BOLICI: And for the Panel, the reference is page 10 of the
15 English transcript. I apologise.

16 Q. And did you answer that it is not your obligation, to what
17 Mr. Haradinaj had said, in the course of this press conference?

18 A. It is true that I supported and support Haradinaj in that
19 regard. It's not our obligation to protect thieves from stealing
20 things in different countries.

21 Q. So you agree, Mr. Gucati, that you and Nasim Haradinaj did
22 encourage the person who delivered the documents to deliver more
23 documents to the KLA War Veterans Association, didn't you?

24 A. No, no, no, it's not true. We did not encourage to bring -- him
25 to bring documentation and to create problems for us. I wanted to

1 know who he was. Why should he create problems for us? I am here in
2 detention for 15 months. I didn't say that he should go and steal
3 documents in Holland and bring them to Prishtine. Prove it to me
4 that we have told this gentleman, "Go and steal the documents and
5 bring them to us." No, this is not true at all.

6 Q. And when you and Nasim Haradinaj publicly stated in front of the
7 cameras that, "One like this is always welcome," did you intend to
8 discourage him from bringing more materials to the KLA War Veterans
9 Association?

10 A. I did not need to encourage the gentleman to do that. He
11 brought them by -- on his own. Why should I? I had no reason to
12 tell him to bring them. He didn't ask me or Nasim or you. What
13 reason did I have? Show me the reason and then I will answer you.

14 Q. And, Mr. Gucati, did you keep repeating even after the third
15 press conference that you would publish materials that the unknown
16 person would bring to the KLA War Veterans Association? Did you?

17 A. On which date? Because on the 25th, I was arrested. Which
18 date? Which year? Which time? Please.

19 Q. After the third press conference, did you keep stating publicly
20 in front of the media, in front of the cameras, that you would
21 welcome materials to be delivered at the KLA War Veterans
22 Association?

23 A. I don't know what are you talking about. After the conference
24 might be the next day or after five hours. Give me the exact time.
25 Because I gave many interviews. I was present in many meetings,

Witness: Hysni Gucati (Open Session)

Page 2232

Cross-examination by Ms. Bolici

1 television debates, and so on. So please tell me when, exactly.

2 Q. Mr. Gucati, do you accept the possibility that in the days after
3 22 September and before your arrest, you kept stating in front of
4 cameras that you would welcome further deliveries from the person who
5 brought documents to the KLA War Veterans Association?

6 A. I can't say "yes" or "no" without seeing -- looking at the fact.
7 Please prove it. I always said the gentleman who is bringing
8 documentation, which we have made public, but at the same time I
9 called on your investigators to come and discover who that person
10 was. The gentleman is bringing documentation, come over and find
11 them. If I have said he is welcome, then publish it. There is
12 nothing secret here.

13 Q. So you accept you did say so?

14 A. I am not accepting it. Don't put that to me.

15 Q. I am referring, in particular, to an interview that you gave to
16 Euronews Albania on 22 September, and I am referring to the
17 Exhibit P00029-ET, and I am reading from page 2 of the transcript,
18 which is public. And you stated:

19 "Yes, the anonymous person who brought those files, indeed, said
20 that in the next few days he would bring different CDs with some
21 material, and again we will act the same as we did today or in the
22 past few days. We will do the same. We will inform the Kosovo
23 public and all Albanians around the world, wherever they are. We
24 will show them that the Specialist Court collaborates with Serbian
25 courts, with the Serbian Supreme Court, they cooperate and receive

1 materials from Serbia against members of the Kosovo Liberation Army."

2 Do you accept having said that?

3 A. I declared also this morning the same thing. You are
4 collaborating with Serb criminals and with the prosecutor of the
5 Special Court.

6 Q. So it's true, isn't it, Mr. Gucati, that between the 7th and
7 22nd September you kept calling for new materials to be delivered at
8 the KLA War Veterans Association throughout, and you encouraged
9 further deliveries to happen?

10 A. No. For not a moment, not a second did I call on this person to
11 bring documentation to the WVA. Not for a single moment did I call
12 on this gentleman to bring documents to this organisation. Neither
13 me nor Nasim Haradinaj. No one from the KLA WVA.

14 Q. And, Mr. Gucati, is your position to keep stating that
15 notwithstanding the videos that have been shown to you today?

16 MR. REES: Your Honour, I do object. I've said it before. This
17 is not a memory test. If there are specific parts of the recordings
18 that Ms. Bolici wants to put, she should put them.

19 [Trial Panel and Court Officer confers]

20 PRESIDING JUDGE SMITH: Can you hear now, Mr. Gucati?

21 THE ACCUSED GUCATI: [Interpretation] I didn't hear very well.
22 When the Prosecutor was speaking to me, I didn't listen to the
23 question properly. The interpretation was very -- in a very low
24 voice.

25 PRESIDING JUDGE SMITH: I think what we'll do is take this

1 moment to break for the day. It's 4.00.

2 Mr. Cadman is raising his hand, and I know he doesn't feel well.

3 Go ahead, Mr. Cadman.

4 MR. CADMAN: [via videolink] Well, first of all, I have already
5 checked with the Court Officer whether we are finishing at 4.00,
6 because my temperature has now gone up to 39. But more importantly
7 being able to properly represent Mr. Haradinaj, the exhibits, when we
8 look at them through the remote system, are completely out of focus.
9 We can't follow them at all. I only ask that if we are to proceed
10 properly tomorrow, something needs to be done for that.

11 I don't want to be complaining about things every 30 minutes,
12 but it's making it very difficult, Your Honour.

13 PRESIDING JUDGE SMITH: Thank you, Mr. Cadman. We'll do our
14 best.

15 Something that we need to take up, Mr. Haradinaj. Can you hear
16 me, Mr. Haradinaj?

17 THE ACCUSED HARADINAJ: [via videolink] [Interpretation] Yes, I
18 can hear you very well.

19 PRESIDING JUDGE SMITH: It's my understanding that even though
20 you are medically able to come to court tomorrow that you would
21 rather stay where you are and observe over the media; is that
22 correct?

23 THE ACCUSED HARADINAJ: [via videolink] [Interpretation] I think,
24 for the sake of others, not to come tomorrow and come the day after.
25 I don't want to put anyone else in danger. The day after I will be

Witness: Hysni Gucati (Open Session)
Procedural Matters

Page 2235

1 there.

2 PRESIDING JUDGE SMITH: Mr. Cadman, do you agree to this
3 position by Mr. Haradinaj?

4 MR. CADMAN: [via videolink] We had discussed that position very
5 briefly earlier, Your Honour. It is Mr. Haradinaj's position that he
6 doesn't want to expose anybody else, and we've already set out what
7 we consider to be the concerns to the proceedings when the virus is
8 so rampant. I think he's taking a very sensible decision.

9 PRESIDING JUDGE SMITH: That's fine. I just want to make sure
10 that we cover the bases. You consent to that decision?

11 MR. CADMAN: [via videolink] I do, Your Honour.

12 PRESIDING JUDGE SMITH: And, Mr. Haradinaj, you understand that
13 it is --

14 THE ACCUSED HARADINAJ: [via videolink] [Interpretation] We will
15 have a consultation through Zoom, as we were promised. So we are
16 speaking Croatian with him that he doesn't understand very well. But
17 after our meeting in Zoom, we'll have an accurate decision. My
18 personal opinion is as I already explained.

19 PRESIDING JUDGE SMITH: And perhaps you can prepare a written
20 document for his use tomorrow in case he makes a different decision.
21 Is that all right? Agreed, Mr. Cadman?

22 MR. CADMAN: [via videolink] Yes, Your Honour.

23 PRESIDING JUDGE SMITH: Thank you.

24 We will be adjourned until 9.30 tomorrow.

25 Mr. Gucati, I remind you you are not allowed to discuss your

Witness: Hysni Gucati (Open Session)

Page 2236

Procedural Matters

1 testimony with anybody. You can certainly talk to your attorney
2 about other matters but not about your particular testimony.

3 Thank you all for being here today, and thank you to the
4 translators and all the court personnel, and we'll see you tomorrow.

5 --- Whereupon the hearing adjourned at 4.03 p.m.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25