

1 Tuesday, 7 December 2021

2 [Open session]

3 [The Accused Gucati entered court]

4 [The Accused Haradinaj appeared via videolink]

5 --- Upon commencing at 9.29 a.m.

6 PRESIDING JUDGE SMITH: Good morning, everyone.

7 Madam Court Officer, will you 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: Any change in the appearance from the
12 Prosecution?

13 MS. BOLICI: Yes, Your Honour. For the SPO is present today
14 also Molly Norburg, legal intern.

15 PRESIDING JUDGE SMITH: Thank you.

16 Mr. Rees, any change?

17 MR. REES: No change, Your Honour.

18 PRESIDING JUDGE SMITH: Mr. Cadman, any change in your group?

19 MR. CADMAN: [via videolink] No, Your Honour.

20 PRESIDING JUDGE SMITH: Thank you.

21 Mr. Gucati is present in court and is in the witness stand and
22 ready to proceed. Mr. Haradinaj is present online.

23 Mr. Haradinaj, it's still okay for you to be appearing remotely?

24 Thank you.

25 THE ACCUSED HARADINAJ: [via videolink] [Interpretation] Yes, by

1 tomorrow I hope to be there.

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

3 Mr. Rees, you may proceed if you have a question or a comment.

4 MR. REES: Can I just raise two matters for housekeeping
5 purposes.

6 At some point that's convenient today, I don't necessarily
7 propose now, because I'm conscious that we wish to proceed with the
8 evidence, but at some point today I'd like to raise both timetabling
9 for the resolution of the outstanding Rule 102(3) matter so that we
10 can plan further ahead. And, secondly, I'd like to raise as well and
11 discuss our proposed approach to the remaining Defence witnesses,
12 again, for the purposes of receiving some guidance so that we can
13 plan properly for the remainder of the Defence case.

14 PRESIDING JUDGE SMITH: Certainly. Perhaps right after lunch we
15 can take that up and then proceed onward.

16 MR. REES: Thank you.

17 PRESIDING JUDGE SMITH: Is that all right with the Prosecution?

18 MS. BOLICI: It's all right, Your Honour. And we also have one
19 matter to notify to the Trial Panel in relation to the Haradinaj
20 Defence request for leave to appeal, which has been notified to us
21 yesterday, filing F00474.

22 So in view of paragraph 120 of the Trial Panel's decision,
23 F00470, the SPO will not object to the leave to appeal, and we don't
24 intend to file further written submissions on this matter.

25 PRESIDING JUDGE SMITH: Thank you very much.

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1 Madam Prosecutor, you may proceed with your cross-examination.

2 MS. BOLICI: Thank you, Your Honour.

3 WITNESS: HYSNI GUCATI [Resumed]

4 [Witness testified through interpreter]

5 Cross-examination by Ms. Bolici: [Continued]

6 Q. Good morning, Mr. Gucati.

7 A. Good morning.

8 Q. Mr. Gucati, in relation to the first batch of documents that you
9 distributed at the press conference of 7 September 2020, you were
10 aware that these were SITF/SPO documents, weren't you?

11 A. Initially, we did not know that they came from the KSC. We told
12 the media that they need to be verified, the origin needs to be
13 verified on whether it comes from the Kosovo Specialist Chambers or
14 not.

15 Q. And when you looked at the document before the press conference,
16 did you realise that these were SITF and SPO documents?

17 A. No, we did not check them in detail. It was a huge volume of
18 documentation as I said earlier. Roughly 4.000 in total. And
19 they -- they were documents coming from the ICTY, the -- and we
20 weren't aware that these were documents coming from the KSC until it
21 was said so. It was admitted that they were.

22 Q. Okay. I'm referring, Mr. Gucati, to paragraph 14 of your
23 statement, DHG0472-DHG0493. Do you still have your statement in
24 front of you?

25 A. No, I don't.

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1 MS. BOLICI: Could we please, in the meanwhile, put the Albanian
2 version of the statement on the screen.

3 MR. REES: I understand that the hard copy that Mr. Gucati has
4 been using was taken by the Court Officer at the end of proceedings
5 yesterday. If that could be returned to him.

6 THE COURT OFFICER: It's being retrieved as we speak.

7 MR. REES: Right, okay.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MS. BOLICI: I would like the witness to be able to see his
10 statement, if possible, at least on the screen. Ah, he has it.
11 Okay.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 THE ACCUSED GUCATI: [Interpretation] I did not hear.

14 MS. BOLICI:

15 Q. Can you see --

16 PRESIDING JUDGE SMITH: I'm sorry, can you see your statement on
17 the screen?

18 THE ACCUSED GUCATI: [Interpretation] Yes, Your Honour.

19 PRESIDING JUDGE SMITH: Thank you.

20 MS. BOLICI: Thank you, Your Honour.

21 Q. In paragraph 14 of your statement, you state:

22 "We were looking through the documents and ascertained that the
23 documents were from the KSC/SPO. We realised that they were official
24 documents but there were also documents from Serbia. We realised
25 that they were important documents and that it was in our interests

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1 to find out how the documents" --

2 PRESIDING JUDGE SMITH: Hold up, Ms. Bolici. She's got the
3 document.

4 MS. BOLICI: Yes.

5 Q. "We realised that they were important documents and that it was
6 in our interest to find out how the documents came out of the KSC/SPO
7 offices."

8 So based on your statement, you understood that the documents
9 were KSC/SPO documents and that they were important documents; right?

10 A. The statement is true and accurate in point 14 there. This was
11 after the news conference and after we were able to ascertain that
12 they were from the KSC. It's true that I said that, but that was
13 after the first press conference. That's true.

14 Q. Well, if you look at your statement, Mr. Gucati, in the previous
15 paragraph, in paragraph 13, you describe the moment when you look at
16 the documents together with Mr. Faton Klinaku, Mr. Nasim Haradinaj,
17 and the other members of the KLA War Veterans Association committee.

18 Based on the chronology of the statement, it appears that this
19 check was done before the press conference and not after. Do you
20 recall that?

21 A. As I said yesterday, and I'm emphasising today, we did look at
22 the documentation, but we could not possibly believe that these were
23 documents that could have leaked from the KSC. This is true. We did
24 have a look at those documents, but we were not able to believe,
25 until a certain point in time, that these documents did indeed come

1 from the KSC. That is true.

2 Q. And when you were looking through them, you saw that there were
3 documents signed by the SITF and SPO prosecutors; is this correct?

4 A. No, I did not pay any attention to the signatures. It's only
5 the logo at the top of the documents which indicate that they came
6 from the KSC.

7 Q. Okay. And did you notice different names of different
8 prosecutors of the SITF on these documents?

9 A. No, we didn't go through the documents one by one. As I said it
10 yesterday, and earlier as well, there were some seven, eight, nine to
11 ten pages. There were former prosecutors of the ICTY and other
12 from -- you know, other prosecutors that -- whose names I was able to
13 see.

14 Q. And did you see when you looked at the documents that there were
15 SITF stamps and logos on these documents?

16 A. I did not look at the stamps. As I said earlier, yes, I did
17 notice the logos. I did not look at the seals. I wasn't keen to
18 look at that. I was more interested to see the kind of cooperation
19 that existed between this Court and the others.

20 Q. And you told yesterday that you were surprised and annoyed
21 because there was a cooperation between the SITF and the Serbian
22 prosecution office; is this correct?

23 A. It was -- it took us by surprise. I did not say it yesterday
24 [as interpreted], and I say it again today, it's -- it's a Kosovo
25 chamber set up by parliament and the fact that it cooperates with

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1 Serbian criminals is an issue of concern, yes.

2 Q. So looking at the documents, you realised that there was a
3 cooperation between the SITF and the Serbian prosecution office; is
4 this correct?

5 A. As I said earlier, Vladimir Vukcevic and [REDACTED] Pursuant to
6 *In-Court Redaction Order F481RED*. were the

7 cooperate -- collaborators. Yes, I did notice these two names, and I
8 noticed that you have cooperated with these two people. [REDACTED]
9 Pursuant to *In-Court Redaction Order F481RED*. is a

10 former MP in the Serbian parliament and the chairman of the war
11 crimes committee in Kosovo, and the other one was a former prosecutor
12 during the Milosevic regime. That is true.

13 Q. And you saw that there were letters addressed to these
14 individuals by the SITF?

15 A. I did not go through the papers one by one. And what I've seen,
16 I'm explaining here. I've seen 10, 20 of those in which the KSC
17 requests the cooperation of Serbian courts. That's what I've seen.
18 I've noticed some of the meetings that you've had with the Serbian
19 court.

20 Q. And did you also see that there were responses from the Serbian
21 prosecution office to the SITF?

22 A. I do not know English, so I don't know whether they replied or
23 not. You have asked questions and were they answered or not, I don't
24 know because I don't know English. I said that yesterday as well. I
25 cannot speak English.

26 Q. Did you see responses in the Serbian language between -- from
27 the Serbian prosecution office to the SITF?

1 A. I've seen the signature of Vukcevic and [REDACTED] Pursuant to In-
Court Redaction Order F481RED. That's what I
2 saw. I wasn't interested to see the contents of their replies. What
3 I was interested to see is the name and -- the full name and surname
4 of [REDACTED] Pursuant to In-Court Redaction Order F481RED. and their
cooperation with the KSC. That's what I've seen.

5 Q. Mr. Gucati, I would remind you that the only name that you have
6 been authorised to address is Vukcevic's name in the course of the
7 public hearing. Please do not mention further names.

8 Now, when you looked at the Serbian documents, you saw that
9 there was the logo of the Serbian Prosecution office, didn't you?

10 A. I can't recall seeing the logo of the prosecutors, but the
11 documents were from the Serbs, yes. To be frank with you, I cannot
12 recall seeing the logo. It could very well have been, but I can't
13 recall it.

14 Q. And you noticed that correspondence addressed from the SITF to
15 the Serbian prosecution office had been logged by the Serbian
16 authorities; is this correct?

17 A. I did not pay any attention to the logging number. I was keener
18 to see the two collaborators of the KSC or the SPO offices. So the
19 logging number for me was not of interest to me, and I did not pay
20 any attention to it.

21 Q. And did you note whether there were any stamps or reference
22 numbers indicating that these documents had been registered by the
23 Serbian authorities?

24 A. I did not submit them to a proper scrutiny, which would have
25 been the case in order to ascertain on whether they were truthfully

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1 documents coming from the Serbs. Even though I have made the request
2 from the Kosovo police, the Kosovo investigators, your office, in
3 order to be able to ascertain the origin of these documents, whether
4 they came from you or from the Serbs. So what is real there is the
5 cooperation between you and the Serbian prosecutors office.

6 Q. Thank you.

7 MS. BOLICI: I would like to show to the witness the
8 Exhibit P0009-AT side by side with P0009-ET and in particular page 6.

9 Q. Mr. Gucati, if you look at line 7 of these transcripts which
10 correspond to an interview that you have given in the afternoon of
11 7 September to the TV show Imazh, you stated here:

12 "On the basis of these, these are documents of Serbian
13 prosecutor amongst these documents, with the Serbian crest and stamp
14 in the Cyrillic language, which I know well because I served as a
15 soldier of the former Yugoslavia during the [unintelligible] years
16 and can still read the Serbian language a little bit and so we read
17 those."

18 MR. REES: I'm sorry for interrupting, but the reference to
19 line 7, that's obviously a reference to the English translation.
20 Could Ms. Bolici give the reference for the line -- the relevant line
21 in Albanian for Mr. Gucati to follow.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MS. BOLICI: Yes.

24 Q. If you could please look, Mr. Gucati, at line 12, the paragraph
25 starting with line 12.

1 PRESIDING JUDGE SMITH: Give him a moment, please, to read it.

2 MS. BOLICI: Yes.

3 THE ACCUSED GUCATI: [Interpretation] Can I read from line 7 to
4 line 12, given that you're not reading out what I've said, so the
5 Honours have a chance to see here?

6 As I've said, we've not verified anything officially, so from an
7 official point of view, I cannot say. I cannot say whether the
8 documentation was fake or genuine. That's line 7.

9 MS. BOLICI:

10 Q. Mr. Gucati, the question is a different one. In the paragraph
11 that starts with line 12, did you state that there are documents of
12 the Serbian prosecutors among the documents with the Serbian crest
13 and stamp in the Cyrillic language? Do you accept to have said that?

14 A. I said based on the papers, and that's what I said, based on the
15 documents coming from the prosecutor's office in Serbia. And as I
16 said, based on the documentation, yes, that is the case. On line 7,
17 however, I also added that I had not been able to subject them to
18 proper forensic analysis. That's exactly what I've said, line 7,
19 line 12, and always with reference to the documents.

20 Q. Indeed. So when you looked at the document, you were able to
21 focus on the fact that there were Serbian crests and stamps; correct?
22 Is this correct?

23 A. No, we had -- we had the press conference within a couple of
24 hours. We weren't able to see it in detail. The Prosecutors from
25 the KSC came a day later to retrieve the documentation, so we were

1 not in a position to check.

2 Q. But beforehand, you were able to notice that there was this
3 crest and this is why you were able to report this to the TV
4 interviewer; isn't it the case?

5 A. I cannot recall saying that on TV. I might have said it via
6 some other portal or media outlet. But what I've said is that, yes,
7 there are Serbian documents. I'm not an expert in the field and I
8 cannot verify. So I support, even to this day, the position that
9 what I said is that there were Serbian documents in there, but on
10 whether they were genuine or not, I'm not an expert and not able to
11 ascertain.

12 Q. And when you said that there were Serbian stamps and Serbian
13 crests, it's because you had seen them beforehand, isn't it the case,
14 otherwise you couldn't have said; do you agree?

15 A. I don't. I don't think I said that I'd seen the stamp or the
16 logo. What I've seen is the signatures of Vukcevic and [REDACTED]
Pursuant to In-Court Redaction Order F481RED., the
17 collaborators. I have no idea how all this comes to be here. But
18 when I -- I mention Vukcevic, I could also mention the -- the logo
19 and the stamp, but I don't think I have mentioned that. No.

20 Q. Do you accept that the transcript that is in front of you
21 reflects your words, Mr. Gucati?

22 A. I'm not certain. I don't want to lie here. It may well be the
23 case, but I cannot recall. I'm sorry.

24 Q. I will go to the video of this interview later on. First, I
25 want to show you yet another transcript.

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1 MS. BOLICI: And this is Exhibit P00028-ET side by side, if
2 possible, with P00028-AT, and in particular, page 14.

3 MR. REES: Your Honour, could I ask that Ms. Bolici establishes
4 the date and time of these transcripts before turning to the relevant
5 passage that she wishes.

6 MS. BOLICI: Yes, I will.

7 Q. This is an interview, Mr. Gucati, that you provided to the KTV
8 on 22 September 2020. And if you look at --

9 MS. BOLICI: Could we please move the Albanian transcript to the
10 previous page, page 13.

11 Q. And, Mr. Gucati, if you could look at line 12 -- wait a moment.
12 If you could look from line 8 onwards which corresponds to line 1 of
13 page 14 of the English transcript. Here, the interviewer asked you:

14 "Some documents have got the official stamp and reference
15 numbers of the Serbian Prosecutor's Office, do you think or suspect
16 that maybe these have come from the Prosecutor's Office in Belgrade?"

17 To which you reply:

18 "It is true that there are official stamps ..."

19 The journalist asks:

20 "I'm talking about the reference numbers, which means that they
21 have been logged by that office."

22 To which you reply:

23 "Yes, yes, you're right, they have been logged. There are
24 stamps and reference numbers, there are different dates ..."

25 Based on what you stated in the course of this interview,

1 Mr. Gucati, it appears you looked at the stamps and reference numbers
2 of the Serbian documents, and you were able to realise that they had
3 been logged by the Serbian prosecutor's office; is this correct?

4 A. The information related here came to me via the media and the
5 journalist. I had not noticed myself that there were stamps or
6 logging numbers. The journalist asked me a question, and I replied
7 yes. This is from the media that I learned of the documents
8 delivered on 7 September, because on the first day I did not notice
9 the presence of the stamps. It is true. So what I've said here
10 comes via the media, via what I learned from the media.

11 Q. Mr. Gucati, you were asked whether these documents had been
12 logged, and you confirmed that, yes, there were reference numbers and
13 different dates. When had you looked at these documents?

14 A. As I said, I saw them on 7 September. The stamps. I did not
15 see any logging numbers. The logging numbers came to me via the
16 media, when I saw it on media portals. When they mention that there
17 were logging numbers and so on, that's when the information came to
18 me. I was not interested in looking at that kind of thing,
19 initially.

20 Q. And the information that you are providing to the journalist in
21 the course of this interview, it's consistent with information that
22 you provided to the journalist in the interview that I've shown you a
23 moment ago, which was in the afternoon of 7 September right after you
24 delivered the documents to the press. Is it the case that you had
25 looked at these stamps and signs at the moment when you went with the

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1 documents, together with Nasim Haradinaj, Faton Klinaku, and the
2 other members of the committee?

3 A. This interview was carried out at 11.00 at night, not at midday,
4 at 2.00 or 3.00. So it's late in the evening, after 11.00, after I'd
5 seen information on the portals. The documents emerged onto the
6 media portals and that's where I noticed that there were stamps and
7 logging numbers. And this came during that interview with the
8 Interaktiv programme on KTV, and that was after 11.00 in the evening.

9 Q. Mr. Gucati, when you went -- you said at paragraph 19 of your
10 statement, if you still have it in front of you, that at the press
11 conference there were four identical copies of the documents and that
12 they were laid out and made available to the press and media.

13 How did you establish that the copies of the documents that were
14 delivered to the KLA War Veterans Association were four identical
15 copies? How did you ascertain that?

16 A. What I said is true, and I said the same yesterday. My best
17 guess was that it was roughly about 4.000 pages or four files. The
18 front page was the same, it had exactly the same signature, so we
19 thought that it was exactly the same. And that's -- that led us to
20 believe that they could be copies of each other.

21 Q. And to affirm that there were four identical copies, did you
22 look only at the first page or you looked also at the other pages?

23 A. If I recall correctly, the 10 or 20 pages that I was able to
24 look at, they looked the same. They looked the same, at least from
25 my point of view.

1 Q. So how did you verify that they looked the same? Did you put
2 all these four copies on a table? Where did you look at them?

3 A. You can see that there is a camera there. There were copies
4 which were laid out in the hall, in the media hall. [REDACTED]
Pursuant to In-Court Redaction Order F481RED. your

5 Prosecutor who -- or when he came to retrieve them, he said that they
6 are copies of each other. That's true.

7 Q. Mr. Gucati, first of all, as you have been warned yesterday, you
8 should not mention names of SPO staff members in open court. Is
9 there something unclear about this?

10 A. I apologise for that, but it skips my mind. And it's not that I
11 have a special intention to mention his name, because he's known as a
12 good man in Kosovo, from all the people in Kosovo. Therefore, I
13 don't know why you fear about him, because we have had coffees with
14 him, we have spent time with him, and this is why I sometimes mention
15 his name. I've had coffees with that person, I know him well, and I
16 think that there is nothing wrong with mentioning his name. Like
17 I've said, we've had a good relationship with him.

18 PRESIDING JUDGE SMITH: Excuse me, Ms. Bolici.

19 Mr. Gucati, you've been warned and rewarned, Ms. Bolici has told
20 you, I'm sure your attorney has told you, you cannot use those names.
21 Do you understand?

22 THE ACCUSED GUCATI: [Interpretation] Yes, I do, Your Honour. I
23 apologise.

24 PRESIDING JUDGE SMITH: Please, we will try to remind you
25 periodically so that you remember.

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1 Yes, Mr. Rees.

2 MR. REES: I think that it is quite difficult for Mr. Gucati to
3 give his testimony without the use of any sort of substitute for the
4 name of that investigator. Perhaps Mr. Gucati can refer to him, if
5 he wishes to, as Officer X in the future. Would that help?

6 PRESIDING JUDGE SMITH: It's fine with us. The name is what
7 we're trying to avoid. And, frankly, it wasn't even necessary for
8 him to bring up that particular item, and he did on his own, and he
9 decided to use the name.

10 So you've been warned again, Mr. Gucati. You may use the word
11 "X" if you wish, referring to that person.

12 Go ahead, Ms. Bolici.

13 MS. BOLICI: Thank you.

14 Q. Mr. Gucati, I would like to focus on the moment when you looked
15 at the documents that were delivered to the KLA War Veterans
16 Association on 7 September. Where did you place these documents in
17 order to look at them?

18 A. On 7 September, these documents were taken to my office. Like
19 they were in the batch, we distributed them in my working desk. Like
20 I said, we only opened up to 20 pages. Nobody else did anything
21 else. Nobody else looked through more pages. We were in my office,
22 and then we took the files and we sent them in the 5th floor where
23 the media was standing.

24 Q. And you put the four different files next to each other; is this
25 correct?

1 A. Yes, that is very correct, and that's something that you can see
2 for yourselves on the camera.

3 Q. I am talking about the moment before the press conference, in
4 the moment when you looked at the files to assess what these files
5 contain. So at this point you are looking at the files, you write in
6 your statement, together with Faton Klinaku, Nasim Haradinaj, and
7 other members of the KLA war veterans committee; is this correct?

8 A. Can you please repeat the question again, because it was not
9 clear to me, if that is at all possible.

10 Q. On 7 September when you received the files, you look at them
11 together with Nasim Haradinaj, Faton Klinaku, and other members of
12 the KLA War Veterans Association committee; is this correct?

13 A. It is very correct.

14 Q. And is it correct that you put the four different copies of
15 these files on the table in your office; is this correct?

16 A. Very correct.

17 Q. And you verified that these four copies were identical to each
18 other; is this correct?

19 A. It's not that we verified all the documents from the beginning
20 to the end, but we looked at the first pages. So the documents that
21 were there, the 10 first pages or 20 first pages were the same. It's
22 not that we went through the whole document from the beginning to the
23 end, but we just saw the surface of those documents. And that's
24 true, yes.

25 Q. And to verify that these pages were the same, how did you do --

1 what did you look at into these pages?

2 A. We read, we saw the same documents, we saw the Special Court --
3 I mean, this is what we saw. It's not that we analysed them in
4 details, because the time was very short because we were preparing
5 ourselves for the conference.

6 Q. And in order to compare the pages, which elements of each page
7 did you look at in order to conclude that pages were identical?

8 A. Like I said, we couldn't see the details because we are not
9 forensic experts. We can't see and we can't say for a fact on
10 whether documents are authentic or they are copies of one another.
11 But we saw that the layout was the same, the numbers were the same,
12 and that's how we came to that conclusion. It's not that we had any
13 forensic analysis on verifying the fact that they were copies of one
14 another.

15 Q. Okay. You looked at the fact that the numbers were the same.
16 So which numbers are you referring to? The case numbers that were on
17 these pages?

18 A. I'm not a lawyer myself. I'm neither a prosecutor or a judge.
19 Therefore, I can't tell you on whether, you know, there was this kind
20 of number or that number. What I saw was that the number of pages
21 was the same. I don't know whether that was a consequent numbering
22 or serial number of pages, but the content was the same. I can
23 guarantee that to you. Otherwise, I can't tell you anything else.
24 I'm not an expert. I can't tell. I don't know about the substance
25 of the document.

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1 Q. Mr. Gucati, and while you looked at these documents, you
2 realised that these documents contained names and statements of
3 witnesses, didn't you?

4 A. No, I mostly saw the signing of the declarations. I didn't see
5 that -- the names of the witnesses. I mostly see the Serbian people
6 whose names I'm not allowed to refer, I saw their statements in the
7 first pages.

8 Q. What do you mean when you say, "I saw their statements in the
9 first pages"? The statements of whom?

10 A. I'm talking about the statements of the Serbian witnesses.

11 PRESIDING JUDGE SMITH: Mr. Rees.

12 MR. REES: I think -- doesn't that question ask for names, in
13 which case --

14 PRESIDING JUDGE SMITH: You're correct.

15 MR. REES: -- we should be directed to private session --

16 PRESIDING JUDGE SMITH: You might want to --

17 MR. REES: -- so that the witness can answer --

18 PRESIDING JUDGE SMITH: -- rephrase that question because it
19 asked him for a name.

20 MR. REES: Well, I think -- or isn't it fair to go into private
21 session to allow the witness to answer freely?

22 PRESIDING JUDGE SMITH: No.

23 Go ahead. Rephrase the question.

24 MS. BOLICI: Yes, I'll rephrase the question.

25 Q. So did you see statements of Serbian witnesses, Mr. Gucati?

1 A. In those documents that I saw, I saw statements of witnesses. I
2 saw that you have received instructions from [REDACTED] Pursuant to
3 *Post-Session Redaction Order F482RED.*, Vukcevic, and
4 these were the declarations and statements of the prosecutors, of the
5 Serbian prosecutors that you'd taken. So there were some meetings
6 where the Prosecutor of the Special Court, if I'm not mistaken -- I
7 don't remember the name of that person. And so there was a reference
8 to the meetings that you had with the Serbian prosecutors. I mean,
9 this is what I saw.

10 Q. Okay. And did you verify whether there were names of witnesses
11 of different ethnicities; for example, Serbian, Turks, Roma, and
12 Albanian witnesses?

13 A. I said it before as well. I am not a forensic expert. I cannot
14 ascertain on whether the documentation was accurate or not. Like I
15 said yesterday, I take revenge on no person. That's not me.
16 Therefore, neither on televisions or in public media have I ever,
17 ever referred to the Albanian names. This is what I saw. This is
18 what I'm telling you at your presence.

19 Q. My question was different. Did you see in the documents that
20 there were names and statements of witnesses of various ethnicities;
21 for example, Serbian, Turks, Roma, and Albanian witnesses? Did you
22 or did you not?

23 A. I was mostly interested in the statements about Adem Jashari. I
24 saw that statement there. I was surprised by the declaration, by the
25 statement. So -- and I am sure that 99 per cent of those witnesses
26 have lied. I mean, there were Serbs, Turkish, Romas. I mean, there

1 were people and I was not interested at all about their statements.

2 Q. And you saw, therefore, that there were statements of Serbs,
3 Turkish and Roma witnesses; is this correct?

4 A. So I didn't say Albanian, but I said that I've seen statements
5 of different ethnicities. I was not interested in their statements,
6 and so I was not interested to see that their statement says this and
7 that, and I have referred to no statement in the media when I've met
8 them.

9 Q. The question is if you have seen such names and statements of
10 witnesses. Did you, Mr. Gucati?

11 MR. REES: What names?

12 MS. BOLICI:

13 Q. Names of Serbian, Roma, Turks, and Albanian witnesses. Have you
14 noticed statements of Serbs, Roma, Turks, and Albanian witnesses in
15 the files?

16 A. So like I said, I don't know English. There were statements in
17 the English language and in the Serbian language. And like I said
18 several times by now, I was not interested to read any of these
19 statements. If that were the case, I would have told you here in the
20 hearing. I have not read a single statement because I was not
21 interested into that. What I was interested into, and what the
22 interest of my organisation was, was the fact that the KSC
23 collaborates with the Serbian courts and prosecution offices, with
24 Vukcevic and [REDACTED] Pursuant to In-Court Redaction Order F481RED.

25 So in my opinion, those are very minor witnesses, and I have no

1 intention whatsoever to deal with them.

2 Q. What is a "very minor witness," Mr. Gucati?

3 A. I said it before. I have not ever dealt with them. I don't
4 want to deal with them. So if I was interested in the statements, I
5 would have asked for a private hearing, and I would have told you
6 their first names and last names. I would have told you that X or
7 Y -- I mean, these have provided these statements. I mean, there are
8 people that the whole population knows, and that's the kind of person
9 whom I don't know how to refer.

10 And like I said, if I had read anything, I would have told you.
11 I would have asked for a private hearing and I would have given you
12 the names. It's not a problem at all to me.

13 Q. So besides you not being particularly interested in these very
14 minor witnesses, you saw that there were statements of other
15 witnesses in these files; is this correct?

16 A. No, that is not correct. I didn't say that I have seen or I
17 have read. I have only been interested in the statements of the
18 Serbian prosecution office and authorities, Vukcevic and others.
19 Like I said, I have not spent any time with the other witnesses, and
20 that's true for myself and my friends as well. It's not that I want
21 to defend anyone, but that's reality.

22 Q. I would like to show you, Mr. Gucati, the transcript of the
23 interview that you provided on 7 September to the TV show Imazh.

24 MS. BOLICI: And this is Exhibit P0009-AT and -ET. For the
25 English version, this is page 7, first line. And for the Albanian

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1 version, it should be also page 7. If you could please put it on the
2 screen.

3 MR. REES: Can Ms. Bolici give us the date and time, please, of
4 the interview.

5 MS. BOLICI: Yes, I'm doing it. Yes, I already gave it. It's
6 the interview of 7 September provided to the TV show Imazh.

7 Q. And, Mr. Gucati, can you please give a look at line 7 onwards of
8 page 7 of the transcript of the interview that you have in front of
9 you. You stated in the course of this interview:

10 "There is a wide range of people there. There are Serbian,
11 there are Roma, Turks."

12 Do you accept to have said that?

13 A. I said that here. I said that about ten minutes or five
14 minutes. I said that there were Roma, Turks, Serbs.

15 Q. And you were asked:

16 "Is there in the files that you have seen names of witnesses?
17 Records of the interviews?"

18 I'm referring to the next sentence. And you replied:

19 "There are witness names and interviews ..."

20 Do you accept that you knew that there were witness names and
21 interviews in the documents that you received on 7 September?

22 MS. BOLICI: For the Court Officer, if we could, please, if it's
23 being broadcast, put the redacted version of P0009 on the screen,

24 -ET. Page 7.

25 Q. So, Mr. Gucati, in relation to the answer that you gave when you

1 stated that there are witness names and interviews, do you agree that
2 when you looked at the documents you realised that there were witness
3 statements and interviews in the batch of documents that you shared
4 with the press on 7 September 2020?

5 A. It is true that I have said that I have seen, and I've seen the
6 days as well, because there are these days that are referred here,
7 Wednesday, Friday, Thursday. And in line 21 and 22, there is this
8 question, and you can have a look at these lines, and the question
9 is:

10 "What about Albanians?"

11 And I've said no. So I said that I have seen, but I was not
12 interested in the statements of the liars, of these liars, and this
13 is the reason why I've said what I've said, and this is what I'm
14 telling you today as well.

15 Q. Later in the course of the same interview, you were referring to
16 specific interviews and then you were asked:

17 "Are the witnesses Serb for this one and the other one that you
18 mentioned?"

19 And you replied:

20 "No, Albanian."

21 Do you agree that you also saw that there were witnesses --
22 there were interviews of Albanian witnesses in the batch of documents
23 that you shared at the press conference of 7 September 2020?

24 A. I do not know how do you understand that, but I've said, no, I
25 have not seen. I have not seen Albanian witnesses. So this is what

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1 I've said: No Albanian. So it's very clear in Albanian. I've said
2 no Albanian. I've said that the witnesses are Serbian. So the
3 answer to that question is no Albanian. So you can read that into
4 the Albanian language. That is in line 21.

5 Q. Mr. Gucati, you were asked, in relation to a specific interview
6 you refer to, whether the witnesses were Serb for this one and the
7 other one, for this interview and the other interview that you
8 mention. And your reply was:

9 "No, Albanian."

10 Weren't you saying here that the witness was not Serbian but
11 Albanian?

12 A. No -- I mean, the way in how it should be read is: No Albanian.
13 So this is what it means. There was no Albanian. This is how it can
14 be paraphrased. And if I say, "Yes, Albanian," that would mean that
15 there were Albanians there because at least I know Albanian well
16 because I am an Albanian. I come from an Albanian family. And this
17 is what I've said here, no Albanian. So if you call an Albanian
18 linguist, I am sure that they would be able to describe and to
19 explain to you the meaning of this sentence in Albanian.

20 Q. So you are suggesting that to a question, "Was the witness
21 Serbian?" you replied, "No Albanian," to mean that there were no
22 Albanian witnesses? This is what you are suggesting?

23 A. This is what I'm saying, not Albanian. They were Serbian, not
24 Albanian. This is what I'm saying. So this is the answer that I've
25 given, this is shown in the context, and this is clear. If I would

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1 go for Albanians, if I would say yes, there were Albanians, I would
2 have said, "Yes, Albanians." But I've said not Albanians.

3 Q. Mr. Gucati, I would like to show you from the same interview
4 page 6 of this transcript. I am referring to the sentence -- one
5 moment. I'm referring to the sentence where you were asked:

6 "What is the content of them?"

7 Of these files. And you replied:

8 "As we always said, the Special Court is collaborating with the
9 Serbian Prosecutors and is taking statements in Serbia and
10 collaborating with witnesses, so-called Albanian speakers who have
11 been during that time and currently, on the Serbian side. So, the
12 Court is working with Albanian speakers, the ones that do not have
13 the best interests of this country in mind, and the KLA."

14 Aren't you referring here, Mr. Gucati, to Albanian witnesses,
15 and in order to cast doubt on the loyalty of these witnesses, you
16 refer to them as "so-called Albanian speakers"?

17 A. Can I speak?

18 Q. Please. Are you referring to Albanian witnesses, and are you
19 using the terms "Albanian speakers" in order to cast doubts on their
20 loyalty to the country and to the KLA?

21 A. It is very true that I've given this statement. I've said this
22 and I can argue that. I have always referred to the
23 Albanian-speaking people like [REDACTED] Pursuant to In-Court Redaction
Order F481RED.. That is something true
24 and I cannot negate. So that person has fought for the country, have
25 loved the country, and I refer to [REDACTED] Pursuant to In-Court
Redaction Order F481RED. And I believe that

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1 in your country, if you refer to a person that is in his position and
2 that has done whatever he has done to the country, you would refer to
3 that as an X-language-speaking person.

4 Therefore, I cannot refer to someone that has committed
5 massacres in Gjakove, that has raped thousands of girls and women in
6 Kosovo, and this is why I have said whatever I've said. I have
7 referred to the person that I mentioned before. This is something
8 that is public, and all the Albanian opinion knows this person. This
9 is the reason why I've formulated my answer in this way in the public
10 television of Kosovo.

11 Q. And, Mr. Gucati, in the moment when you delivered the documents
12 to those in attendance at the 7th press conference, you wanted
13 everyone to know that there were witness statements in these batch,
14 didn't you?

15 A. No, that is not true. We wanted to show the public at large in
16 Kosovo, but also to our international friends, we wanted to let them
17 know that the KLA WVA at least is right in opposing the
18 Special Chambers. So the Special Chambers that have been voted by
19 the parliament of Kosovo, by the MPs that are voted by the people,
20 this Special Chamber has to be Kosovo's chamber, and that is not the
21 approach that we went for, in the sense that -- I mean, in our
22 opinion at least, you should not collaborate with these witnesses.

23 I mean, these are witnesses that we are not interested into from
24 20 years, and we know that there were witnesses there from all the
25 ethnicities. What we were interested into was the fact that the

1 Special Chambers collaborated with the Serbian courts, and that is
2 something that was of interest to both myself and my friends, and
3 that's the reason why we have made that public.

4 Q. And you conveyed to the public in the course of the press
5 conference that the documents that you were making available to those
6 in attendance contained witness statements, names, and interviews,
7 didn't you?

8 A. I have not told any media outlet to search for the names of
9 witnesses into the documents. I mean, that's something that I've
10 never said. In no TV features, in no outlet. It's true that I've
11 said that these are documents with the log number from the Specialist
12 Chambers, and what I've said is that it's true that the Specialist
13 Chambers collaborates with Vladimir Vukcevic and other persons in
14 Serbia. That's true. So the reason for that was to show the public
15 opinion what the Chambers are doing.

16 Q. In the course of the press conference, did you make the public
17 aware that the documents you were sharing contained witness
18 interviews; yes or no?

19 A. I am telling you that we have said in the first conference, in
20 the second conference, and in the third conference as well, that
21 these documents are leaked from the Specialist Chambers and they have
22 collaborated with the Serbian authorities. When questions were asked
23 by the journalists, we said that there are documents there. But the
24 fact is that the privacy of persons is protected in Kosovo, as
25 privacy is protected in every other country. So everybody will have

1 to bear their responsibility if the names of witnesses were to be
2 disclosed. That's what I've said and this is what I'm telling you
3 now.

4 Q. Yes. And in the course of these press conference, did you say
5 that the documents that you were sharing with those in attendance
6 included witness statements and interviews? Did you say that; yes or
7 no?

8 A. I don't know on whether you understood me, because the
9 interpreters have been interpreting very well, but we have told the
10 media in the press conference -- I mean, there was this question by
11 the journalist on whether there are names and statements. We've said
12 that there are names and statements, and we've told them that the
13 privacy of persons have to be protected. And that's the answer that
14 we have given to the journalists. I mean, this is what I'm telling
15 you.

16 Q. Thank you. In relation now to the second batch of documents
17 that you distributed to those in attendance of the second press
18 conference, did you know, Mr. Gucati, that these materials contained
19 also communication between the SITF and Serbian authorities exactly
20 as the first batch? Is this correct?

21 A. No. I wasn't interested to -- on the contents of Package 1, 2,
22 3; 4, 5, 6, should they have arrived, in fact. But what I was
23 interested is the -- what I was interested in was that your own
24 Prosecutors admitted that these were your documents. My main goal
25 was to make the public opinion and the international friends who have

1 helped us, that the KSC has been cooperating with the Serbs. Even 50
2 packages, should they have arrived, I would have displayed exactly
3 the same thing. I wouldn't have read the statements. I wouldn't.
4 Witnesses have come here to give their testimony. There is
5 absolutely nothing wrong with it, but I haven't been interested in
6 that kind of thing, no.

7 Q. Thank you for your answer, Mr. Gucati, but it was not an answer
8 to my question. My question is the following: When you reviewed the
9 second batch of documents that was delivered to the KLA War Veterans
10 Association, did you see that among these materials there were also
11 communication between the SITF and the Serbian authorities exactly as
12 in the first batch? Is this correct?

13 A. Maybe you're asking the question very well, and I'm not
14 understanding it. But I'm sincerely saying that I wasn't interested.
15 I was interested in the first delivery which suggested that you were
16 cooperating with the Serbian court. It is true that the second
17 package has had documentation to suggest that you were cooperating
18 with it, but I -- as I say, I was not interested any further. Even
19 60 -- even if we were to receive 60 packages, it would be the same.
20 You have proved this with the first package and with the second
21 package. Had that not been your documentation, I wouldn't be here in
22 jail. You wouldn't have brought me before this Tribunal. Your
23 cooperation has been very close. You have thanked the Serbian court
24 for the cooperation that they have extended. That is genuine. I
25 have seen it.

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1 Q. Mr. Gucati, thank you for your answer. And I will ask you, from
2 now on, please, to try to listen carefully to the question and try to
3 answer to the specific question.

4 Do I understand correctly that you knew at the time of the
5 second press conference that the second batch contained
6 communications between the SITF and Serbian authorities exactly as
7 the first batch? Is this correct or not? Please give a "yes" or
8 "no" answer.

9 A. I don't know what to say further to what I said earlier.
10 Forgive me. The answer remains the same. I apologise.

11 Q. And the answer is "yes" or "no"?

12 A. If you understand me correctly, what I said, I have no reply.

13 Q. Mr. Gucati, you did not answer. I'm asking did you know or you
14 didn't know that the second batch of documents contained
15 communication between the SITF and Serbian authorities? Please
16 answer just with a "yes" or "no" without a preamble. Yes or no?

17 A. The same as the first package. For the second package, third
18 package and so on has shown that you have been cooperating with the
19 Serbian courts. I don't know what else to add.

20 MS. BOLICI: Can I ask Your Honour to direct the accused,
21 please, to answer to the question that has been put to him.

22 PRESIDING JUDGE SMITH: I will.

23 Mr. Gucati, she asked you a very direct question that called for
24 a "yes" or "no," or you could say, "I don't" --

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

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1 PRESIDING JUDGE SMITH: Just a second, Mr. Rees.

2 Or you can say you don't know. But you cannot give a
3 non-responsive answer. It's "yes" or "no."

4 Now, Mr. Rees.

5 MR. REES: "Yes," "no" --

6 PRESIDING JUDGE SMITH: It was a very direct question.

7 MR. REES: "Yes," "no" or "don't know" are the three
8 [Overlapping speakers] ...

9 PRESIDING JUDGE SMITH: That's fine.

10 MR. REES: -- answers --

11 PRESIDING JUDGE SMITH: If he doesn't know --

12 MR. REES: -- not "yes" or "no."

13 PRESIDING JUDGE SMITH: -- he doesn't know. That's fine.

14 Now, you can answer "yes," "no," or "I don't know."

15 THE ACCUSED GUCATI: [Interpretation] Your Honour, I am not
16 trying to evade my responsibility or the question for that matter.
17 I'm not scared. What I suggested is that the answer is between the
18 lines in there.

19 As I was saying, all the packages, the first, second, and the
20 third, all of them are testimony to cooperation with the Serbs.

21 PRESIDING JUDGE SMITH: Mr. Gucati, it's "yes" or "no" or "I
22 don't know."

23 THE ACCUSED GUCATI: [Interpretation] Your Honour, I apologise.
24 I think I am answering correctly. I think the interpreter is
25 interpreting me correctly. What I said about the first package, that

1 there was cooperation with the Serbs, is true of the second package
2 too.

3 PRESIDING JUDGE SMITH: Thank you.

4 MS. BOLICI: I take it as a "yes."

5 Q. And besides documents concerning communication between the SITF
6 and the Serbian authorities, did you notice any other kind of
7 documents in the second batch, Mr. Gucati?

8 A. No, frankly not. I did not check. I wasn't interested in
9 looking at it in detail, no. I haven't checked through them, quite
10 frankly. So it was put -- it was put before the media, but neither I
11 nor my friends have been looking beyond the first or second page, and
12 I sincerely say so. I have not looked at their content, rest
13 assured.

14 Q. In the course of the examination-in-chief, Mr. Gucati, you
15 stated to the counsel that you had noticed that there were documents
16 concerning the Limaj trial before the ICTY. Do you maintain that?

17 A. I reiterated that today when I said that there were documents
18 from the ICTY having to do with the Limaj and Ramush Haradinaj's
19 case, but I can't remember in which package I saw that. I said
20 yesterday and today that there was documents pertaining to
21 Fatmir Limaj and Ramush Haradinaj, but I can't recall on whether that
22 was on the first, second, or third package. I don't want to lie
23 here.

24 Q. And in the course of the second press conference, Mr. Gucati,
25 you chose to show to the press precisely some of the communications

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1 between the SITF and Serbian authorities of all the documents you had
2 in front of you; is this correct?

3 A. We put the documents on the table during the news conference,
4 and we said that these were documents from the KSC which show
5 cooperation. That's what I've said.

6 Q. Yes. And you did attract the attention of the press in the
7 course of the second press conference to communication between the
8 SITF and the Serbian authorities. Do you recall that?

9 PRESIDING JUDGE SMITH: Mr. Rees.

10 MR. REES: Your Honour, the press conferences were recorded in
11 full, and we have both the recording and the transcript. I do submit
12 that it's unfair to keep asking Mr. Gucati what his recollection is
13 of three conferences dating back to September last year when we know
14 exactly what he said or didn't say because we have recordings of
15 them.

16 If there's a specific part of the recordings that Ms. Bolici
17 wishes to put to Mr. Gucati, she's welcome to do that and she should
18 do it.

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

20 Go ahead, Ms. Bolici.

21 MS. BOLICI: Thank you.

22 Your Honour, just --

23 MR. REES: That was an objection, Your Honour.

24 PRESIDING JUDGE SMITH: The objection is overruled.

25 Go ahead, Ms. Bolici.

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1 MS. BOLICI: Thank you.

2 Q. Mr. Gucati, in the course of the second press conference, of the
3 many documents that were contained in the second batch, you decided
4 to show to those in attendance some documents concerning the
5 cooperation between the SITF and Serbian prosecution office; is this
6 correct?

7 A. Everything that I said has been recorded. You can replay it
8 here if you have the video.

9 MS. BOLICI: I would like to show to the witness the
10 Exhibit P0002, which is a video of the second press conference. And
11 the relevant part, the timestamp is between minutes 00:00:50 to
12 00:01:06. This corresponds to the English transcript P00002-ET, and
13 it's the second and third paragraph. And it's a confidential
14 exhibit.

15 [Trial Panel and Court Officer confers]

16 PRESIDING JUDGE SMITH: Ms. Bolici, I've been advised that we
17 are in public session and if you -- that when you play this video,
18 the sound will go out but not the vision.

19 MS. BOLICI: Yes, Your Honour. This particular excerpt contains
20 nothing confidential as long as the video can stop at 00:01:06. If
21 we could pause on that screenshot when we arrive to that point.
22 Until that moment, there is nothing confidential.

23 PRESIDING JUDGE SMITH: Are we okay with that, Madam Court
24 Officer?

25 Okay. Go ahead.

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1 MS. BOLICI: So it's from 00:00:50 to 00:01:06.

2 [Video-clip played]

3 THE INTERPRETER: [Voiceover] "... two or three pages that I have
4 in front of me, two or three pages which are in the Serbian language.
5 You can very well see them. And then this one in the English
6 language which attests to cooperation."

7 MS. BOLICI:

8 Q. Mr. Gucati, do you agree that of the many documents that you had
9 in front of you in the course of the second press conference, you
10 chose to show communication between the SITF and Serbian prosecution
11 office both in English and in Serbian, in your words, attesting the
12 cooperation between the two institutions?

13 A. It's absolutely true that I did show all three documents in
14 order to convince public opinion that the Specialist Chambers
15 cooperates with and collaborates with the Serbian court. I've said
16 it time and time again. I'm not hiding anything. I said it
17 yesterday. I'm saying it today. It is true that these documents are
18 proof of the reality of your collaboration with the Serbian court.
19 I'm not against the justice as such, but -- but -- coming from a
20 country where there has been no justice as such, but I am against the
21 KSC.

22 I am an idol of the course of justice, but it is true what you
23 see here, that I did say that the KSC collaborates with the Serbian
24 courts. I don't see anything wrong in here. I am admitting it
25 publicly that these are genuine documents that prove collaboration

1 between the KSC and the Serbian courts.

2 Q. And, Mr. Gucati, these were the same kind of documents that you
3 had seen in the first batch, in the documents that were delivered on
4 7 September; is this correct?

5 A. I'm not certain, so I wouldn't hazard a guess here on to whether
6 these were the same documents in Package 1 and Package 2. As I said,
7 I haven't checked them in detail what I -- when I saw them in front
8 of me on the table, I -- that came -- they came to my notice and I
9 made them public. These two documents, that is. It's only after I
10 sat down when I -- where I saw them and made them public. I cannot
11 deny this. It's true.

12 Q. And these letters have the same layout of the letters that you
13 had seen in the first batch delivered on 7 September; is this
14 correct?

15 A. The layout, the paper is the same, the SITF is -- seal is the
16 same. The Serbian one is the same. I don't know the English. I
17 wasn't able to read it because I don't know the English. So I'm not
18 aware of the contents. I don't know whether that is identical to the
19 information that we saw in the first package.

20 Q. And the nature of the documents was fairly similar to what you
21 had seen in the first batch; is this correct?

22 A. Is -- is the paper blue, white or black? It's white. It's the
23 same. The signatures are the same. The seals are the same. The
24 contents, I don't know.

25 Q. Thank you. Now, the documents that you chose to show to the

1 press in the course of the second press conference, they have nothing
2 to do with the Limaj trial, do they?

3 A. I am not sure about it, frankly speaking. My main goal, as I am
4 repeating time and time again, was to suggest that the KSC
5 collaborates with the Serbian court. Whether it was from the Limaj
6 case or from some other person, X, Y or Z, I don't know. My main
7 goal was to suggest there that you're collaborating with the Serbian
8 court. And that's it.

9 Q. And you said earlier that the -- you refer to the Limaj trial at
10 the ICTY; is this correct?

11 A. I said the same yesterday and today. I saw documents from the
12 war crimes tribunal against the former Yugoslavia. I saw documents
13 that came from the case of Fatmir Limaj and Ramush Haradinaj. I
14 think they date back to 2004, 2005 or 2007. That's what I said.

15 Q. And the documents that you are showing to the press in the
16 course of the second press conference, these are not documents from
17 the ICTY, are they?

18 A. As I said, I did not carry out a forensic examination of the
19 documents. All that I was keen to notice there was the seal and the
20 signature of the KSC, and the seal and the signature of the Serbian
21 court. The contents were of no relevance to me.

22 Q. So you're showing to the press documents from the SITF and
23 Serbian authorities; is this correct?

24 A. Yes, that's true. These three papers that you see there. It's
25 true. I can't deny it.

Witness: Hysni Gucati (Resumed) (Open Session)
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1 Q. And you didn't look at the contents, so you had no idea whether
2 this referred to the Limaj trial or not, did you?

3 A. Rest assured, I have not read them. I do not understand
4 English. I never learned English. I can't claim to know English
5 when I don't. Even at the detention unit, I have -- I have an
6 interpreter on call all the time. So I have not read it. I don't
7 understand the language, rest assured about it. I'm answering in all
8 sincerity.

9 But what I wanted to see was that the Specialist Chambers that
10 has been voted on by parliament collaborates with the Serbian courts.

11 Q. And, Mr. Gucati, I would like to refer you to paragraph 37 of
12 your statement where you stated:

13 "I saw some Serbian documents and Serbian signs within the
14 documents, but these were already public and were in relation to old
15 cases relating to Fatmir Limaj."

16 You didn't have -- the documents that you showed to the press
17 did not refer to the Fatmir Limaj trial, Mr. Gucati. Is this
18 statement inaccurate in paragraph 37 of your declaration?

19 A. As I said earlier, I saw documents relating to Fatmir Limaj. I
20 have not denied it. I'm repeating the same. I have seen documents
21 related to Fatmir Limaj. I cannot deny that. I cannot come here to
22 lie and then say that I haven't seen the documents where the case is
23 that I have seen the documents that relate to Fatmir Limaj.

24 Q. But the Serbian documents which showed Serbian signs, these
25 didn't have anything to do with the Fatmir Limaj case, did they?

1 A. I can't recall on whether that was with Serbian documents with
2 Serbian signs or with the KSC signs, so I can't say. But in general,
3 I want to repeat that I have seen documents that relate to
4 Mr. Fatmir Limaj.

5 Q. In general. But the documents that you have shown to the press,
6 the documents with the Serbian signs, you were aware that they didn't
7 relate to the Fatmir Limaj case and that they were not already
8 public, as you state in paragraph 37 of your statement, did you,
9 Mr. Gucati?

10 A. I said I can't recall having seen them, but that could very well
11 be the case. If I said that, just replay the tape and I'll admit if
12 it's in evidence there. I'm not someone who would deny what I've
13 said earlier. What I've said is that I've seen documents of the
14 court related to Fatmir Limaj. Those were quite a few -- quite a few
15 documents in there, but there were a few documents that relate to the
16 case of Fatmir Limaj when he was before a court of justice.

17 Q. And there were also Serbian documents that did not relate to the
18 case of Fatmir Limaj and that they were not already public in the
19 framework of the Fatmir Limaj case; is this correct?

20 A. If I recall correctly, I have always said that there were
21 documents pertaining to Fatmir Limaj, and they were already public.
22 The case against Fatmir Limaj was held in public, so there was
23 absolutely nothing new that I had to add with the Fatmir Limaj case.
24 There was nothing I had to add on a case that finished 10 or 15 years
25 ago. That was of no relevance to me.

1 We are aware of the verdict in his case, which was the just and
2 righteous one.

3 Q. Did you read the verdict in the Fatmir Limaj case, Mr. Gucati?

4 A. No, I haven't read it. There was no need to read it. I know
5 that he -- he was acquitted. There was no need to read it.

6 Q. Have you followed the proceedings in the Fatmir Limaj case?

7 A. That took years and years. I have followed a few on TV. I
8 haven't been here in person. I didn't have a passport to be able to
9 travel here at the time, but through the media, through the TVs, I
10 have. But not live, as such.

11 Q. And have you followed, at the time, the proceedings in
12 Ramush Haradinaj's case at the ICTY?

13 A. Every citizen in Kosovo has been interested in following these
14 cases. Every veteran of the KLA has been interested. I don't know
15 why you're asking this question. Yes, I have followed it. I have
16 not attended all -- all the sessions, because I work. I had a small
17 child at the time, and I had to look after my family. But in the
18 meantime, I have followed quite a few of those. Yes.

19 Q. And you were watching the trial in Ramush Haradinaj's case as it
20 was broadcasted online, did you?

21 A. I don't know what the relevance is of this one. But frankly
22 speaking, yes, I have followed the Ramush Haradinaj case. It was a
23 painful case for us. It's -- it is the brother of two martyrs who
24 have contributed a lot to our country and to our nation. We have
25 followed some of the sessions but not all the time, because I had

1 other business to attend to. I had my family to look after. So I
2 had no time to follow every single session of the trial. But
3 whenever I had the time, yes, I did.

4 Q. And coming back to paragraph 37 of your statement, Mr. Gucati.
5 You state here that there were some public documents concerning the
6 Fatmir Limaj case, and you state that these documents were already
7 public.

8 Do you agree, Mr. Gucati, that the documents that you have shown
9 to the press in the course of the second press conference had nothing
10 to do with the Fatmir Limaj case and, therefore, your statement here
11 is inaccurate? Do you agree?

12 A. I don't know why we're talking about Fatmir Limaj. It had
13 absolutely no relevance to the case. Even if we were -- I were to
14 talk about Fatmir Limaj, there is nothing wrong with it. I said
15 there were a few documents. I said I have seen some documents with
16 Serbian signs, but these were already public. This was public. The
17 whole documentation from a public trial was public, so I -- so I --
18 there's nothing secret here. There's nothing unknown.

19 And the Fatmir Limaj case was of no relevance, given it belonged
20 in the past.

21 Q. And the documents that you have shown to the press had nothing
22 to do with the Fatmir Limaj case; is this correct? Yes or no?

23 A. I can't recall, I swear. But it may well be the case. It's
24 about 16 months that I'm here in detention, so memory might have
25 played its own tricks. But if -- if it's true, you just replay the

1 tape and I'll admit what I've said.

2 Q. It's the video that I just played to you, and I don't intend to
3 go back to that.

4 MS. BOLICI: I think it's a good moment for a break,
5 Your Honour, if it's fine with the Trial Panel.

6 PRESIDING JUDGE SMITH: All right. We will take our mid-morning
7 break.

8 Mr. Cadman, I see your hand up. If you have something you want
9 to say?

10 MR. CADMAN: [via videolink] Your Honour, it's just a question in
11 relation to whether the Court -- well, the Trial Panel will be
12 issuing a decision today on the appeal point. We just want to know
13 when the ten days for submitting the appeal Mr. Rees mentioned -- I'm
14 sorry, the Prosecution mentioned earlier, when the ten days start to
15 run. So I'm just wondering whether we will get a decision today.

16 PRESIDING JUDGE SMITH: I can't promise it today, but I think we
17 can have something by tomorrow.

18 MR. CADMAN: [via videolink] Okay.

19 PRESIDING JUDGE SMITH: Thank you.

20 MR. REES: Can I just say before we leave this. The letters or
21 the document that's referred to in the video is addressed in the
22 statement at paragraph 36 immediately above paragraph 37 of the
23 statement.

24 I agree it is time for a break, but I do think it's fair, if
25 there is cross-examination on the statement, for the statement to be

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1 dealt with in context.

2 MS. BOLICI: [Microphone not activated].

3 PRESIDING JUDGE SMITH: I'm sorry?

4 MS. BOLICI: I apologise.

5 The cross-examination was on paragraph 37 of the statement and
6 on the specific contents of that part.

7 MR. REES: [Microphone not activated] Paragraph 37 is preceded by
8 paragraph 36.

9 MS. BOLICI: And counsel will have an opportunity to address
10 that in the course of the re-examination, I believe.

11 PRESIDING JUDGE SMITH: I would agree with that statement. You
12 will have an opportunity to bring it up in re-exam if you wish.

13 We will break now. Be back at 11.30. Thank you.

14 --- Recess taken at 11.00 a.m.

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

16 PRESIDING JUDGE SMITH: Ms. Bolici, you may continue.

17 MS. BOLICI: Thank you, Your Honour.

18 Q. Mr. Gucati, you told us before the break that you were aware
19 that Batch 2, the documents that were delivered to the KLA War
20 Veterans Association on 16 September, contained correspondence
21 between the SITF and Serbian authorities.

22 Now, you were present when the SPO officers on 17 September
23 requested the handover of the documents of Batch 2; is this correct?

24 A. Yes, it's correct.

25 Q. And by the time you handed over the documents to the SPO officer

1 on 17 September, you had already distributed to those in attendance
2 of the second press conference most of the documents that you had
3 received on 16 September; is this correct?

4 A. *De facto*, we did not distribute any information. What we did is
5 that we had this press conference, and we put the documents in the
6 desk, in the table. We didn't tell anyone, "Just go and get the
7 documents."

8 MS. BOLICI: Your Honour, if I may apologise. I didn't hear the
9 question just because I didn't have -- the answer, because I didn't
10 have the headphones.

11 Q. Could you please repeat your answer, Mr. Gucati? I didn't get
12 it.

13 MS. BOLICI: I have the transcript, yes.

14 THE ACCUSED GUCATI: [Interpretation] I can do that. No problem.

15 *De facto*, we had this press conference on the 17th, and all the
16 documents were put there on the table. We didn't tell to any of the
17 journalists, "Take the documents." We didn't tell to anyone to take
18 the documents, so this is what happened.

19 MS. BOLICI:

20 Q. And the media -- those in attendance at the second press
21 conference did take most of the documents that you had made available
22 to them. Are you aware of that, Mr. Gucati, aren't you?

23 A. I don't know how many documents they have received. I know that
24 they have received some. But like I said, I don't know exactly how
25 many they have received.

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1 MS. BOLICI: I would like to show to Mr. Gucati the transcript
2 which is Exhibit P0004-ET side by side with P0004-AT, and this is
3 public. And I would like to refer to page 2.

4 Sorry, it's a mistake from my side. I apologise. Just a
5 moment. It's page 3, please.

6 Q. You stated -- this is an interview that you gave to the
7 journalists in attendance at the KLA War Veterans Association on
8 17 September 2020, together with Mr. Tome Gashi, right after the SPO
9 officer had requested the handover of the documents. And you stated,
10 in front of the camera:

11 "As we have been advised by lawyer Tome, we handed over the
12 documentation today. You, the media, have received over 70 per cent
13 of the documentation. You, the media, received them yesterday. Some
14 more was received by the media today as well."

15 Do you agree, Mr. Gucati, that by the time the SPO officer
16 received the documents on 17 September, you had already distributed
17 to the media over 70 per cent of the documentation in your
18 possession? Do you?

19 A. This is a realistic press conference. It happened before my --
20 or in front of my office. But I have not distributed any
21 information. I haven't told any journalist to go and take some
22 documents or don't go and don't take any documents. So the documents
23 were there on my desk and whoever wanted, they took, and they have
24 taken pictures as well. This is true. I said that 70 per cent of
25 the documents have already been received, but I didn't ever tell

1 anyone to go and take some documents.

2 Q. So over 70 per cent of the documents were received by the press
3 that you had made available to the press in the course of the second
4 press conference on the table; is this correct?

5 A. I haven't given any documents to anyone. Whoever wanted to
6 receive the documents, they did so. It's true that I have said
7 approximately 70 per cent because I can't tell for a fact. I have
8 said approximately 70 per cent. That's what I've said. But on
9 another note, I've never told any of the journalists to go upstairs
10 and fetch the documents. I've not said that to any journalists or
11 any media outlet. This is the truth.

12 Q. And part of the documentation was distributed to the media not
13 only on 16 September but also on 17 September. This is what you
14 state here when you say, "You, the media, received them yesterday.
15 Some more was received by the media today as well." Is this correct,
16 Mr. Gucati?

17 A. That's correct. It's true. The media received documents on the
18 16th and on the 17th as well, but I've never told anyone, "Go and
19 take some documents from the table." Whoever was interested, they
20 took some documents. But it's not that I have guided or I've told
21 anyone to go and get the documents.

22 Q. And on the 17th, how did the media receive the documents? Where
23 did they come and take the documents?

24 A. On the 17th, they came when they saw the investigators of the
25 office coming in my office. And those documents were received in the

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1 presence of your investigators, and I'm talking about the
2 investigator that spoke Albanian language in particular.

3 Q. My question was different, Mr. Gucati. You stated here that the
4 media received documents both on 16 September and on 17 September.
5 As to 16 September, you told us that you had placed the documents on
6 the table at the press conference and the media took what they
7 wanted.

8 My question concerns the 17th, the following day. The following
9 day, how did the media receive part of the documents concerning
10 Batch 2? Where and when?

11 A. I am talking about 17 September. I was at a meeting with your
12 inspector -- your investigator that spoke Albanian, and media were
13 there in the corridor. The corridor was full of media. So the media
14 was present in the building, and probably they went there and they
15 took some pictures of the documents. And this is what the statement
16 of your investigator who spoke Albanian said. And I've told before
17 the media that you have received about 70 per cent of the documents,
18 and that's what has happened. This is what I'm telling you as well.

19 I told the investigator, "Go and get the documents upstairs
20 because, otherwise, the media will take them all." And this is why I
21 told the media that, "You, the media, have received about 70 per cent
22 of the documents." And that's something that I'm attesting in front
23 of you today.

24 Q. So on the 17th, the documents were still in your office
25 available for the medias to take pages of them; is this correct?

1 A. This is not for me to be blamed. I'm not to be blamed for that,
2 because I have asked the investigators of the Special Court, of the
3 Specialist Chambers to defend, to protect the facility, the building,
4 and to take care of the documents. Because they didn't come on the
5 16th, but they came on the 17th, and the media had already taken some
6 documents.

7 And it's not that I was defending those documents. The truth is
8 that those documents were on the table. It was not our task to
9 protect those documents.

10 Q. You didn't stop the media from taking the documents; is this
11 correct?

12 A. To be honest with you, I was in my office. I didn't see them
13 while they went upstairs to take the documents. But even if I were
14 there, I would have not stopped them because they were there to take
15 pictures of the documents. And I believe it was the same media that
16 was at the building on 16 September.

17 Q. Thank you. Mr. Gucati, you knew that the SITF/SPO documents in
18 the first and second batch that you made available to the media were
19 confidential; is this correct?

20 A. To be honest, I did not know that up until very late. But I
21 have said it before, and I wish to say it again, that I didn't see it
22 fit for us to protect those documents. Those documents were not
23 ours.

24 Q. I understand.

25 MS. BOLICI: I would like to show you, Mr. Gucati,

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1 Exhibit P00059-ET alongside with P00059-AT. If we could, please,
2 enlarge a little the Albanian version.

3 This is a Facebook post Mr. Gucati posted on 21 September 2020
4 on the Facebook profile hysni.gucati and signed with your name and
5 surname and the title chairman of the KLA War Veterans Association.

6 If we could scroll to the third page of the Albanian version to
7 show the signature -- the fourth page. Yes. Could we please enlarge
8 toward the last part of the post.

9 Q. Is this your post, Mr. Gucati?

10 A. Yes, that's my posting.

11 Q. And you publish it on your Facebook profile; correct?

12 A. If in the 21st century I am not allowed to express myself
13 freely, I think that you have to tell me, because I think that, like
14 everyone else, every citizen, I have to express my opinion freely.
15 So this is my opinion and that is something that the honoured Judges
16 can read in the English language, I believe.

17 Q. Thank you. And you publish it on your Facebook profile; is this
18 correct?

19 A. Yes, it is correct. I said that.

20 Q. Thank you.

21 MS. BOLICI: If we look at page 081985 on both the Albanian and
22 the English version, please.

23 Q. Toward the end of the first paragraph, it reads:

24 "The files handed over to us contain correspondence between
25 Serbia and the Specialist Chambers; this is evidence and you do not

1 need to be an expert in the field for this."

2 MS. BOLICI: I would like to show you now on page 0 -- one
3 moment.

4 Q. On the same page, towards -- one moment.

5 MS. BOLICI: Just a moment, Your Honour. I apologise. I've
6 lost the reference. Just a moment.

7 [Specialist Prosecutor confers]

8 MS. BOLICI:

9 Q. So on the same page right after the sentence that I just read,
10 it reads:

11 "In addition, with regard to the leaking of these documents and
12 correspondence between Serbia and the Specialist Chambers against the
13 KLA, any questions as to which one of them leaked the very
14 confidential and sensitive documents for the processes under way in
15 Kosovo, should be addressed to the Special War Crimes Court of Serbia
16 and Specialist Chambers based in The Hague."

17 Now, you define the documents as "very confidential and
18 sensitive documents." You had realised, Mr. Gucati, didn't you, that
19 these documents were sensitive and very confidential, didn't you?

20 A. This is what I understood after your investigators came to us.

21 Q. And at the time when you looked at the documents on the 7th and
22 on the 16th of September, had you seen before any such documents in
23 the public domain?

24 A. Are you talking about 7 September? Can you please repeat the
25 question again?

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1 Q. On 7 September when you first saw the documents, were these
2 documents that you had seen before anywhere in the public domain?

3 A. I had never, ever thought in my life that I would see these
4 documents in my office. No, I've never seen them before 7 September.
5 This was a dream. So when these documents came in our office, it was
6 a real dream. And the answer to your question is no, I have never
7 heard about these documents, and I have not seen them before
8 7 September.

9 Q. Because such documents are not -- were not available to the
10 public until that time, were they?

11 A. The documents that we received in our offices, I mean, I have
12 not any knowledge. I don't have any knowledge about these documents.
13 I have not seen them before 7 September.

14 Q. Thank you. And why was it a dream to receive such documents,
15 Mr. Gucati? Mr. Gucati, you stated earlier: When I received the
16 documents, this was a dream for me.

17 Why was it a dream to receive such documents?

18 A. It was unbelievable. If I were told by someone that documents
19 would leak from the Special Chambers, I would not believe that, and
20 this is my stance even to this day. I mean, how is it possible that
21 these documents have leaked from you? It can be a madness or a trap
22 from your office. I don't know what it is, really.

23 Q. Mr. Gucati, on 17 September you were served by the SPO officers
24 with an order for seizures of the documents; is this correct?

25 A. Yes, the investigator speaking Albanian, because he was speaking

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1 to me in Albanian all the time, he addressed myself and said,
2 "Mr. Chairman, we have come here to receive those documents." So
3 first he said that, "We would look into these documents to see on
4 whether these are our documents. And if that's the case, we will
5 receive those documents."

6 And I told him, "You" can go upstairs, look at the documents,
7 and then take a decision for yourself." This is what he did. He
8 went upstairs, he took photos of those documents. This is what my
9 colleagues told me, because I didn't accompany him upstairs. He came
10 back to my office. He told me that, "These are our documents, and we
11 are going to receive them." And I said, "That's okay. Go and
12 receive the documents." And we drafted the handover report
13 accordingly. This is what has happened.

14 Q. And did the SPO officer deliver to you a judicial order for
15 seizure and no further disclosure of these documents?

16 A. To be honest with you, I don't remember. I know that there was
17 the handover of working papers, that there is a document that has
18 been signed to that end. About this order you're talking about, I
19 don't know. So if I've signed that judicial order, I would accept
20 that, but I don't remember, because too many people were there. We
21 were having too many people around. The media were there. We were
22 under pressure, so I can't remember. I can't tell.

23 MS. BOLICI: I would like to show to the witness a brief excerpt
24 of a video. It's P0004. It's public. And the relevant part are
25 from the beginning until second 12. And the corresponding part of

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1 the transcript are P0004-ET, page 1.

2 PRESIDING JUDGE SMITH: Public?

3 MS. BOLICI: Public.

4 [Video-clip played]

5 THE INTERPRETER: [Voiceover] "This is an authentic document, so
6 there is a document from the Specialist Chambers of Kosovo or
7 The Hague Court. Otherwise, we wouldn't have received them."

8 MS. BOLICI:

9 Q. Here, Mr. Gucati, you and Tome Gashi are showing to the camera
10 the judicial order that was just notified to you minutes before with
11 the SPO officer together with the handover form that you signed; is
12 this correct?

13 MR. REES: Sorry, can I ask Ms. Bolici to confirm the language
14 of the two documents, please?

15 MS. BOLICI: We can enlarge the picture, if you like, and I'm
16 going to show the witness also the actual documents in a moment, if
17 I'm allowed.

18 Could we please enlarge the picture, Ms. Court Officer. So is
19 this fine, Mr. Rees?

20 MR. REES: Well, could you identify the language, please.

21 MS. BOLICI: The first page that we can see on the screen, it's
22 an English order, Mr. Rees.

23 Q. And, Mr. Gucati, you knew at this point in time that the order
24 that you received from the SPO officers and that you are showing to
25 the camera stated that there could be no further distribution or

1 copying of the SITF/SPO documents that you had received; is this
2 correct?

3 A. No, it's not. So on the left-hand side, there is the handover
4 document. On the right-hand side, there is this document in the
5 English language. And I was told that this document is an order for
6 the Chambers to collect the documents. I mean, this is what was
7 confirmed to me.

8 I am confident, I am positive that this is what I was told to
9 me. So the document on the left hand of Tome is the handover report,
10 whereas the document that he's holding on the right hand has been
11 confirmed to me, because, like I've been telling you, I don't know
12 English. But I was told that this is an order by the Specialist
13 Chambers to collect such documents.

14 Q. And, Mr. Gucati, you were told by this point in time that this
15 order included a prohibition to further dissemination and disclosure
16 of the documents, were you not?

17 A. I don't know who told me. Because your investigator spoke
18 Albanian, he only told me that it's not good. I mean, whatever
19 happened is not good. I have not signed this document. If you have
20 this document signed by myself, it's good to show that to the
21 Honours, to the Judges. I have send every document. Every document
22 that have been brought to my attention, I have signed them. So my
23 signature is in the document that is being held on the left hand, and
24 you can see my first name, my last name, Hysni Gucati, and my
25 signature in this document.

1 MS. BOLICI: I would like to show to the witness the transcript
2 on the same exhibit on page 8 of the transcript. And I would like
3 to -- if we could put, please, on the screen also the Albanian
4 version of the transcript, also on page 8.

5 Q. Now, you stated in front of the cameras in this very occasion:

6 "They addressed me in the summons, here it is written, saying
7 only that 'the multiplication cannot be done, as well as their
8 distribution,' it says 'it cannot be done.'"

9 You stated in front of the camera that the order stated that the
10 multiplication and distribution of the documents cannot be done,
11 didn't you, Mr. Gucati?

12 A. This is what I said before as well. Your investigator told us
13 please don't multiply and don't distribute those documents. That is
14 something that he has said orally to us. We have told to him that we
15 have no interest into multiplying documents. We have no interest
16 into. And the real thing is that we have not photocopied any
17 material. And your investigator told us that it's good not to
18 mention statements and not to mention names. This is what your
19 investigator, the one that spoke Albanian, told us. And we have
20 respected everything that was suggested to us.

21 Q. And you reported, indeed, in the course of this interview, that
22 the investigators had told you so. And then you said:

23 "This is what ... They addressed to me in the summons, here it
24 is written, saying only that 'the multiplication cannot be done, as
25 well as their distribution,' it says 'it cannot be done.'"

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1 Aren't you referring here about what is written in the order
2 that you are showing in front of the camera in that very moment,
3 Mr. Gucati?

4 A. No, that was an oral order. I haven't seen that in writing.
5 Your investigator, the one who spoke Albanian, when we were having
6 coffee tête-à-tête, in the presence of another person, a third party.
7 I don't know whether he was an interpreter or not. Faton was there,
8 Tome was there. So that was all done orally.

9 If it had been in writing, I would have remembered. I know what
10 documents look like. I know what the handover document looks like,
11 and the signature that it needs, and so on and so forth, but this was
12 said to me orally.

13 Q. Mr. Gucati, you are in front of the camera showing a Court order
14 that you just received. You speak about what is written in the
15 summons. You say that what is written there is that documents cannot
16 be multiplied and distributed.

17 It's your position today that while you were saying that what is
18 written there is that documents cannot be distributed, you were
19 actually referring to something else? Is this your testimony today?

20 A. I've been saying the same yesterday, today, and I'll say it all
21 along. Your investigator said that the photocopying and distribution
22 is strictly banned. This was not in writing. The documentation in
23 writing was to do with the handover. So on the left hand of Tome
24 there, you can see the document that relates to the handover.

25 Q. Mr. Gucati, after receiving the order on 17 September, you

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1 received a further batch of materials with official stamps from the
2 SPO on 22 September 2020. Is this the case, Mr. Gucati?

3 A. Before I move on to answer this question, let me just be clear
4 to say that I have -- that I was given an order -- I was not given an
5 order. I was given a document that has to do with the seizure of
6 documents on the part of your investigator.

7 On the date of the 22nd, yes, that is correct, the third batch
8 arrived then.

9 Q. Mr. Gucati, as you went back to the order, you told us that the
10 investigator told you that the documents should not be distributed.
11 And in front of the camera, you said what is written there is that
12 multiplication cannot be done.

13 When you say what is written there is that multiplication cannot
14 be done, are you still referring to what the investigator said or are
15 you referring instead to the order that you had in front of you that
16 you understood very well to mean that further dissemination of these
17 materials was not allowed?

18 A. It's what was told to me orally, not what was written. I said I
19 am thanking him for the work he has done, the behaviour towards us.
20 Whilst as far as the batch of the 22nd, yes, it did arrive. It
21 wasn't voluminous. It was a document which was chucked into the
22 corridor.

23 MS. BOLICI: I would like to show you, Mr. Gucati,
24 Exhibit P00053-AT, and this is public, side by side, please, with
25 P00053.

1 MR. REES: Again, could Ms. Bolici begin by setting out the
2 dates of both the English and the Albanian translations, please.

3 MS. BOLICI: 17 September 2020.

4 MR. REES: And the date of the Albanian? 18 September?

5 MS. BOLICI: 18 September 2020, yes.

6 Q. Mr. Gucati, is this the order that you received on 17 September
7 2020?

8 MR. REES: Well, not -- it couldn't be the Albanian because that
9 followed the following day.

10 MS. BOLICI: Yes.

11 MR. REES: So if the question could be specific, please.

12 MS. BOLICI: Yes.

13 Q. The order on the right side of the screen, is this the order
14 that you received on 17 September 2020?

15 A. This is the order authorising a seizure of documentation. This
16 is not an order for -- over some ban or what. This is a decision
17 authorising a seizure of documents and that's what it means.

18 Q. And whatever you understood this order to mean, you reported it
19 to the cameras that day, didn't you?

20 A. We understood this order to mean that we were to hand over the
21 documentation, and that is what occurred. They came and took
22 possession of the documentation. We understood that to be an order
23 to hand over documents.

24 Q. And in the course of this press conference that you had with
25 Tome Gashi, you reported to the press -- you described to the press

1 what the contents of this order were, didn't you?

2 A. I cannot recall. If you have a recording of it, please play it
3 out. All I remember is that the Specialist investigators came and
4 had that conversation with us, and I reported exactly what I recall.

5 Q. So what you stated in front of the cameras reflects actually
6 what you understood at the time this order to mean?

7 A. I understood that to be a document on the seizure of documents.
8 That's how I understood it to be, and that's what I said, and that's
9 what I'm saying today.

10 Q. What you said in front of the camera is what you understood the
11 order to mean; is this correct?

12 A. As it's written here, all I said was that we had been tipped off
13 orally, not in writing. I do not understand the English language.
14 But each document that I've signed is available. If you have it
15 available, please put it up.

16 Q. Mr. Gucati, we'll refer to the transcript for what it reads.

17 Now moving to 22 September 2020. You agree that on the 22nd,
18 you received a further batch of materials with official stamps of the
19 SPO; is this correct?

20 A. Yes. I was in the office. A gentleman came and chucked the
21 documents into the corridors. It wasn't a package, a package as
22 such. It was just a small bundle. It was chucked. You can see
23 that -- you can see the transcript. You can see the video. It is
24 easy to see him emerging out of the lift and chucking them into the
25 corridor.

Witness: Hysni Gucati (Resumed) (Open Session)
Cross-examination by Ms. Bolici (Continued)

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1 Q. And when you looked at the documents together with
2 Mr. Nasim Haradinaj and Mr. Faton Klinaku and the other members of
3 the KLA War Veterans Association committee, you realised that the
4 documents described possible charges against SPO accused, didn't you?

5 A. Yes.

6 Q. And did you realise that the documents included names of
7 witnesses who provided evidence to the SPO, didn't you?

8 A. No, I saw no names of witnesses. Neither did I check for them.

9 MS. BOLICI: I would like Mr. Gucati to -- I would like to show
10 the transcript of the third press conference, which is P00035-AT,
11 page 1, side by side with P00035-ET, page 1 -- if you don't mind,
12 Court Officer, to put the redacted version on screen.

13 Q. In the second-last paragraph, the last sentence, you stated
14 during the third press conference:

15 "There are various people, various names in here whom we are not
16 authorised to disclose."

17 Which names of people you are not authorised to disclose you are
18 referring to, Mr. Gucati, in this excerpt?

19 PRESIDING JUDGE SMITH: Excuse me, you're asking him to release
20 names that are protected.

21 MS. BOLICI: I'm not asking for names. I'm asking for the
22 category --

23 PRESIDING JUDGE SMITH: You asked --

24 MS. BOLICI: Okay.

25 PRESIDING JUDGE SMITH: You asked for names.

Witness: Hysni Gucati (Resumed) (Open Session)
Cross-examination by Ms. Bolici (Continued)

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1 MS. BOLICI: Okay.

2 Q. What are you referring to when you state there are various names
3 in here that you are not --

4 MR. REES: Sorry, can I raise an objection? I have no issue
5 with the Prosecution asking this question, but I do have an issue if
6 Mr. Gucati is not entitled to answer freely and properly. Otherwise,
7 he's being put in a position that is impossible for him.

8 If the question is being asked, he ought to be entitled to
9 answer fully, or Ms. Bolici needs to think of a different way of
10 dealing with this topic.

11 PRESIDING JUDGE SMITH: That's what she was trying to do. But
12 perhaps you should -- if you really need these names, perhaps we
13 should do it in private session.

14 MS. BOLICI: I am not asking for names. I am just asking for a
15 clarification when he says, "There are various people, various names
16 in here that we are not authorised to disclose," to which category of
17 people he is referring to.

18 PRESIDING JUDGE SMITH: Then you'll have to phrase the question
19 that way.

20 Do you understand, Mr. Gucati, we are not asking you to give
21 names? Do you understand that? All right. Thank you.

22 MS. BOLICI:

23 Q. So, Mr. Gucati, without mentioning specific names, how did you
24 know that there were names in these documents that could not be
25 disclosed?

Witness: Hysni Gucati (Resumed) (Open Session)
Cross-examination by Ms. Bolici (Continued)

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1 A. I did not disclose any names. That is true. It is equally true
2 what's written here, that there are various names, various figures
3 whose names we are not authorised to disclose. We said exactly the
4 same thing at the time. I'm repeating it today. And what we said is
5 that it would be best for the Prosecution and the Special Prosecutors
6 and Specialist Chambers to release -- to find out who is leaking
7 these documents.

8 It's best to confine your question to exactly what I've said in
9 there. I've said there are different figures, different names which
10 we're not authorised to disclose.

11 It would be best for this to be investigated by the Prosecutors
12 and the international prosecutors. So it would be better for the
13 person who brought these documents to be investigated. If I'd had --
14 I have -- I sincerely say here that I have not seen any names, but
15 I've seen, you know, a mention of different kinds of statements.

16 Q. When you say here, "There are various names that we are not
17 authorised to disclose," are you referring to witness names that you
18 are not authorised to disclose?

19 A. It was a draft, a draft charge sheet, which emerged in the six
20 months or so. I hadn't seen any -- any names. If I'd seen the
21 names, I would have been able to mention them in a private session.

22 Q. And when you say, "There are various names in here whom we are
23 not authorised to disclose," are you referring to names of witnesses,
24 or to what else are you referring to?

25 A. If I recall correctly, I have not mentioned names of witnesses.

Witness: Hysni Gucati (Resumed) (Open Session)
Cross-examination by Ms. Bolici (Continued)

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1 I said they have not been authorised. I think the text is available
2 in English for you to read. I've said there are names. I have not
3 specified if there were names of witnesses or people being accused.
4 I've said there were names. I have -- I did not go any further. I
5 said I'm not authorised to mention any names, any texts, any
6 statements, or anything of the sort.

7 Q. And you stated that you were not authorised to mention witness
8 names. This is what you meant, Mr. Gucati, isn't it?

9 A. I did not say witness names. That's not what's written. You
10 can read it in its entirety. I said there were names but it did not
11 specify on whether they were names of witnesses or accused people.
12 I've said there are various names. That's what I said. I said there
13 were various names which I'm not authorised to disclose, because the
14 law prohibits me from doing so.

15 Q. And, Mr. Gucati, I will refer to the following page of the
16 transcript.

17 MS. BOLICI: And this is page 2. It's also redacted. This is
18 Mr. Haradinaj talking.

19 Q. And on the bottom of the page, it says:

20 "We consulted the lawyer and he told us that with the exception
21 of the names mentioned here ... there are names here on the basis of
22 which they have raised those ... on the basis of which they have
23 raised the indictments."

24 Is it true, Mr. Gucati, that the names that you thought you were
25 not authorised to disclose were the names of witnesses that were

Witness: Hysni Gucati (Resumed) (Open Session)
Cross-examination by Ms. Bolici (Continued)

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1 mentioned in the documents that you had in front of you?

2 A. I don't know where you're reading this from. Can you point it
3 out to me? Do you mean Mr. Haradinaj's words?

4 Q. Yes, these are Mr. Haradinaj's words. And in the course of the
5 press conference, when you were sitting next to Mr. Haradinaj, he
6 refers here to names on the basis of which they have raised -- on the
7 basis of which they raised the indictments, and he says that these
8 are names that you, the KLA War Veterans Association, were not
9 authorised to disclose.

10 Right before you'd said, "There are various people, various
11 names in here whom we are not authorised to disclose."

12 Aren't both you talking about the prohibition to disclose
13 witness names?

14 MR. REES: Your Honour, can Ms. Bolici direct Mr. Gucati to the
15 relevant passage on the page? He has asked, and I can't find it.

16 PRESIDING JUDGE SMITH: Please refer to which paragraph.

17 MS. BOLICI: Yes.

18 PRESIDING JUDGE SMITH: And then you'll have to give him an
19 opportunity to read it.

20 MS. BOLICI: Yes. It's within the paragraph that starts with
21 00:06:54-00:10:28 on the bottom of page 2 within the two black marks.
22 Now, there are no line numbers so I cannot direct you to the specific
23 line.

24 PRESIDING JUDGE SMITH: Have you found that, Mr. Gucati?

25 THE ACCUSED GUCATI: [Interpretation] 00:06:54? Is that the

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1 one?

2 MS. BOLICI:

3 Q. That is the one. And if you look at the third period,
4 Mr. Gucati, right after -- third period.

5 MR. REES: Can we ask for the English translation to be moved
6 down so that we can follow it.

7 MS. BOLICI: The English transcript starts on the last line of
8 page 2 and follows on the first line of page 3. While in the
9 Albanian version, it's all on page 2. But I can assist by reading
10 again the sentence.

11 Q. The sentence I'm referring to is the following:

12 "... there are names here on the basis of which they have raised
13 those ... on the basis of which they raised the indictments."

14 Have you found the relevant part, Mr. Gucati?

15 A. Yes, I have. Thank you.

16 Q. In relation to names on the basis of which indictments were
17 raised, Mr. Haradinaj states that the lawyer told you that those
18 names could not be disclosed. At the beginning of this press
19 conference, you stated:

20 "There are various people, various names in here whom we are not
21 authorised to disclose."

22 Isn't it true, Mr. Gucati, that you understood that in these
23 documents there were witness names that you were not authorised to
24 disclose?

25 A. This interview by Mr. Nasim Haradinaj is mostly to do with the

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1 indictment that has been raised. You can read the sentence in its
2 entirety. If you don't read the whole of it, it's difficult to
3 understand. So it's best to read from the beginning to the end.

4 The reference here is about certain indictments that have been
5 made. That's what I can see here. So it would be best to read
6 the -- all the sentence in order to understand the -- and I'm
7 failing -- I'm failing to comprehend it myself here, even though I
8 can read in Albanian very well. It would be best to read the
9 sentence from the beginning to the end in order to be able to
10 understand what we're talking about.

11 Q. Mr. Gucati, did you understand that in these documents there
12 were witness names that you were not authorised to disclose?

13 A. I have seen names, I said. Whether they were names of witnesses
14 or a draft indictment, I don't know. And I don't know what the
15 reference to these names is about. But it's equally true that what I
16 said, that I'm not authorised to disclose the names of people, and
17 nobody else is for that matter either. It's a question of a
18 protection of data privacy. That is why we have never disclosed any
19 names.

20 Q. And is it true, Mr. Gucati, that in the course of this press
21 conference, you publicly asked the media to publish witness names,
22 isn't it?

23 A. I can only speak on my own behalf. I don't -- I don't know of a
24 single case where I've told a TV station, a journalist or a media
25 portal to take this document and to publish the name and surname of a

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1 certain person.

2 MS. BOLICI: I would like to play an excerpt from the third
3 press conference. It's P00035 and is confidential, though the
4 excerpts that I request to play does not contain confidential
5 information.

6 The reference in the English transcript for the interpreters is
7 from page 13 onwards, and in particular -- sorry, from page 12
8 onwards, and in particular from the timestamp 00:23:15-00:24:19. It
9 in the middle of page 12.

10 And I would like to play it until 00:26:03 -- sorry, until
11 00:26:05. So it's three minutes of video.

12 [Video-clip played]

13 THE INTERPRETER: [Voiceover] "No, this meeting has been -- we
14 held these every third month. Every third month we do the same
15 thing. These are regular, regular meetings."

16 MS. BOLICI: It's from 00:23:15.

17 [Video-clip played]

18 THE INTERPRETER: [Voiceover] "No, this is a meeting that has
19 been planned -- well planned. Every third month we hold them. Every
20 third month we have these. This is a regular meeting. A regular
21 meeting. These are completely regular."

22 MS. BOLICI: If I may, there must be a mistake in the transcript
23 about the timestamp. The part that I'm referring to is 00:24:15 and
24 it's in the middle of page 12.

25 [Video-clip played]

1 THE INTERPRETER: [Voiceover] "Maybe I'll go to -- to jail. Are
2 you -- do you understand Albanian? Am I force four or are you? I am
3 force four. If I had been the main -- if I had been the media, I
4 would have done the same. You -- you should not be forced to do
5 that. I -- I showed you the document. You showed me. You showed me
6 exactly the same thing. You -- you showed me -- you showed me and
7 you'll see if I dare do that. That's what I am saying. We are
8 fairly prepared. We've been prepared all the time. It's -- don't
9 keep telling me stories that are suitable to you. You are the media.
10 I know one thing. You are the fourth pillar of the state. I don't
11 have your force.

12 "Listen, you are the media that has publicised. We -- every --
13 every person has -- has a name and surname. You are -- you are not
14 able to show the names and surnames. They're Albanians. They're
15 Albanians. 80 per cent have testified there. We have the material.
16 It's in front of us. This is where it is. You're welcome to read
17 it. Just like you have publicised the names of fake veterans. You
18 can do the same. You take -- you take up the courage, the same
19 courage. Pluck up the same courage."

20 MS. BOLICI:

21 Q. Mr. Gucati, in this part of the video, you were asked by a
22 journalist:

23 "So you're asking to publish them. Why are you not publishing
24 them?"

25 To which Mr. Haradinaj replies that the media should publish

1 them because the media are the fourth pillar of the state.

2 And you add:

3 "I wanted to give you an answer here. You have published the
4 name -- you have published the fake veterans by their full names. Us
5 too, we did not want to sue the media, but the person's privacy is
6 protected. You publish full names. You even publish their personal
7 identity numbers. And now you are not able to publish their names.
8 They are Albanian too. 80 per cent of the people who gave evidence
9 are Albanians."

10 Aren't you asking the media, Mr. Gucati, to publish the names of
11 Albanian witnesses exactly as they published the name of the fake
12 veterans?

13 A. Before giving details, let me just say that I have said that
14 it's not fair to publish names. I told them that you have broken the
15 law by publishing the names and surnames and ID numbers of the
16 veterans. This was a provocation on the part of a journalist.
17 Journalists have provoked Nasim to say so. And that was an
18 infringement, a publication of the veterans, that is. And I said
19 that, "If you think that you were right to publish those names, then
20 feel welcome to publish these ones as well."

21 I have never offered this document to them. I said to take it
22 up and do it. But I said that, "Should you have the courage, pick it
23 up and do it." But I have not invited them. I said from the
24 inception that, "It is not morally right to publish names and
25 surnames of a person like you've done earlier." You can hear me

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1 there. And when provoked by the journalist, I said that, "Should you
2 have the courage, you pick it up and publish the names." That's
3 what -- that's exactly what happened there.

4 Q. Indeed. And later on, and I'm referring to page 14 of the
5 transcript, you keep going and you say:

6 "Here is the material. You're welcome to read it. The same way
7 you published the names of the fake veterans."

8 And you conclude, in page 14 still:

9 "Take the same courage like you did with the veterans."

10 Aren't you here asking the media, Mr. Gucati, to publish the
11 names of Albanian witnesses in the same way as they published the
12 names of the fake veterans?

13 A. No. What I told them is that this is where the materials are.
14 I mean, it was clear that the materials were there, because that was
15 the reason why we called the press conference. And I told them that
16 it was their responsibility, not mine. I said there that it's
17 prohibited for the names and for the identity information of the
18 other persons to be disclosed.

19 This is something that you can see with yourselves here, and
20 that's something that I referred in other statements as well. And I
21 told the media that, "You are the ones who published the fake names
22 of the veterans, and that was not your right." That's what I said.

23 Q. Yes. We can, indeed, see it for ourselves. And, Mr. Gucati,
24 did you know that releasing a witness -- that witnesses could be
25 harmed as a result of releasing their names to the public; is this

Witness: Hysni Gucati (Resumed) (Open Session)
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1 correct?

2 A. We have not released any names in the public. There has been no
3 declaration made on our behalf. I mean, show me one document or one
4 media outlet where we have released the name of a witness. I mean,
5 show me one case that I've mentioned the name of this or that
6 witness.

7 Q. The question was different, Mr. Gucati. Did you know that by
8 releasing names of witnesses, in particular the 80 per cent of
9 Albanian witnesses you are referring to in the press conference, to
10 the public, witnesses could be harmed? Were you aware of that,
11 weren't you?

12 A. Exactly. The reason why I said that it's not good to release
13 the names and the statements of these people, and this is why I said
14 that it's prohibited by law to release the names of such people.
15 That is something that I've said in public rallies or in different
16 news features or media outlets. That's something that I've said
17 constantly.

18 Q. And releasing the witness names to the public is prohibited
19 because, for example, their privacy could be affected as in the case
20 of the fake veterans; is this correct?

21 A. This is what I said at the outset. It is prohibited to disclose
22 the name of the persons.

23 Q. And releasing witness names could harm witnesses because their
24 safety could be endangered. Do you agree, Mr. Gucati?

25 A. I have not released a single name of one witness. That's true

1 for myself, for the chairmanship of the association. We have not
2 released any names to the media related to any witness.

3 Q. And do you agree that releasing names of witnesses to the public
4 endangers witness safety? Do you agree with that?

5 A. In the moment when I say that this is prohibited, and given that
6 this is something that I have said in all the conferences, the use of
7 the word "prohibition," this is self-telling. It shows that it's
8 prohibited to disclose the name of a protected witness. I've never
9 done this.

10 Q. And do you agree that disclosing witness names to the public
11 would endanger the safety of a witness? Do you agree with that?

12 A. I'm telling you again, if a name was released by myself, by the
13 presidency of the KLA WVA, of course then we would have harmed in a
14 way the witnesses. But we have not disclosed any such thing.
15 Therefore, there is no reason for them to be harmed. This is what
16 I'm telling you. This is strictly prohibited.

17 Q. Please focus on the question that I'm asking you, Mr. Gucati.
18 Do you agree that releasing names of witnesses to the public domain
19 endangers the safety of witnesses? Do you agree with this
20 proposition?

21 A. Given that we have released no names - neither myself or the
22 journalists or my friends - I don't know who can be put in danger
23 because of that. We have not released any names of any witness. If
24 we had released names, it is true that perhaps they could have felt
25 scared, but we did not release names.

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1 Q. Thank you. And do you agree, Mr. Gucati, that there has been a
2 history of attempts to intimidate witnesses in war crimes cases
3 involving KLA accused?

4 A. What are you talking about? I don't know. I don't know.

5 Q. You don't agree with this proposition, that there has been a
6 history of witness intimidation in trials concerning -- in war crime
7 trials concerning KLA members? You don't agree with that?

8 A. I have had no time to deal with that matter. I don't know of
9 anyone threatening someone else, because I had my own problems, I had
10 the problems with the leg, my daughter was suffering of leukemia. I
11 was dealing with my personal things, with my personal matters. My
12 daughter was sick, like I said. Therefore, I had no interest on the
13 matter that you are asking me about.

14 Q. Mr. Gucati, you told us before that you were familiar with the
15 ICTY case concerning Ramush Haradinaj; is this correct?

16 Mr. Gucati, you told us before that you are familiar with the
17 ICTY trial in the Ramush Haradinaj case, didn't you?

18 A. Every citizen of Europe and of the Balkans is aware of those
19 proceedings. When I had the time, I have followed the proceedings
20 via the TV. Like I said, I had my own concerns. My family had its
21 own concerns. In 2006, my daughter was sick to leukemia and she
22 died. But if I had free time, I have followed the proceedings of
23 ICTY. But like I said, I had my personal concerns, my personal
24 worries, and I have not constantly followed it.

25 Q. I would like to refer to the judgement in the Ramush Haradinaj

1 case - this is the ICTY judgement IT-04-84-T of the 3 April 2008 -
2 and in particular to paragraph 6. It's a public judgement which
3 reads:

4 "... throughout the trial the Trial Chamber encountered
5 significant difficulties in securing the testimony of a large number
6 of witnesses. Many witnesses cited fear as a prominent reason for
7 not wishing to appear before the Trial Chamber to give evidence. The
8 Trial Chamber gained a strong impression that the trial was being
9 held in an atmosphere where witnesses felt unsafe. This was due to a
10 number of factors specific to Kosovo/Kosova, for example
11 Kosovo/Kosova's small communities and tight family and community
12 networks which made guaranteeing anonymity difficult. The parties
13 themselves agreed that an unstable security situation existed in
14 Kosovo/Kosova that was particularly unfavourable to witnesses."

15 Were you aware, Mr. Gucati, that Ramush Haradinaj's trial had
16 been affected by difficulties in overcoming witness fears to testify?

17 A. First of all, thank you very much for recalling 2008. I have
18 documents that verify that I've been in Istanbul, in Turkey, and I've
19 been throughout this year in Turkey undergoing surgeries. I am not
20 aware of that at all. I can provide you with the documents attesting
21 that I have been hospitalised during that year. Thank you very much
22 for bringing up the year 2008 to me.

23 Q. So, Mr. Gucati, you were or you were not following the
24 Ramush Haradinaj case?

25 A. In 2008, I was in the hospital in Turkey. There was no

1 television in the hospital, and let alone an Albanian channel. So
2 like I said, I can tell you the exact day that I went to the
3 hospital. I was operated upon in Turkey. And the operations lasted
4 for many, many years, for seven years. And 2008 was a year where I
5 underwent many surgeries, and I had no nose to think about
6 Ramush Haradinaj. I could not even think about my father. So I had
7 my family problems, and this is real. And, like I said, I can
8 provide the documents to you if you so wish.

9 Q. And did you ever become aware later on whether in the
10 Ramush Haradinaj case the court expressed publicly difficulties
11 encountered in securing witness evidence because of the intimidation
12 witnesses had been subject to?

13 A. I was not interested. I didn't ask anyone about that. I have
14 not taken any interest about the subject matter you're asking me
15 about. I have read the decision so that he was acquitted and that is
16 something of interest to me. Like I said, I had my own personal
17 concerns. I have been operated upon 27 different times. I have not
18 dealt with that matter. I'm sorry.

19 MS. BOLICI: I would like to show now Exhibit P00161, which is a
20 confidential document, and is also multi-language. So I would ask to
21 open it twice, if possible.

22 Q. Now, without, Mr. Gucati, reading the names of the accused in
23 this case, can you tell us whether you were familiar with the trial
24 concerning these accused?

25 A. No. I haven't taken part in any of the hearings. I know them

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1 all, but I have never taken part in any of the proceedings in the
2 trial in question.

3 Q. And did you know that this trial took place?

4 A. Yes, yes, I do. I know that this trial took place. That is
5 something that I followed through the media. And I was the chair of
6 the veteran association for Skenderaj. I think some of them were
7 acquitted, some of them were declared guilty. This is a trial that
8 has lasted for a very long period of time, if I'm not mistaken. So
9 trials were public in Kosovo back then.

10 Q. And without mentioning the name, the persons that were accused
11 in these proceedings, were they senior KLA members? Looking, for
12 example, at the first three.

13 A. I have not had any dealings with them during the war. I don't
14 know about that. I have been in my village, like I said, and that's
15 it.

16 Q. Mr. Gucati, you are the president of the KLA War Veterans
17 Association. Are you able to tell if these ones are KLA members or
18 not?

19 A. I am the chairman of the KLA War Veterans Association. I am not
20 in that position to distribute degrees, who is a captain and who is a
21 major. I am not the person that assigns those military grades to
22 them. I don't know anything about that. I just used to be a simple
23 soldier.

24 Q. And you confirm that the first three persons mentioned here, for
25 example, these were KLA members? Can you confirm that?

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1 A. They have all been members of the Kosovo Liberation Army. I
2 have myself been part of the KLA. About their military ranking, I
3 don't know about that. I've been a simple soldier of the KLA.

4 Q. Thank you.

5 MS. BOLICI: I would like to refer to page 4 on the left side of
6 the screen and page 4 on the right side of the screen. They
7 correspond.

8 Court Officer, if you scroll down. The pages are numbered 1 to
9 4 in English; and then again, 1 to 4 in Albanian. So that would be
10 the page marked with SITF00372151.

11 Q. And this order reads:

12 "The Pre-Trial Judge has recognised that indeed a serious risk
13 can be established in the present case due to both the general
14 conditions present in Kosovo and the individual circumstances of the
15 Witnesses and Injured Parties in the particular case.

16 "Witness intimidation in war crimes trials still remain a severe
17 problem in Kosovo. According to an OSCE report assessing the past
18 ten years of trials in Kosovo, the issue of witness protection 'has
19 undermined prosecution of war crimes cases perhaps more than any
20 other single issue.'

21 "This issue is prevalent in Kosovo due to the small geographic
22 size of the country and extended nature of family structures, which
23 makes witnesses vulnerable to threats and intimidation against family
24 members. Furthermore, the fear of threats seems to rise in cases
25 involving ex-members of the KLA forces, since the general public

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1 regards ex-KLA fighters as national heroes and, as such,
2 'untouchable.'

3 "Following the death of a key witness in a war-crime case in
4 Kosovo on 28 September" --

5 MR. REES: Your Honour.

6 MS. BOLICI: I want to finish, please.

7 MR. REES: Apologies for interrupting.

8 MS. BOLICI: I would like to finish --

9 MR. REES: This is a finding from a Pre-Trial Judge --

10 MS. BOLICI: Yes, I would like --

11 MR. REES: -- nearly a decade old. Perhaps Ms. Bolici could
12 spell out the relevance first for the area of questioning.

13 PRESIDING JUDGE SMITH: No, we'll let her finish reading. She
14 can then make her question. Then you can interpose your objection --

15 MR. REES: Well, I've made my objection. Your Honour can rule
16 [overlapping speakers] ...

17 PRESIDING JUDGE SMITH: Your objection is overruled at this
18 time.

19 MS. BOLICI:

20 Q. "Following the death of a key witness in a war-crime case in
21 Kosovo on 28 September 2011, the Office of the High Commissioner for
22 Human Rights ... expressed its concern about witness protection in
23 Kosovo and called for an independent witness and victim protection
24 system to be put in place. OHCHR said that only an effective and
25 well-resourced witness and victim protection system could help bring

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1 justice to victims and end impunity for past violations in Kosovo."

2 Do you agree, Mr. Gucati, that this order provides a fair
3 description of the climate of witness intimidation in Kosovo
4 proceedings against KLA members, don't you?

5 A. First of all, I don't have anything to do with this document.
6 This is a document that has been published about ten years ago, 2011
7 perhaps. I don't know what you are talking about. I have always
8 been against those people that have intimidated others, and that's my
9 stance to this day.

10 I think that the personality and dignity of every person has to
11 be protected. This is true and there are recordings about that.
12 I've said that throughout my time. And at that time, I was not the
13 chairman of the association, but I was working in Prishtine in 2011.
14 I don't know. I have not heard of any case, because that was not
15 part of my domain. I had no interest in the matter.

16 Q. You say that you are against those people that have intimidated
17 others, so you are aware that there are examples of people
18 intimidating others with reference to this kind of trial; is this
19 correct?

20 A. No, no, no, this is not correct. I'm not aware of that. I said
21 that one minute ago I have not heard that. I'm not aware of
22 anything. I don't know where you're basing yourself. I mean, how do
23 you know that I'm aware of that? No, I'm not aware of that. And
24 it's not true that Hysni Gucati knows that this person or that person
25 has been intimidated against. No, that's not true.

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Cross-examination by Ms. Bolici (Continued)

1 Q. I'm not asking about this person or that person. I'm asking
2 whether you are aware that trials in Kosovo against members of the
3 KLA have been affected by a recurring problem of witness
4 intimidation? Are you aware of that?

5 A. No.

6 MS. BOLICI: I would like to put on the screen document
7 SPOE00248303-00248404, which is also confidential.

8 Q. Mr. Gucati, without mentioning the names, you can see them in
9 bold, do you know whether the first -- whether the names mentioned in
10 bold on the first page of this document correspond to members of the
11 KLA who underwent a criminal trial?

12 A. No, I do not know.

13 MR. REES: Sorry, can I --

14 THE ACCUSED GUCATI: [Interpretation] This is 10 August 2006. My
15 daughter died on 15 October, and I was in Skopje in hospital with my
16 daughter. Therefore, I'm not aware at all what happened. And this
17 is something that I can provide documents about.

18 I can tell you that I have been in Skopje all year long. So
19 from October 2005 up until 15 October 2006 when my girl, my daughter,
20 died. She died to leukemia. So, like I said, I have my problems, my
21 personal worries, both my health-related issues for myself and for my
22 daughter. Therefore, I'm not aware of it at all.

23 MS. BOLICI:

24 Q. Looking at --

25 MR. REES: Sorry, can I just ask, does this document have a P

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1 number?

2 MS. BOLICI: No, it doesn't. It's on the SPO exhibit list.

3 MR. REES: So it hasn't been admitted?

4 PRESIDING JUDGE SMITH: It has not been admitted.

5 MS. BOLICI: No.

6 Just a last question, because then I would need to move to
7 private session. We can do it, perhaps, after the break.

8 Q. The first name in bold, Mr. Gucati, that you see in the first
9 paragraph. Do you know this person?

10 PRESIDING JUDGE SMITH: Do not use his name.

11 THE ACCUSED GUCATI: [Interpretation] He comes from a very big
12 family. His family was imprisoned by the Serb forces for many, many
13 years.

14 PRESIDING JUDGE SMITH: Mr. Gucati. Mr. Gucati --

15 THE ACCUSED GUCATI: [Interpretation] And he is not only somebody
16 I know, but everyone in Kosovo knows him because of his contribution
17 to his country.

18 MS. BOLICI:

19 Q. He's a former KLA member; is this correct?

20 A. He is registered as a war veteran with the War Veterans
21 Association. He is a member of the association and a former member
22 of the KLA.

23 Q. Thank you.

24 MS. BOLICI: Your Honour, I think it's a good time to break and
25 I will take from here after the break. Thank you.

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1 PRESIDING JUDGE SMITH: We'll break for lunch. Be back at 2.30.
2 We'll be ready to begin at that time.

3 MR. REES: Your Honour, can I raise those two matters that I
4 mentioned first thing this morning at 2.30?

5 PRESIDING JUDGE SMITH: [Microphone not activated].

6 MR. REES: I'm grateful. Thank you.

7 PRESIDING JUDGE SMITH: Right after lunch okay?

8 MR. REES: Thank you, Your Honour.

9 PRESIDING JUDGE SMITH: All right.

10 --- Luncheon recess taken at 12.59 p.m.

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

12 PRESIDING JUDGE SMITH: It seems we have run into a problem with
13 connection to the detention unit, and Mr. Haradinaj, for that reason,
14 cannot be present to observe. They are working on trying to get a
15 solution. Our plan would be that we will, maybe, give them a half
16 hour, and if we can't do that we'll just have to adjourn today and
17 come back in the morning to take up where we left off, because, of
18 course, he has to be able to see what's going on.

19 Any questions by anybody?

20 MR. REES: No. Would Your Honour still allow me to raise the
21 two matters that I wish to raise at this stage. Mr. Cadman --

22 PRESIDING JUDGE SMITH: Mr. Cadman, your client will not be able
23 to hear this. Do you want to allow Mr. Rees to raise the two issues
24 that he has?

25 MR. CADMAN: [via videolink] Well, Your Honour, I haven't had a

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1 chance to speak to Mr. Rees, so I don't know -- I'm not muted, so --

2 PRESIDING JUDGE SMITH: We can't hear you, Mr. Cadman.

3 MR. CADMAN: [via videolink] I'm not muted, so I don't know why
4 you can't hear me.

5 PRESIDING JUDGE SMITH: I can't hear you because I don't have my
6 earphones.

7 Ms. Bolici, I sympathise with your previous position.

8 I'm sorry, Mr. Cadman. Go ahead. Start over, please.

9 MR. CADMAN: [via videolink] Thank you.

10 Certainly, I was going to raise the issue with you because I've
11 not been able to speak to Mr. Haradinaj all day, this morning or
12 during the lunch break. I did speak to, as I'm sure the Court staff
13 has spoke, to the person who is trying to resolve the issue. I would
14 rather that Mr. Haradinaj is in court to hear.

15 I appreciate it's very -- certainly one of the matters, maybe a
16 small matter, that Mr. Rees wants to raise that may not be that
17 controversial. But, obviously, I haven't had a chance to speak to
18 Mr. Haradinaj about it yet.

19 PRESIDING JUDGE SMITH: Okay. I understand. I will tell you
20 that the 102(3) decision on the one outstanding issue will be filed
21 today, later today.

22 MR. REES: I'm grateful for that, Your Honour.

23 Perhaps if I could just briefly set out the issue I wanted to
24 raise, and perhaps Mr. Cadman can -- because I'm not sure to what
25 extent Mr. Cadman knows the issue that I wish to raise. It is only

1 an housekeeping issue, it is an administrative issue which will allow
2 us to plan for our further Defence witnesses.

3 PRESIDING JUDGE SMITH: Because you wanted to schedule your
4 witnesses; correct?

5 MR. REES: Absolutely. And how we're going to deal with -- how
6 we propose to deal with them, Your Honour.

7 PRESIDING JUDGE SMITH: Is that all right, Mr. Cadman?

8 MR. CADMAN: [via videolink] Absolutely. I was going to ask
9 anyway so that we know as far as our scheduling is concerned.

10 PRESIDING JUDGE SMITH: Okay. And we're making a record of
11 this. If your client wants to review the record, you can certainly
12 make that available to him on the transcript.

13 MR. REES: I'm very grateful to Mr. Cadman.

14 In short, the position is, as we've already indicated, that with
15 the remaining Defence witnesses for Mr. Gucati, we would wish to take
16 advantage of Rule 154 to ensure that proceedings are efficient and
17 expeditious.

18 We would propose, therefore, that in relation to each of the
19 following Defence witnesses that once they've been identified and we
20 ask them to identify their witness statement and to confirm that it
21 accurately reflects his or her declaration and what he or she would
22 say if examined, we would then seek to admit the written statement in
23 lieu of direct examination, read the statement save for those parts
24 that the SPO have specifically raised objection to, and then tender
25 the witness for cross-examination.

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1 We would submit that's an efficient way of progressing to ensure
2 that we complete the Gucati Defence in the allotted period.

3 PRESIDING JUDGE SMITH: And that would be to all of the
4 remaining witnesses?

5 MR. REES: To the remaining witnesses. There may be some
6 additional, very, very short questions. So, for example, with one
7 witness we would wish to adduce a video recording that she refers to
8 in the statement. But in short, we will be seeking to adduce the
9 statement in lieu of direct examination.

10 PRESIDING JUDGE SMITH: Okay. And, Mr. Cadman, I assume you
11 have no objection to that?

12 MR. CADMAN: [via videolink] It seems a perfectly reasonable
13 position to take.

14 PRESIDING JUDGE SMITH: Madam Bolici, do you?

15 MS. BOLICI: Your Honour, yes. The only thing is that according
16 to the Order on Conduct Of Proceedings, it is a summary of the
17 statement that needs to be read and not the entirety of the summary,
18 and that we maintain the objections on relevance on parts of the
19 statement that we have already raised.

20 PRESIDING JUDGE SMITH: [Microphone not activated]. This seems
21 like a good solution. It seems like there is no objection.

22 MR. REES: I'm grateful. The statements themselves are concise.
23 So we propose to read the statement subject to not reading those
24 parts that the SPO have identified that they take objection to.

25 PRESIDING JUDGE SMITH: Are you saying you want a separate

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1 summary or just to use the ones that we have?

2 MS. BOLICI: I'm just observing, Your Honour, that it would
3 defeat the purpose of the efficiency of the proceedings if we were to
4 go through all the statements of all the witnesses and the concise
5 summary could be presented instead.

6 PRESIDING JUDGE SMITH: But the admission of the document, you
7 would have the entire document save for your objections, you would
8 have no objection to?

9 MS. BOLICI: I wouldn't have objections to the Rule 154
10 admission except for the paragraphs that are considered to be
11 irrelevant.

12 PRESIDING JUDGE SMITH: Can you prepare a short summary of each?
13 It sort of defeats the purpose.

14 MR. REES: Well, we can do. But our view is they are concise
15 statements, and it would definitely save time if we would read them
16 into the record.

17 PRESIDING JUDGE SMITH: Especially if you cut out some of the
18 matters that are --

19 MR. REES: Absolutely.

20 PRESIDING JUDGE SMITH: -- not relevant.

21 MR. REES: Absolutely.

22 PRESIDING JUDGE SMITH: I believe we can go -- I believe --
23 Ms. Bolici, I understand your concern, but I think it's reasonable to
24 go ahead and to submit the documents themselves, the witness
25 statements themselves less the objected matters.

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1 MS. BOLICI: I note, Your Honour, that in some of the statements
2 there are a lot of paragraphs about the background of the witnesses,
3 about their history, about their knowledge of the accused, and I
4 don't believe this is a matter that should be, like, read out --

5 PRESIDING JUDGE SMITH: We noticed the same, and we will deal
6 with those. Understood?

7 Some of the material, for example, on some of the witnesses,
8 Mr. Rees, deal with their background in the war, which I don't -- I
9 know you're calling them for a different reason and the rest of it is
10 just background.

11 MR. REES: Well, I'm -- we would wish the statements to be
12 admitted in full. I'll look again and I will look at cutting down
13 the statement.

14 PRESIDING JUDGE SMITH: [Microphone not activated]. We'll have
15 to decide --

16 MR. REES: Of course.

17 PRESIDING JUDGE SMITH: -- if we need to cut something out --

18 MR. REES: Of course.

19 PRESIDING JUDGE SMITH: -- on our own.

20 Let's proceed on that basis.

21 MR. REES: I'm grateful.

22 MS. BOLICI: Just one more matter, Your Honour. I've been
23 reminded that based on the witness preparation sessions that have
24 been notified to us between yesterday and today, at least one of the
25 witnesses stated that she does not recall very well what she had

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1 stated in the previous statement. That is DW1242. So for this one,
2 we will want to verify in court what she says in relation to her
3 previous statement as accurate or inaccurate.

4 MR. REES: We don't believe that that was the effect of the note
5 that's been disclosed, but the note has been disclosed and she'll be
6 here for cross-examination. And Ms. Bolici can cross-examine on the
7 note.

8 [Trial Panel confers]

9 PRESIDING JUDGE SMITH: One other issue is Mr. Bowden's
10 testimony.

11 I thought we had suggested that agreed facts would be
12 sufficient, and I think the Prosecution agreed to that. Is there a
13 problem with doing it that way?

14 MR. REES: No, not at all.

15 PRESIDING JUDGE SMITH: Okay.

16 MR. REES: And, in fact, I have just been in correspondence with
17 the Prosecution about some other potential proposed agreed facts.
18 They're a work in progress. They've already commenced. We would
19 hope to reduce down, for example, the number of documents that we
20 might wish to admit through the bar table by using, instead, agreed
21 facts which deal concisely with the fact that the Defence wish to
22 draw from a document rather than seeking to adduce the whole
23 document.

24 So there's a work in progress on agreed proposed facts, and we
25 will look to conclude that before the end of the Gucati Defence.

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1 PRESIDING JUDGE SMITH: All right.

2 Ms. Bolici.

3 MS. BOLICI: Yes, Your Honour. Just to say for the Bowden
4 testimony, our suggestions in our filing was to admit the statement
5 under Rule 153, if the Defence intends to tender it under 153.

6 MR. CADMAN: [via videolink] Your Honour, could I be heard?

7 PRESIDING JUDGE SMITH: Yes, just a minute, Mr. Cadman. We're
8 still back and forth with Mr. Rees.

9 MR. CADMAN: [via videolink] Well, that's the point. That's what
10 I wanted to --

11 MR. REES: We -- we had [Overlapping speakers] ...

12 MR. CADMAN: [via videolink] -- to raise an objection to.

13 MR. REES: -- about the Trial Panel's suggestion of an agreed
14 proposed fact because it does seem that it's a very straightforward
15 matter.

16 But we will liaise with the SPO and we will look to resolve that
17 without burdening the Trial Panel with anything they don't need to be
18 burdened with.

19 PRESIDING JUDGE SMITH: I think Mr. Rees wants to object to
20 something.

21 Go ahead, Mr. Rees -- I'm sorry. Mr. Cadman.

22 MR. CADMAN: [via videolink] Well, I think the objection would be
23 moot now because I was going to say that we're going further than
24 what was going to be just a preliminary discussion about housekeeping
25 and started to get into more substance in which Mr. Haradinaj should

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1 be here. But, Your Honour, you've dealt with it now, so my objection
2 is moot.

3 PRESIDING JUDGE SMITH: Well, bear in mind if you want to wait
4 and discuss this in his presence, we can do that. Did you hear me?

5 MR. CADMAN: [via videolink] I did. I did, Your Honour.

6 PRESIDING JUDGE SMITH: Okay.

7 MR. CADMAN: [via videolink] He's not here to hear it, and I
8 don't know when he is going to be here to hear it.

9 PRESIDING JUDGE SMITH: All right. So unless they call in the
10 next 20 minutes, we will be finished for the day. Please stay near
11 at hand.

12 MS. BOLICI: Just --

13 PRESIDING JUDGE SMITH: Oh, Ms. Bolici.

14 MS. BOLICI: Sorry, Your Honour. Thank you. I would just like
15 to provide a short notification, and I will repeat it once
16 Mr. Haradinaj is in the courtroom.

17 And it's that in relation to the filing of the Gucati Defence
18 number 478, the Prosecution has no objection to the addition to these
19 items to the exhibit list, and we reserve our objections to the time
20 when these items will be tendered into evidence. We have objections
21 into the admissibility -- in relation to the admissibility of some of
22 these items.

23 PRESIDING JUDGE SMITH: Mr. Rees.

24 MR. REES: I'm grateful for that indication.

25 PRESIDING JUDGE SMITH: Thank you.

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1 Anything else from anyone? Sorry about this afternoon, but it
2 couldn't be helped. We'll let you know for sure at 3.00 whether
3 we're finished for the day. Thank you.

4 --- Whereupon the hearing adjourned at 2.41 p.m.

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