

1 Thursday, 9 December 2021

2 [Open session]

3 [The accused entered court]

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

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

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

10 PRESIDING JUDGE SMITH: Thank you.

11 Any change in appearances, Mr. Pace?

12 MR. PACE: Good morning, Your Honour and to everyone. The only  
13 change in appearance is that we are joined today by Benjamin Dearden,  
14 legal intern. Thank you.

15 PRESIDING JUDGE SMITH: Thank you, Mr. Pace.  
16 Mr. Rees.

17 MR. REES: No change, Your Honour.

18 PRESIDING JUDGE SMITH: Mr. Worboys.

19 MR. WORBOYS: No change, Your Honour.

20 PRESIDING JUDGE SMITH: Thank you.

21 We recognise that Mr. Gucati and Mr. Haradinaj are present in  
22 the courtroom.

23 We're ready to continue with the next witness, number 1241,  
24 Ms. Taibe Miftari.

25 Madam Court Usher, please bring the witness in.

1 MR. REES: Just to inform Your Honour, Ms. Stephenson will be  
2 taking this witness.

3 PRESIDING JUDGE SMITH: Thank you.

4 [Trial Panel and Court Officer confers]

5 PRESIDING JUDGE SMITH: There's a slight delay. Just a couple  
6 of minutes.

7 Ms. Stephenson, you were present in court yesterday. I told  
8 Mr. Rees that he would read out the statement except for the  
9 paragraphs that he agreed not to. But we have discussed that, and  
10 we'd like to do that slightly differently.

11 We would first ask the witness -- we would ask you to please ask  
12 the witness if her statement is accurate and the rules under 154.  
13 And we would then have a discussion concerning the admissibility of  
14 the document, and then we will have you read out the entire document  
15 that is admitted. If that's understood? Okay. It seemed a bit more  
16 logical to us to do it that way.

17 MS. STEPHENSON: That's understood.

18 PRESIDING JUDGE SMITH: Any problem with that process, Mr. Pace?

19 MR. PACE: No, Your Honour.

20 PRESIDING JUDGE SMITH: Thank you.

21 [The witness entered court]

22 PRESIDING JUDGE SMITH: Good morning, Ms. Miftari. Thank you  
23 for being with us. The Court Usher will now provide you with a text  
24 of a solemn declaration which you are asked to take pursuant to  
25 Rule 141(2) of the Rules, so you may proceed.

1 THE WITNESS: [Interpretation] Conscious of the significance of  
2 my testimony and my legal responsibility, I solemnly declare that I  
3 will tell the truth, the whole truth, and nothing but the truth, and  
4 that I shall not withhold anything which has come to my knowledge.

5 WITNESS: TAIBE MIFTARI

6 [Witness answered through interpreter]

7 PRESIDING JUDGE SMITH: You can be seated, Ms. Miftari.

8 Ms. Miftari, today we will hear your testimony. As you know,  
9 Ms. Stephenson will go first. She will ask you some questions about  
10 your statement. Then the Court will have a brief discussion about  
11 your statement. And once that is done, the admitted part of your  
12 statement will be read into the record. Then Ms. Stephenson might  
13 ask you some more questions, if she has any.

14 Next, the lawyers representing Mr. Haradinaj may ask you some  
15 questions as well. Then it will be the Prosecution's turn, and  
16 members of the Panel, we Judges, may have some questions for you as  
17 well.

18 Ms. Stephenson's estimates for your examination will be about  
19 15 minutes, but the Prosecution will be questioning you for a longer  
20 period of time. The Panel may allow re-examination by the Defence if  
21 conditions for it are met.

22 Please try to answer the questions clearly, with short  
23 sentences. If you don't understand a question, feel free to ask  
24 counsel to repeat the question or tell them that you don't understand  
25 and they will clarify. Also, please try to indicate the basis of

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1 your knowledge of facts and circumstances that you will be asked  
2 about.

3 Please also speak into the microphones and try to wait about  
4 five seconds before answering a question, and speak at a slow pace  
5 for the interpreters to catch up.

6 While you are giving evidence in this Court, you are not allowed  
7 to discuss with anyone the content of your testimony. If any person  
8 asks you questions outside the court about your testimony, please let  
9 us know.

10 All right, Ms. Stephenson.

11 Examination by Ms. Stephenson:

12 Q. Good morning, Ms. Miftari.

13 A. Good morning.

14 Q. If I may start by asking you to confirm your full name and date  
15 of birth, please.

16 A. My name is Taibe Miftari, born on 12 May 1990.

17 Q. Thank you.

18 MS. STEPHENSON: Madam Court Officer, could I please ask you to  
19 bring up on the screen the English and Albanian versions of the  
20 statement. That's Exhibit number DHG0226-DHG0231, that's the English  
21 version; and DHG0159-DHG0164 for the Albanian version, please.

22 Q. So, Ms. Miftari, you should have a copy of the statement in  
23 front of you in Albanian. Could you please go to the last page of  
24 the statement. And can you see that there's 40 paragraphs of the  
25 statement?

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1 A. Yes.

2 Q. And it's dated 6 September 2021; is that right?

3 A. Yes.

4 Q. And can you see your signature on the last page?

5 A. Yes.

6 Q. Can you confirm that you've read the statement recently?

7 A. Yes.

8 Q. And could you please confirm that the statement accurately  
9 reflects your evidence and what you would say if you were directly  
10 examined about it by the Defence?

11 Okay, let's take that in stages. Can you confirm that the  
12 statement accurately reflects your evidence?

13 A. Yes.

14 Q. And if we were to ask you questions about the events of 2020,  
15 that you would answer in the same way as you have in your statement?

16 A. Yes.

17 MS. STEPHENSON: Your Honour, so, we would like to have the  
18 statement admitted, please.

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 I know the SPO objects to two paragraphs. Mr. Pace, can you  
21 please state on the record your reasons for the objection.

22 MR. PACE: Thank you, Your Honour.

23 Yes, that's correct. The two paragraphs we object to are part  
24 of paragraph 35, which is all of it but the first two sentences; and  
25 we also object to the admission of paragraph 40.

1 And the reasons for the objection is the irrelevance of those --  
2 of the content of those paragraphs or the excerpts of the paragraphs  
3 to the charges against the accused. And as previously set out, we  
4 feel that using Rule 154 should not circumvent the requirements of  
5 Rule 138, which means that if something were not to be deemed  
6 relevant were to be elicited viva voce, neither should be it admitted  
7 as part of her statement pursuant to Rule 154 and, of course, it is  
8 entirely impossible to admit a statement in part.

9 Those are our submissions, Your Honour.

10 PRESIDING JUDGE SMITH: Ms. Stephenson, anything to respond?

11 MS. STEPHENSON: Thank you.

12 We don't accept that they're not relevant, but we don't seek to  
13 adduce them, so we have no objection to not reading them out.

14 PRESIDING JUDGE SMITH: Mr. Worboys.

15 MR. WORBOYS: Your Honour, we take the same position.

16 [Trial Panel confers]

17 MR. PACE: Sorry, Your Honour, to disturb, but just to be --

18 PRESIDING JUDGE SMITH: Go ahead, Mr. Pace.

19 MR. PACE: Just so that everybody is on the same page, the  
20 objection is to the admissibility as well as to the reading out of  
21 the paragraphs.

22 Thank you.

23 PRESIDING JUDGE SMITH: Understood.

24 [Trial Panel confers]

25 PRESIDING JUDGE SMITH: We will sustain the objection of the

1 Prosecution on those items that were mentioned. So do not read them  
2 out, and they will not be taken into consideration as evidence in the  
3 matter, those portions of the paragraphs.

4 So you may read out.

5 MS. STEPHENSON: Thank you, Your Honour.

6 Q. So, Ms. Miftari, I'm just going to read out a summary of the  
7 statement now, and afterwards, the SPO may have some questions for  
8 you.

9 MS. STEPHENSON: I was born in Majac village, in Podujeva, a  
10 town and municipality in Kosovo's Prishtine District.

11 After completing school, in 2009, I started working at the  
12 offices of the War Veterans Association of the Kosovo Liberation  
13 Army. That's the KLA WVA, when I was 19 years old. I work as a  
14 technical assistant, and I'm a receptionist in the main office.  
15 There was no announcement for a vacancy. I found out about the  
16 position through a relative of mine, who put me in touch with  
17 Faton Klinaku. In turn, he then offered me the job.

18 I remember the first delivery of documents. It was on  
19 7 September 2020, approximately 10.00. I was in my office on the  
20 fourth floor, where all the main WVA offices are. There was a  
21 cleaner in my office as well.

22 I saw an unknown man in the corridor, as the door to my office  
23 was open. The man was wearing a mask, baseball cap, sunglasses, and  
24 gloves. It was therefore impossible to make out any identifying  
25 features.

1 I was sat behind my desk in the office and I could see him  
2 coming down the corridor. As he entered our offices, he was holding  
3 a package in his hand. Initially he tried to put the package on a  
4 table but then changed and moved into my office. He dropped the box  
5 on a small table directly in front of my desk. It was a cardboard  
6 box which was quite large. I was sat at my desk when he dropped the  
7 box, and he said "Give this to the one who talks on television." I  
8 asked him who he was, but he did not say anything and then left. I  
9 stood up from my chair and I asked him numerous times who he was, but  
10 he carried on walking.

11 The man spoke in Albanian and there was nothing unusual or  
12 strange about the way that he spoke. I did not pay any attention to  
13 the man walking away, nor did I make any attempt to go after him. I  
14 was worried that the box might contain a bomb, and I was scared that  
15 it was going to explode.

16 I then went immediately into the chairman, Hysni Gucati's  
17 office. In the office was Hysni Gucati, Nasim Haradinaj,  
18 Faton Klinaku, and Cele Gashi. I knocked on the door and spoke to  
19 all of them. I said that someone had just come into the offices and  
20 dropped a box and had said "Give this to the man who talks on the  
21 television."

22 They asked who it was who delivered the box, and I told them he  
23 was a masked person, a COVID-19 medical mask, wearing a baseball cap,  
24 white disposable medical gloves and sunglasses. His clothing was all  
25 dark and maybe he was wearing jogging bottoms. It was impossible to



1 see facial features of the man. He was average height, but I could  
2 not tell his age nor his ethnicity. He spoke Albanian without an  
3 accent.

4 All four of them came to my office to view the CCTV camera  
5 recording. The CCTV monitor was in my office. Before they looked at  
6 what was in the box, they wanted to check the camera. On the CCTV  
7 footage, we all saw the man delivering the box.

8 I wanted someone to check the box as it could have contained a  
9 bomb. One of the men grabbed the box and removed it from my office.  
10 All four men went out from my office, but I stayed in my office. I  
11 do not know who opened the box.

12 They continued their activities in Hysni's office, and I did not  
13 see any of that.

14 I was really scared and stressed at the time as nothing like  
15 this had happened to me before. I was petrified, in fact, because I  
16 thought that the box contained a bomb, and for that reason I did not  
17 want to open it. Since these events, I've experienced the effects of  
18 this trauma. As such, I avoid situations where I would be left by  
19 myself in the WVA offices.

20 I was not involved at all in the press conferences that took  
21 place. I should also note that I only saw the documents themselves  
22 from a distance and was not allowed to see them.

23 The following day, 8 September 2020, representatives from the  
24 Specialist Prosecutor's Office, SPO, visited the WVA offices. It was  
25 lunchtime and everyone was in the canteen, which is on the opposite

1 side of the same floor as the offices. I locked the office and was  
2 meant to join the others.

3 I was met at the top of the stairs by SPO investigators who  
4 asked for someone from the organisation who was in charge. I told  
5 them that Faton Klinaku was present at the offices. Both Hysni and  
6 Nasim were on holiday at the time, which made Faton the most senior  
7 person on the premises.

8 They showed me identification badges that stated that they came  
9 from the SPO. I asked if they had an appointment. They said that  
10 they did not have an appointment and I told them that I would speak  
11 to Faton. I told Faton that there were people from the SPO that had  
12 arrived to see him. I then brought those people to the canteen. I  
13 sat down as well for my lunch, whilst they talked for approximately  
14 15 minutes. I was not part of their conversation.

15 I then opened the office door and Faton spoke with the SPO  
16 investigators. From then on, I really was not involved.

17 On 16 September 2020, at approximately 3.00, there was another  
18 delivery. I was in my office at the time. I was with Cele Gashi and  
19 Elvir Gucati.

20 The unknown man turned up at the offices holding three boxes.  
21 One was bigger than the other two. He came straight in and dropped  
22 the boxes on the small table in front of my desk. He said nothing.  
23 I just looked at him when he dropped the boxes on the table. I do  
24 not recall saying anything to him.

25 At the time of the delivery, Hysni Gucati, Nasim Haradinaj,

1     Faton Klinaku, and Faik Fazliu were all in Hysni's office. After he  
2     brought the package, the man went by the lift but seemed to be  
3     struggling to find the stairs. He did not press the button for the  
4     lift. It seemed as if he went into the restaurant rather than  
5     leaving immediately, as far as I recall.

6             I went and told the people in Hysni's office what had just  
7     happened and the four of them immediately came out of the office.  
8     Faton chased after the delivery man, but I do not know for how long,  
9     as I remained in the offices. When Faton returned, he relayed that  
10    the delivery man had put his hand to his waist as if he had a weapon.

11            The man who delivered these boxes was different from the one who  
12    delivered the documents the first time on 7 September 2020. This man  
13    was wearing a baseball cap, sunglasses, gloves, a hoody, and dark  
14    blue or navy clothing. He was taller than the first delivery man.  
15    His height was the only way to differentiate him from the first  
16    delivery man.

17            The boxes were then picked up by Hysni, Nasim, Faton, and Faik  
18    and taken to Hysni's office. I never saw the contents of the boxes.

19            I did not organise the press conference, but I did show some  
20    journalists where the conference room was on the second floor. I  
21    don't know exactly how many there were, but including cameramen,  
22    there were many journalists in attendance.

23            This second delivery again left me feeling worried and scared.  
24    I did not know what the boxes contained. Again, it could have been a  
25    bomb. I am female and I was not able to do anything. Faton

1 mentioning that the delivery man may have had a potential weapon  
2 further increased my stress. Even still now, I am scared to be left  
3 alone in the office.

4 After the first delivery, senior members of the organisation  
5 took the decision that we were not to do anything if there were any  
6 further deliveries. This decision was taken by the chairmanship of  
7 the association, consisting of 23 of the most senior members of the  
8 KLA WVA, including Hysni, Nasim, and Faton.

9 On 17 September 2020, SPO investigators arrived at the offices.  
10 They were wearing caps, but they were not wearing sunglasses. I was  
11 at work when they arrived, and I cannot recall how many of them there  
12 were. They just came in and nodded. It looked like they knew where  
13 they wanted to go. I took them to Hysni's office, and they dealt  
14 with Hysni in there, and I returned to my desk in my office.

15 On 22 September 2020, at approximately 10.00, there was a third  
16 delivery. I was in my office. At the time an active soldier with  
17 the Kosovo Security Force was in my office. He had come to collect  
18 his membership card.

19 I saw a man emerge from the lift. He was masked and wearing  
20 sunglasses, gloves, and a baseball cap.

21 The man put his hands on his waist. When I saw him do this, I  
22 was sitting at my desk and I moved my chair - it is an office chair  
23 with wheels - as I did not know what he had on his waist. If he had  
24 a weapon, then he could have shot me. I was scared and moved to my  
25 right just in case he had a weapon.

1           The man had piles of documents on his body tucked under his  
2   shirt. He was lifting his shirt to get the papers out and that is  
3   when I thought he was about to take out a gun. He then took out the  
4   papers and dropped them on the floor. At this point, I stood up and  
5   went to the door of my office. I said, "Who are you? Who are you?"  
6   He then shouted loudly, "Don't disturb me. Don't disturb me." He  
7   then -- after he said this, he then left immediately and went  
8   downstairs.

9           Hysni and Faton then came from their offices. Nasim was in a  
10   meeting with the German KFOR representatives at the time. I think  
11   there were two of them, an interpreter as well in that meeting.

12          The man who delivered the items was a different man to the  
13   previous two delivery men. He was not as tall as the second delivery  
14   man. Again, this man was wearing sunglasses, a baseball cap, a mask,  
15   gloves, and dark clothing. When he shouted, it was in Albanian, and  
16   he did not speak with an accent. I could not make out any  
17   identifying features, not even skin colour. As such, I would not be  
18   able to recognise the man again.

19          On 25 September 2020, the SPO turned up at the WVA offices for a  
20   search. I was in my office when armed forces came into the offices.

21          A colleague told me that an official from the SPO had said that  
22   I had five minutes to leave and that I should collect my stuff. They  
23   were mainly focused on searching the offices. I was asked by an  
24   official from the SPO where Nasim was, and I told them he was not in  
25   the office.

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1           The whole incident was very stressful and caused me to have  
2     nightmares, and I could not sleep well that night.

3           I was never asked at any stage to take copies or distribute  
4     copies of any of the documents that had been delivered. I was only  
5     asked to take them from one office to another, but I never read any  
6     of them and I did not know what they contained.

7           As it stands, I still go to work. But because I saw the masked  
8     delivery men come into the WVA offices, I get worried when I see  
9     people in public wearing masks, as they're currently doing due to the  
10    COVID-19 pandemic. I tend to avoid masked people. The whole thing  
11    has caused me a lot of trauma and was really quite scary. It was not  
12    easy for me to go through these incidents.

13          That's the incident of the summary, Your Honour.

14          PRESIDING JUDGE SMITH: Thank you. The Panel, for the record,  
15    admits the written statement of Ms. Miftari in evidence under  
16    Rule 154 of the Rules except the parts of paragraphs 35 and 40  
17    objected to by the SPO.

18          The Panel notes that the rest of the statement is relevant and  
19    has probative value as it goes to the acts and conduct of the accused  
20    in relation to the charges. The contents of the disputed part of the  
21    paragraphs 35 and 40 are not relevant.

22          Furthermore, Ms. Miftari is present in court and is available  
23    for cross-examination and questioning by the Panel. She also  
24    attested that the written statement accurately reflects what she  
25    would say in court.

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1           The Panel, therefore, admits the written statement with a public  
2   classification.

3           Madam Court Officer, please assign an exhibit number to the item  
4   and state it on the record.

5           THE COURT OFFICER: Your Honours, the witness statement will be  
6   Exhibit 1D4.

7           PRESIDING JUDGE SMITH: Does the Haradinaj Defence have any  
8   questions for the witness?

9           MR. WORBOYS: No, Your Honour, we do not. Thank you.

10          PRESIDING JUDGE SMITH: Cross-examination by the Prosecution, if  
11   any?

12          MR. PACE: Thank you, Your Honour.

13                           Cross-examination by Mr. Pace:

14   Q.    Good morning, Madam Witness. My name is James Pace and I'll be  
15   asking you a few questions on behalf of the Specialist Prosecutor's  
16   Office.

17           You did not know that the documents were going to be delivered  
18   to the KLA War Veterans Association offices on the 7th, the 16th, and  
19   22nd September; correct?

20   A.    I did not know. Yes, that's correct.

21   Q.    In fact, you feared that the unidentified person or persons may  
22   have delivered a bomb at those offices; is that correct?

23   A.    That's right.

24   Q.    The only thing that the unidentified person said on 7 September  
25   in Albanian is, and I'm quoting from your statement, "'Give this to

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1 the one who talks on television, '"; is that right?

2 A. "Give it to the person who speaks on TV." That's what he said.

3 Q. You then asked him who he was, but he did not say anything and  
4 he then left; correct?

5 A. Yes.

6 Q. To your knowledge, this person on that day, the 7th, did not  
7 speak to anyone else at the KLA offices; correct?

8 A. As far as I know, no, he did not.

9 Q. So you have no knowledge of that person on that day, the 7th,  
10 speaking directly to Hysni Gucati or Nasim Haradinaj; is that right?

11 A. No, I have no idea.

12 Q. You have no knowledge of that person on that day even seeing  
13 Hysni Gucati or Nasim Haradinaj; correct?

14 A. No, I have no knowledge of that. No.

15 Q. And to your knowledge, Mr. Gucati and Mr. Haradinaj didn't  
16 themselves see the man that day; right?

17 A. No, they haven't seen him, with the exception of the cameras,  
18 the CCTV cameras in my office.

19 Q. Turning to 16 September. The unidentified person said nothing  
20 when he dropped the boxes off in your office, and you don't recall  
21 saying anything to him either; is that correct?

22 A. I cannot recall him saying anything. No, I can't remember.

23 Q. And to your knowledge, he didn't speak to anyone else at the  
24 offices that day; is that right?

25 A. As far as I recall, no.



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1 Q. You have no knowledge of him even seeing Hysni Gucati or  
2 Nasim Haradinaj on that occasion, 16 September; right?

3 A. No, neither Hysni nor Nasim saw him, with the exception again of  
4 the images of the camera recordings.

5 Q. Turning to 22 September. When you saw the unidentified man with  
6 the documents, you said, and I'm quoting from your statement, "'Who  
7 are you? Who are you?'" ; is that right?

8 A. Yes.

9 Q. The unidentified person then shouted loudly, and I quote again  
10 from your statement, "'Don't disturb me. Don't disturb me,'" and  
11 then he left immediately; is that correct?

12 A. As far as I recall, yes, he shouted and, in fact, I was  
13 frightened, and all he said, as far as I remember again, was "Do not  
14 disturb me. Do not disturb me."

15 Q. So you do not recall him saying anything else on that day? And  
16 just to remind you, we are talking about 22 September 2020.

17 A. No, I can't remember.

18 Q. And on that day 22 September, to your knowledge he didn't speak  
19 to anybody else at the offices; is that right?

20 A. He stayed in the corridor. He did not come into the offices.  
21 He was there and he spoke with a very loud voice, so everybody who  
22 was present was able to hear.

23 Q. And when he spoke with that loud voice, he said -- the only  
24 thing he said was what you told us earlier; correct? "Don't disturb  
25 me. Don't disturb me."

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1 A. As far as I recall, that is correct, "Do not disturb me. Do not  
2 disturb me."

3 Q. Madam Witness, your statement doesn't mention the third press  
4 conference. Could you tell us where you were when that third press  
5 conference took place? And that's the one on 22 September 2020.

6 A. I was in my office during the working hours.

7 Q. Does that mean that you were present when the third press  
8 conference took place, and by which I mean you were present in the  
9 offices in general on 22 September?

10 A. Yes, I was in my office but not attending the press conference.

11 Q. Did you play any role whatsoever to do with, for example, the  
12 organisation or the logistical arrangements for the specific press  
13 conference?

14 A. Are you referring to the third? I had nothing to do with the  
15 conference. I'm a technical worker.

16 MR. PACE: I'd like to show the witness one of our exhibits on  
17 the Prosecution's presentation queue. It does not have a P number.  
18 It's not been admitted. And it is SPOE00314460-00314460, along with  
19 its English translation.

20 Thank you, Court Officer.

21 Q. Madam Witness, if you could please look at the image on your  
22 screen. It's on the left on your screen. We see three photos. And  
23 for now, I would like you to focus on the larger of the three photos,  
24 which is at the top of that page.

25 Have you seen this photo before, Madam Witness?

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1 A. Yes.

2 Q. And where have you seen it?

3 A. It's a picture which has been made public by the acting  
4 director, Faton Klinaku, at the moment when we were seen off to come  
5 here to give testimony.

6 Q. And is it correct that on this photo, the larger one of the  
7 three on the top of the page, you're the person on the right-hand  
8 side; is that correct? The first person on the right.

9 A. Yes.

10 Q. I'm going to move inwards from you to the person next to you.  
11 Could you tell us who the person next to you is?

12 A. We're in public session? Do we need to mention names? Usually  
13 that's done in private sessions. Or should we continue as we are?

14 Q. Thank you for the question, Madam Witness.

15 MR. PACE: Your Honour, I defer to you. To my knowledge, these  
16 persons, there's no issue with mentioning them publicly. Of course,  
17 I don't want to put words in the witness's mouth. I don't know if  
18 counsel wants to interject or provide opinion on this.

19 PRESIDING JUDGE SMITH: Ms. Stephenson, any comment?

20 MS. STEPHENSON: There's no problem with mentioning names.

21 PRESIDING JUDGE SMITH: Mr. Worboys?

22 [Microphone not activated].

23 THE INTERPRETER: Microphone for His Honour, please.

24 PRESIDING JUDGE SMITH: Madam Witness, you may give the name.

25 THE WITNESS: [Interpretation] Elmedina Ballhazi is the name.

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Cross-examination by Mr. Pace

1 MR. PACE:

2 Q. And next to Ms. Ballhazi, who appears there?

3 A. Metush Kryeziu.

4 Q. And immediately next to Mr. Kryeziu, who appears there?

5 A. Faton Klinaku.

6 Q. Immediately next to Mr. Klinaku, on the other side, of course?

7 A. Pren Marashi.

8 Q. And to the side of Pren Marashi, other than Mr. Klinaku, who is  
9 that?

10 A. Cele Gashi.

11 Q. And who is the person we can see at the end on the left of this  
12 photo, Madam Witness?

13 A. Emin Lati [phoen].

14 PRESIDING JUDGE SMITH: Mr. Pace, could you identify the date of  
15 that photograph? It doesn't show.

16 MR. PACE: Certainly, Your Honour.

17 Q. Madam Witness, from looking at the exhibit, I see that it says  
18 December 4th, at 11.55 a.m., and the location is Tirana, Albania.

19 Could you confirm whether that was the date and roughly that time and  
20 location where this photo was taken, please? If it assists, that  
21 would be last Saturday.

22 A. The date was 4 December, the day we travelled to The Hague.

23 Q. And just one more question about this. Could you tell us why  
24 this photo was taken?

25 A. I haven't posted that on my Facebook account. I have no idea

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1       why Faton Klinaku has made this public.

2       Q.     Thank you, Madam Witness.

3           MR. PACE: I have no further questions for the witness. I do  
4       seek admission of this one item and its translation into evidence,  
5       Your Honour.

6           PRESIDING JUDGE SMITH: [Microphone not activated].

7           MS. STEPHENSON: No objection.

8           PRESIDING JUDGE SMITH: [Microphone not activated].

9           MR. WORBOYS: No objection, Your Honour.

10          PRESIDING JUDGE SMITH: [Microphone not activated].

11          Court Officer, please assign a number.

12          THE COURT OFFICER: Your Honours, the document will be  
13       Exhibit P162.

14          PRESIDING JUDGE SMITH: There being no objection to P162, it is  
15       admitted.

16          Ms. Stephenson, [Microphone not activated].

17          MS. STEPHENSON: [Microphone not activated].

18          PRESIDING JUDGE SMITH: [Microphone not activated].

19          MR. WORBOYS: Your Honour, Mr. Haradinaj has asked that I ask  
20       two specific questions. They don't necessarily arise from  
21       cross-examination. But with the Court's leave, I would just seek to  
22       ask those now as well, please.

23          PRESIDING JUDGE SMITH: [Microphone not activated].

24          MR. WORBOYS: They're relative to -- relevant to --

25          PRESIDING JUDGE SMITH: I'm sorry, relative to what?

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Cross-examination by Mr. Worboys

1 MR. WORBOYS: Relevant, did you say, sir?

2 PRESIDING JUDGE SMITH: I say is it -- tell us what it is  
3 relative to.

4 MR. WORBOYS: It's just a question of what the masked individual  
5 said when he delivered the second and third documents.

6 MR. PACE: Your Honour, if I may be heard.

7 PRESIDING JUDGE SMITH: Yes.

8 MR. PACE: We've heard no reason whatsoever as to why these  
9 questions weren't asked at the appropriate time, which per the  
10 Conduct of Proceedings, would have been precisely after  
11 Ms. Stephenson concluded her examination and before I started mine.  
12 So I don't understand why questions would arise at this time.

13 Had counsel wanted to confer with his client, he should have  
14 done so before I started my examination.

15 PRESIDING JUDGE SMITH: Your objection is overruled.  
16 You may ask the question.

17 MR. WORBOYS: Could I ask two questions, please.

18 Cross-examination by Mr. Worboys:

19 Q. The first is: When the individual delivered the documents the  
20 second time, did he say that he will bring more documents?

21 A. I am not sure. He might have. He might not.

22 Q. On the third occasion, did the individual say that he would  
23 bring CDs?

24 A. As far as I recall, I don't think so. He screamed and caused a  
25 lot of stress, as far as I'm concerned. So I do not remember.

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Questioned by the Trial Panel

1           PRESIDING JUDGE SMITH: Thank you, Mr. Worboys.

2           MR. WORBOYS: Thank you.

3           PRESIDING JUDGE SMITH: Thank you, Ms. Miftari. Your testimony  
4 is completed and you will be escorted from --

5                               [Trial Panel confers]

6           PRESIDING JUDGE SMITH: Madam Usher, I'm sorry. Some of the  
7 Panel wishes to ask a question. I didn't realise.

8           Go ahead, Judge Barthe.

9           JUDGE BARTHE: Thank you, Judge Smith.

10                              Questioned by the Trial Panel:

11           JUDGE BARTHE: Ms. Miftari, good morning. I hope you can hear  
12 me well.

13          A. Good morning. Yes, I can.

14           JUDGE BARTHE: Good morning. I have only a few questions in  
15 relation to your written statement, which was submitted by counsel  
16 for Mr. Gucati as Exhibit DHG0226 or, in Albanian, DHG0159.

17           Madam Court Officer, could you.

18           THE COURT OFFICER: It is 1D4, yes.

19           JUDGE BARTHE: Could you please put both versions on the screen  
20 for us, please. The Albanian and the English version.

21           Ms. Miftari --

22          A. Can I? Can I ask the interpreter to speak slightly slower.  
23 It's too fast for me to digest it.

24           JUDGE BARTHE: Ms. Miftari, according to paragraph 2 of your  
25 written statement, you work as a technical assistant, or as you said

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Questioned by the Trial Panel

1 today, as a technical worker, as well as a receptionist in the main  
2 office of the KLA WVA in Prishtine; is that correct?

3 A. Yes.

4 JUDGE BARTHE: Can you tell us what is a technical assistant or  
5 a technical worker? What do you do exactly as a technical assistant?

6 A. I'm a receptionist. I -- I receive the parties, I show them  
7 around, and I process the membership cards for the war veterans.

8 JUDGE BARTHE: Are you, Ms. Miftari, also responsible for the  
9 home page of the KLA WVA?

10 A. No. Are you referring to the Facebook page or some other? No  
11 is the answer. No, I'm not.

12 JUDGE BARTHE: Are you, Ms. Miftari, aware that Mr. Gucati has a  
13 Facebook account? Are you aware of that?

14 A. Yes.

15 JUDGE BARTHE: Are you, as a technical assistant or a technical  
16 worker working for the KLA WVA, permitted, are you authorised to put  
17 documents on Mr. Gucati's Facebook account without his prior  
18 authorisation? Could you do that?

19 A. No, I could not. We -- we cannot use the Facebook account of  
20 Mr. Gucati.

21 JUDGE BARTHE: You just said you could -- or at least in the  
22 English translation, you -- or "we cannot use the Facebook accounts."  
23 Does that mean you are not permitted, you are not authorised to use  
24 them, or are there any technical problems, impediments that you can't  
25 use the Facebook account? You don't have access, for example, to the



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1 Facebook account of Mr. Gucati?

2 A. It -- it is Mr. Gucati's own account. He has possession of it,  
3 in addition to the other technical staff, technical worker there.

4 JUDGE BARTHE: Could you clarify, please, what you just said.  
5 The other technical workers have also access to Mr. Gucati's Facebook  
6 account; is that correct?

7 A. I did not say that in plural. I said the other technical  
8 worker, who is related to the chairman, Mr. Gucati. With the  
9 authorisation of Mr. Gucati, he has been able to access the account.

10 JUDGE BARTHE: Can you tell us the name of this other person,  
11 the other technical assistant you just mentioned?

12 A. Elvir Gucati.

13 JUDGE BARTHE: Ms. Miftari, my second question concerns  
14 paragraph 5 of your written statement. Today you told us that the  
15 unknown man who dropped the documents on the table, on your table,  
16 said, and I quote, "'Give it to the person who speaks on TV.'"

17 Ms. Miftari, according, or from your perspective, to which  
18 person did the unknown man refer when he said this? What was your  
19 understanding of that sentence?

20 A. I cannot specify who he meant, because both of them have  
21 appeared on TV, Mr. Gucati as well as Mr. Haradinaj.

22 JUDGE BARTHE: So, according to your understanding, that person  
23 referred to either Mr. Gucati or Mr. Haradinaj; is that correct?

24 A. And additionally, there is Mr. Faton Klinaku as well. He also  
25 appears on the media. It could have been for all three of them, for

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1 Hysni, for Nasim, or for Faton, and I do not know which one in  
2 particular.

3 JUDGE BARTHE: Thank you. My next question pertains to  
4 paragraph 13 of your written statement, where it is said, I quote:

5 "I was not involved at all in the press conference that took  
6 place. I should also note I only saw the documents themselves from a  
7 distance and was not allowed to see them."

8 Ms. Miftari, did anybody tell you that you were not allowed to  
9 see these documents; and, if so, who said this to you?

10 A. The documents were sent to the bosses. The technical staff were  
11 not allowed to access them.

12 JUDGE BARTHE: Could you specify who are "the bosses"?

13 A. Hysni Gucati, Nasim Haradinaj, and Faton.

14 JUDGE BARTHE: If I understood you correctly, nobody told you  
15 that you were not allowed to see these documents; is that correct?  
16 No one of the bosses. Neither Mr. Haradinaj nor Mr. Gucati nor  
17 Mr. Klinaku or any other person told you that you were not allowed to  
18 see the documents; is that right?

19 A. The documents went to Mr. Hysni Gucati as soon as they arrived.  
20 I did not go into the office. In fact, I'm not permitted to go into  
21 the office, save for business reasons.

22 JUDGE BARTHE: Ms. Miftari, according to paragraph 26 of your  
23 statement, you said, and I quote:

24 "After the first delivery, senior members of the organisation  
25 took the decision that we were not to do anything if there were any

1 further deliveries. This decision was taken by the chairmanship of  
2 the association - consisting of 23 of the most senior members of the  
3 KLA WVA (including Hysni, Nasim and Faton)."

4 My question is, Ms. Miftari, how do you know after the first  
5 delivery senior members of the organisation took the decision not to  
6 do anything if there were any further deliveries? Did somebody tell  
7 you this; and, if so, who?

8 A. Yes, yes. Faton told us. Faton -- Faton Klinaku was at that  
9 time secretary of the organisation as well as the man responsible for  
10 the technical staff.

11 JUDGE BARTHE: For my understanding, Faton Klinaku told you that  
12 the organisation was not to do or that the chairmanship decided not  
13 to do anything if there were further deliveries, if further or other  
14 documents were provided, were delivered; is that correct?

15 A. Yes. I'm a receptionist and a woman. Even if I wanted to do  
16 anything, I wouldn't have been able to. Faton told me to remain  
17 calm, look after yourself, and don't do anything else.

18 JUDGE BARTHE: I understand. My next question concerns  
19 paragraph 27 of your written statement, where it is said:

20 "On 17 September 2020, SPO investigators arrived at the  
21 offices."

22 So this was, Ms. Miftari, one day after the second delivery.  
23 Was this the first time the SPO, the Office of the Prosecutor of the  
24 Specialist Prosecutor's Office, showed up after the second delivery,  
25 or were there any members of the SPO in the KLA WVA offices prior to

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1 the second delivery; namely, on the 16th, already on 16 September  
2 2020?

3 A. The SPO showed up during the first time when they came to take  
4 possession of the documents. On 8 September, that is.

5 JUDGE BARTHE: And after the second delivery on 16 September,  
6 when did they show up? On the 17th or already on the 16th?

7 A. As far as I recall, that was on the 17th. Again, as far as I  
8 recall at this point.

9 JUDGE BARTHE: Ms. Miftari, my last question concerns  
10 paragraph 34 of your statement. To be more precise, the third  
11 sentence, where you said:

12 "When he shouted," the third person who delivered documents to  
13 the KLA WVA, "it was in Albanian, and he did not speak with an  
14 accent."

15 Is it fair to say, Ms. Miftari, this is my question, that none  
16 of the three men who delivered documents on the 7th, 16th, and  
17 22nd September 2020 spoke Albanian with an accent; is that right? Is  
18 that your testimony?

19 A. Yes, they spoke Albanian. And I wasn't able to discern an  
20 accent. It was Albanian. That's it.

21 JUDGE BARTHE: Thank you very much, Ms. Miftari. I've no  
22 further questions.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 MS. STEPHENSON: Hi there. Could I just ask Ms. Miftari one  
25 point to clarify a point.

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Re-examination by Ms. Stephenson

1           PRESIDING JUDGE SMITH: [Microphone not activated].

2                           Re-examination by Ms. Stephenson:

3       Q.    Ms. Miftari, when Mr. Klinaku told you not to do anything after  
4    the first delivery, could you clarify what exactly did he tell you  
5    what not to do? After the second delivery, apologies.

6           MR. PACE: Sorry, Your Honour, can I just clarify if it is  
7    after, indeed, the second delivery? I might be mistaken, but I seem  
8    to think that paragraph 26 talks about after the first delivery.

9           MS. STEPHENSON: Apologies, it was. It was after the first  
10   delivery.

11          MR. REES: I'll butt out.

12          PRESIDING JUDGE SMITH: I think Ms. Stephenson was only confused  
13   by her co-counsel.

14          MS. STEPHENSON:

15       Q.    Would you like me to ask the question again?

16       A.    Please.

17       Q.    So you told the Court that Faton told you not to do anything  
18   after you got the first delivery of the documents. Could you tell us  
19   what exactly did he tell you not to do?

20       A.    He said, "Look after your health and be calm." If a new  
21   delivery were to come, that is.

22       Q.    Okay. Thank you.

23          PRESIDING JUDGE SMITH: Thank you, Ms. Stephenson.

24               All right, Ms. Miftari, now you are finished, and we hope that  
25   you can enjoy the rest of your day. Thank you for being with us.

1 The Court Usher will escort you out.

2 THE WITNESS: [Interpretation] Thank you.

3 [The witness withdrew]

4 PRESIDING JUDGE SMITH: I've been advised that the next witness  
5 has not yet arrived, and so we'll take a break. We'll take a  
6 half-hour break. Hopefully she will be here by then.

7 And so we are in adjournment until 11.00. Thank you for your  
8 attention.

9 --- Recess taken at 10.32 a.m.

10 --- On resuming at 11.00 a.m.

11 PRESIDING JUDGE SMITH: The same group still here. The same  
12 over here. Everyone?

13 MR. REES: No change, Your Honour.

14 MR. WORBOYS: Your Honour, no change. I did want to update the  
15 Court on one minor point, if I may.

16 Regarding witnesses and preparation for next week of --

17 PRESIDING JUDGE SMITH: Hold on just a second.

18 Okay, Mr. Worboys. Go ahead.

19 MR. WORBOYS: Apologies, Your Honour.

20 Regarding witnesses and preparation for the Haradinaj Defence  
21 next week, I wanted to update the Court that we are in the process of  
22 liaising with the witness security office. I'm hoping that I'll be  
23 able to give the Court an update by the end of the day. So if we  
24 could leave, perhaps, two minutes before the end of the day for that,  
25 that would be appreciated.

1           PRESIDING JUDGE SMITH: Thank you, Mr. Worboys.

2           We're ready to continue with the next witness, 1242, which is  
3           Ms. Elmedina Ballhazi.

4           Madam Court Officer, please bring the witness in.

5                               [The witness entered court]

6           PRESIDING JUDGE SMITH: Good afternoon, Ms. Ballhazi. The Court  
7           Usher will now provide you with the text of the solemn declaration  
8           which you are asked to take pursuant to Rule 141(2) of the Rules.  
9           You may proceed when you're ready.

10          You have to read it aloud, Ms. Ballhazi.

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

15                               WITNESS: ELMEDINA BALLHAZI

16                               [Witness answered through interpreter]

17          PRESIDING JUDGE SMITH: [Microphone not activated].

18          THE INTERPRETER: Microphone, please.

19          PRESIDING JUDGE SMITH: You may take a seat, Ms. Ballhazi.  
20          Thank you.

21          Ms. Ballhazi, today we will hear your testimony. As you may  
22          know, Mr. Rees or Ms. Stephenson will go first and will ask you  
23          questions about your statement. Then the Court will have a brief  
24          discussion about your statement, and once that is done the admitted  
25          part of your statement will be read into the record.

1           Then the Defence counsel might ask you some more questions, if  
2           they have any. Next the lawyers representing Mr. Haradinaj may ask  
3           you some questions as well. Then it will be the Prosecution's turn.  
4           And then the members of the Panel may have some questions for you.

5           Mr. Rees or Ms. Stephenson estimate that your examination will  
6           last 15 minutes. The Prosecution's estimate is up to two hours. It  
7           probably will not be that long, though. And the Panel will allow  
8           re-examination by the Defence if conditions for it are met.

9           Please try to answer the questions clearly with short sentences.  
10          If you don't understand the question, feel free to ask counsel to  
11          repeat the question or tell them that you don't understand and they  
12          will clarify. Also, please try to indicate the basis of your  
13          knowledge of facts and circumstances that you will be asked about.

14          Please also speak into the microphone and wait approximately  
15          five seconds before answering a question, and then speak at a slow  
16          pace so that the interpreters can catch up.

17          While you are giving evidence in this Court, you are not allowed  
18          to discuss with anyone the content of your testimony. If any person  
19          asks you questions outside this Court about your testimony, please  
20          let us know.

21          Who is going to do the questioning?

22          Ms. Stephenson.

23          MS. STEPHENSON: I am, Your Honour.

24          PRESIDING JUDGE SMITH: As with the previous witness, please  
25          first ask if your statement accurately reflects what she would say in



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Examination by Ms. Stephenson

1 court, and then we will have submissions on the admissibility of the  
2 statement, and then you can read what is admitted, and you can  
3 continue with examination.

4 Go ahead.

5 MS. STEPHENSON: Thank you, Your Honour.

6 Examination by Ms. Stephenson:

7 Q. Good morning, Ms. Ballhazi. So your name is Elmedina Ballhazi,  
8 and your date of birth is the 9th of the 12th 1994.

9 A. Yes, that's correct. And today is my birthday, and I'm  
10 celebrating it here in front of the Trial Panel, testifying in the  
11 trial against Haradinaj and Gucati. Today I turn 27.

12 Q. And we wish you a happy birthday.

13 A. Thank you.

14 MS. STEPHENSON: Madam Court Officer, please, could you bring up  
15 on the screens the English and Albanian versions of her statement.  
16 For the record, the English version is DHG0172-DHG0176; the Albanian  
17 version is DHG0139-DHG0143.

18 Q. Ms. Ballhazi, please, could you go to the last page of the  
19 statement, which you should have in front of you. Can you see that  
20 there are 34 paragraphs in that statement?

21 A. Yes.

22 Q. And it's dated 4 September 2021; is that right?

23 A. The date is, I have here, 16 July 2021. And in English, it's  
24 4 September 2021.

25 Q. So -- okay. So I have the English one. So, yes, just to

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Examination by Ms. Stephenson

1 confirm, the English -- the date of the English version is  
2 4 September 2021. Thank you. And is that your signature on the last  
3 page?

4 A. Yes.

5 Q. Could you please confirm that, firstly, you've read the  
6 statement recently?

7 A. Yes.

8 Q. Could you please confirm that the statement accurately reflects  
9 your evidence and what you would say if you were asked questions  
10 about it?

11 MR. HALLING: Your Honour, in relation to this particular  
12 witness, it's our understanding that the Gucati Defence is only  
13 intending to elicit certain paragraphs of the statement. We would  
14 ask that this question be reformulated to isolate the paragraphs that  
15 are actually being adduced.

16 PRESIDING JUDGE SMITH: [Microphone not activated].

17 THE INTERPRETER: Microphone, please.

18 PRESIDING JUDGE SMITH: We'll come back to that. Right now,  
19 let's just get through that she identifies the document. And I know  
20 you have some objections.

21 And it's my understanding that you do not resist the objections.

22 MS. STEPHENSON: That's right.

23 PRESIDING JUDGE SMITH: So it will clarify itself.

24 Go ahead.

25 MS. STEPHENSON:

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1 Q. Could you confirm that the statement accurately reflects your  
2 evidence and what you would say if you were asked questions about it?

3 Okay. Could you confirm that the statement -- the contents of  
4 your statement is true?

5 A. Yes.

6 Q. Yes.

7 A. Yes, it's correct.

8 Q. Thank you.

9 MS. STEPHENSON: Okay, Your Honour. We seek to admit the  
10 statement.

11 PRESIDING JUDGE SMITH: Now you may state your -- the paragraphs  
12 that you object to.

13 MR. HALLING: Thank you, Your Honours.

14 The paragraphs that we would object to would be paragraphs 15 to  
15 26 and 33 to 34. These are for the same reasons that we stated in  
16 our e-mail of 7 December, 1652, and we understand the Gucati Defence  
17 has no objection to not adducing those paragraphs.

18 MS. STEPHENSON: We did not. We do not seek to rely on those  
19 paragraphs.

20 PRESIDING JUDGE SMITH: Either orally or within the written  
21 statement?

22 MS. STEPHENSON: Exactly. Both.

23 PRESIDING JUDGE SMITH: Thank you.

24 MS. STEPHENSON: In addition, we also don't seek to rely on  
25 paragraph 1, so we won't read that out.

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1           PRESIDING JUDGE SMITH: 1 will be left out as well. Understood.

2           Could you please assign a number to it, Madam Court Officer.

3           THE COURT OFFICER: Your Honours, this statement will be

4           Exhibit 1D5.

5           PRESIDING JUDGE SMITH: I'm sorry, 1 what? D5.

6                               [Trial Panel confers]

7           PRESIDING JUDGE SMITH: 1D5 is admitted with the exclusion of  
8           the paragraphs that were referred to as 15 through 26 and 33  
9           through 34, and on the motion of the Defence counsel also  
10          paragraph 1.

11          Anything else, Ms. Stephenson?

12          MS. STEPHENSON: No, thank you, Your Honour.

13          PRESIDING JUDGE SMITH: Thank you.

14          Mr. Worboys?

15          MR. WORBOYS: No, Your Honour, nothing now. I don't propose to  
16          ask any questions, because paragraph 1 has not been admitted. But if  
17          it is raised in -- if any of the matters in there are raised in  
18          cross-examination, I will seek to re-examine most likely.

19          MS. STEPHENSON: Of course we will read out the summary of the  
20          statement.

21          PRESIDING JUDGE SMITH: Pardon me?

22          MS. STEPHENSON: We will -- we would like to read the statement  
23          out, the summary of the statement.

24          PRESIDING JUDGE SMITH: Yes, yes.

25          MS. STEPHENSON: Of course.

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1           PRESIDING JUDGE SMITH: Yes, I understand.

2           Nothing else before reading out?

3           MR. HALLING: No, Your Honour.

4           PRESIDING JUDGE SMITH: All right. You may read out the  
5 statement then.

6           MS. STEPHENSON: Thank you, Your Honour.

7           Q. So, Ms. Ballhazi, we are just going to read out a summary of  
8 your statement. If you could just listen, and then the SPO may have  
9 some questions for you afterwards.

10          MS. STEPHENSON: At the material time, September 2020, I was  
11 working for a media portal outlet called arbresh.info and was  
12 conducting vox pop interviews with citizens in the centre of  
13 Prishtine, Kosovo. We conducted some vox pop interviews and stopped  
14 to rest for a while in order to continue again with interviews with  
15 other citizens.

16          Around 10.30 to 11.00, we continued with vox pop interviews. On  
17 16 September 2020, sometime between 11.00 and 12.00, I mentioned  
18 seeing a white or grey car near to where I was sat on the stairs,  
19 which are opposite the WVA KLA offices with my cameraman,  
20 Pajtim Bejtullahu. I would like to add some additional information  
21 about this car.

22          I knew at the time there was something suspicious about the car.  
23 My intuition was telling me that there was something not right about  
24 it. My eyes were drawn to the car.

25          I could see that there were two people in the vehicle. I could

1 not make out the license plate or make or model of the car, but I  
2 think that it may have been a Dacia or Renault car. I cannot be sure  
3 of the model, but I think it was an older model.

4 The car was stopping, then moving forward, then stopping again,  
5 as if it was trying to park. However, there was no parking at the  
6 junction near the monument where the car was. I therefore thought  
7 the car was up to something.

8 THE INTERPRETER: The interpreters kindly ask the speaker to  
9 slow down for the benefit of the interpretation. Thank you very  
10 much.

11 MS. STEPHENSON: Apologies to the interpreters.

12 The car was stopping, then moving forward, then stopping again,  
13 as if it was trying to park. However, there was no parking at the  
14 junction near the monument where the car was. I therefore thought  
15 the car was up to something. The car was stopping and starting as if  
16 it did not know where it was going or what it was doing. I would say  
17 that this car was acting very suspiciously and, as such, I could not  
18 take my eyes off it.

19 Eventually the car stopped, just a little way around from the  
20 KLA WVA offices, but not too near it.

21 I said to my cameraman, Pajtim, that this was something that we  
22 needed to film. At first, he told me I was always suspicious of  
23 things and maybe I was hallucinating, but I kept saying to Pajtim  
24 that this was my intuition and that I just knew that something was  
25 not quite right with this car.

1           The windows of the car were closed, but I could see that the  
2           driver and the passenger were both looking around. They were not  
3           putting their heads out of the window; they were just looking around  
4           whilst inside the car.

5           I then saw a person get out the passenger side of the car and I  
6           could see that it was a man. He was wearing dark-coloured sports  
7           clothing, a black cap, a face mask, and gloves. He then got some big  
8           boxes from inside the car and was looking around. There is video  
9           footage available of this man. He then quickly made his way from the  
10          car in the direction of the KLA WVA offices. I cannot recall the  
11          name of the street. I then saw him enter the WVA offices to the  
12          right from the street, as can be seen in the video footage.

13          At this point, I insisted to my cameraman, Pajtim, that he start  
14          filming the man coming out of the car. Whilst I was having this  
15          conversation with Pajtim, my attention was briefly distracted from  
16          looking at the car and the driver. After having first seen the first  
17          drop-off on TV, I assumed that this could be another drop-off of the  
18          documents. I said to Pajtim, "Please start filming - I guarantee  
19          this was another drop-off." This conversation went back and forth  
20          for approximately 20 to 30 seconds.

21          During this conversation with Pajtim, I forgot about the car and  
22          my attention was drawn on the passenger. Pajtim was on the stairs  
23          and I was sitting on the stairs leaning close to him. We had a  
24          direct view of the offices on the corner of the junction where the  
25          offices are. I was stood approximately 15 metres away from where the

1 car was parked.

2 A short time later, I also saw the same man leave the KLA WVA  
3 offices and turn right after exiting the offices. He ran very  
4 quickly, turning right at the end of the road, through a tunnel and  
5 eventually out of my sight. I did not try and chase after the man.

6 I lost the attention of the car. I don't know where it went,  
7 and I said to Pajtim that I was going to go into the KLA WVA offices  
8 and see what I could find out and try and get a statement, as I was  
9 sure that documents had been delivered after I saw that he had  
10 packages in his hands. I knew from having seen the first drop-off in  
11 the media that the documents were delivered by a man who was wearing  
12 a mask and a cap, so this seemed very similar indeed with the first  
13 drop-off.

14 When I returned to the office and we viewed the video footage,  
15 we realised that we had captured the persons both dropping off the  
16 documents and leaving the offices after the drop-off. I did not  
17 realise at the time that this had been filmed by Pajtim because we  
18 were both very stressed from that person.

19 At approximately 4.00 or 5.00, we published the video footage on  
20 arbresh.info.

21 After work, I left home and as always followed the news and  
22 debates to see what was happening.

23 I would like to note that I did not know that this drop-off of  
24 documents was going to take place, and no one had alerted me in  
25 advance. I happened to be near the KLA WVA offices by coincidence.



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1 I was simply doing my job as a journalist and trying to find out more  
2 out of any situation because I myself have done research. But I  
3 certainly had no heads up.

4 I would like to say that at no time the SPO or anyone else  
5 contacted me after I was at the KLA WVA offices on that day. I was  
6 not asked personally, nor did anyone from the SPO contact  
7 arbresh.info, the media outlet where I was working at the time in  
8 2020.

9 Video footage is on Facebook, YouTube. We haven't cut or edited  
10 anything from the video footage.

11 That's the end of the summary, Your Honour.

12 But could I ask for a video to be played, please, Madam Court  
13 Officer. It should be in the presentation queue, and it's DHG0495,  
14 please.

15 [Video-clip played]

16 MS. STEPHENSON: Thank you.

17 Q. Ms. Ballhazi, can you confirm that that is the video that you  
18 refer to in your statement?

19 A. Yes, this is it.

20 MS. STEPHENSON: We would also like to have that video admitted  
21 please, Your Honour.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. HALLING: Your Honour, the relevance of that video to the  
24 case as charged is marginal at best. But given what it is, we  
25 wouldn't object to its admission.

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1           PRESIDING JUDGE SMITH: [Microphone not activated].

2           THE INTERPRETER: Microphone, please.

3           PRESIDING JUDGE SMITH: Please assign a exhibit number.

4           THE COURT OFFICER: Your Honours, the video will receive  
5 Exhibit 1D6.

6           PRESIDING JUDGE SMITH: 1D6 is admitted without objection.

7           Anything further, Ms. Stephenson?

8           MS. STEPHENSON: Nothing further, thank you.

9           PRESIDING JUDGE SMITH: Mr. Worboys, anything? Any questions?

10          MR. WORBOYS: No, Your Honour, on the basis that paragraph 1 has  
11 not been adduced. If issues on that come up, I will seek to  
12 re-examine most likely.

13          PRESIDING JUDGE SMITH: Thank you.

14          Cross-examination by the SPO.

15          MR. HALLING: Thank you, Your Honour.

16          The only questions that we consider necessary to ask this  
17 witness would have concerned her conduct inside the KLA War Veterans  
18 Association.

19          As it stands now, no evidence of what she does inside the War  
20 Veterans Association has been adduced. And so given that, the SPO  
21 has no questions.

22                               [Trial Panel confers]

23          PRESIDING JUDGE SMITH: [Microphone not activated].

24          JUDGE BARTHE: Thank you very much, Judge Smith.

25                               Questioned by the Trial Panel:

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1 JUDGE BARTHE: I have, Ms. Ballhazi, a few questions for you in  
2 relation to your statement and also questions that pertain to parts  
3 of the statement which were not in evidence, especially -- or not  
4 especially, but including paragraph 1 of your statement, where it is  
5 said that, and I quote:

6 "I have been interviewed previously in the capacity of a witness  
7 in the case of Nasim Haradinaj, the President of the KLA War Veterans  
8 Association (WVA), from lawyer Toby Cadman and translator  
9 Lumniye Ahmeti."

10 Ms. Ballhazi, what do you mean with being interviewed by  
11 Mr. Cadman? Was that a real interview with questions asked by  
12 Mr. Cadman or another person and answers given by you, or was it just  
13 an e-mail contact or telephone contact?

14 A. We communicated through WhatsApp, and also we met.

15 JUDGE BARTHE: Could you please specify the last part of your  
16 answer, that you met? Do you understand what a witness interview is?

17 A. When I received this statement, I mentioned, as a first point,  
18 that I was interviewed previously, and then they took me the whole  
19 statement that is here.

20 JUDGE BARTHE: My question was do you understand what a witness  
21 interview is.

22 MR. WORBOYS: Your Honour.

23 JUDGE BARTHE: Just a second, please.

24 MR. WORBOYS: Your Honour, apologies to rise. Might I suggest  
25 an efficient way to deal with this would be to excuse the witness and

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1 I can explain factually what --

2 JUDGE BARTHE: Mr. Worboys, I have heard what your colleague,  
3 Mr. Cadman, explained to us, but I'm interested in hearing what the  
4 witness has to say to this, to my question. We will come back to  
5 that later, but let me please first ask the question and hear what  
6 the witness has to say.

7 PRESIDING JUDGE SMITH: We'll go forward with the questioning.

8 JUDGE BARTHE: So do you understand what a witness interview is?  
9 Somebody asks questions and another person, a witness, answers these  
10 questions. And sometimes, or most of the time, a protocol or a  
11 transcript is taken.

12 A. I already said that I was contacted by Toby Cadman asking me to  
13 meet and to talk about my filming the footage. This was why I  
14 mentioned it, because it was signed on 16 July 2021 [as interpreted].  
15 It's clear.

16 JUDGE BARTHE: So is your statement that you had, indeed, or you  
17 were interviewed by Mr. Cadman on 16 July 2020, and you signed a  
18 document on that date?

19 A. No, we met in March of 2021. And in this statement, I included  
20 this fact saying when I was interviewed. That was all. I just  
21 wanted to explain.

22 JUDGE BARTHE: Did you, Ms. Ballhazi, sign a document in  
23 March 2021?

24 A. No.

25 JUDGE BARTHE: We will come back to that later, I suppose.

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1           My next question pertains to paragraph 4 of your statement,

2       Ms. Ballhazi, where you said, and I quote:

3           "I knew at the time that there was something suspicious about  
4       the car ..."

5           Could you, from your perspective, as far as you recall, tell us  
6       what was suspicious about the car?

7       A.    Since when the files, when these documents were brought in the  
8       KLA WVA, I -- my intuition told me that this was another drop-off.

9           JUDGE BARTHE: Was that at the moment when you saw the car for  
10       the first time?

11       A.    Yes.

12           JUDGE BARTHE: So you saw the car and your first thought was  
13       this could be another drop-off; is that correct?

14       A.    I saw two persons. And the car kept stopping and moving, and  
15       that drew my attention, and I continued to follow.

16           JUDGE BARTHE: So it was the way the car or the driver of the  
17       car drove that car that made you suspicious; is that correct?

18       A.    Yes, it was the way the car was being driven that led me to  
19       observe it.

20           JUDGE BARTHE: And according to paragraph 11 of your statement,  
21       and I refer to the fourth sentence, which reads, and I quote:

22           "I said to Pajtim," your camera man, "'please start filming - I  
23       guarantee that this was another drop-off.'"

24           Was that the very moment when you thought that this was another  
25       drop-off, or did you have this thought immediately after you saw the

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1 car, or maybe after the man left the car?

2 A. When I saw the individual leaving the car, I noticed that he was  
3 a man who had sports clothes, had a mask on, and a hat.

4 JUDGE BARTHE: So when you saw that man, was that the moment  
5 when you thought for the first time that it could be another  
6 drop-off, or was that earlier? Can you remember that?

7 A. I cannot recall the exact moment. It's only from the way it  
8 moved, the car moved that led me to ask Pajtim to film. So when the  
9 individual left the car, then I pleaded with him to start filming. I  
10 stopped looking at the car, which I thought was not of interest, and  
11 focused all my attention to the person who had that package, who was  
12 carrying that package.

13 JUDGE BARTHE: Ms. Ballhazi, my next question concerns  
14 paragraph 13 of your statement, which reads, and I quote:

15 "A short time later, I also saw the same man leave the KLA WVA  
16 offices and turn right after exiting the offices."

17 You said "a short time later." Could you please specify this?  
18 Was it you five minutes later or ten minutes later? So how long did  
19 it take from the moment the man entered the offices of the KLA WVA  
20 and the moment until he left it again, the offices again?  
21 Approximately, if you can say.

22 A. I cannot recall.

23 JUDGE BARTHE: Can you give an estimate in this regard? Was it  
24 more than two minutes or more than five minutes or ten minutes,  
25 15 minutes? I don't know.

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1 A. Ten minutes could be too many, but I can't recall exactly how  
2 many.

3 JUDGE BARTHE: My next question concerns paragraph 22 of your  
4 statement, which reads, I quote:

5 "I was in the hallway when the investigators from the SPO had  
6 arrived at the offices. They went into a meeting in an office with  
7 Nasim Haradinaj and Hysni Gucati for more than a few hours. Then  
8 Tome Gashi, the lawyer representing the KLA WVA, also went into the  
9 meeting for a long time."

10 Ms. Ballhazi, was that on the same day when the documents were  
11 delivered when you saw that unknown person, that unknown man  
12 delivering the documents, or was that on a different, on another day?

13 A. It is the same day, 16 September when the files were delivered.

14 JUDGE BARTHE: So you observed, as you described it here in  
15 paragraph 22 of your statement, investigators from the SPO on  
16 16 September, on the day when you observed -- on the same day when  
17 you observed the delivery of the documents; is that right?

18 A. I did say that it was on the same day.

19 JUDGE BARTHE: And, Ms. Ballhazi, how did you know that these  
20 people you saw on that day were members of the SPO?

21 A. If I remember correctly, somebody mentioned that. I don't know  
22 whether it was a journalist or a cameraman, but some colleague of  
23 ours said that, said that, you know, the SPO investigators are  
24 coming. I heard it there.

25 JUDGE BARTHE: So you heard it but you didn't see, didn't

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1 personally see any investigators from the SPO, people wearing jackets  
2 with SPO or an SPO logo or something?

3 A. I cannot remember. However, I do remember them leaving. I  
4 remember that they left without greeting us; the journalists, that  
5 is.

6 JUDGE BARTHE: And, Ms. Ballhazi, after these people left, you  
7 said, according to paragraph 24 of your statement, the press  
8 conference started; is that correct?

9 A. Can you kindly ask the question again, please.

10 JUDGE BARTHE: Of course. Ms. Ballhazi, after, according to  
11 paragraph 24 of your statement, you said once, and I quote:

12 "Once the SPO investigators left, the press conference started."  
13 Is that correct?

14 A. Yes.

15 JUDGE BARTHE: Did you, Ms. Ballhazi, attend this press  
16 conference? Were you there during the press conference?

17 A. Yes, I was.

18 JUDGE BARTHE: Were there any documents or copies of documents  
19 the journalists could take on the press conference?

20 A. I remember that the press conference took place in the hallway.  
21 I cannot recall any other details.

22 JUDGE BARTHE: So the press conference, you can remember now,  
23 took place in the hallway. Not in a separate -- in a different room.  
24 It was in the hallway; is that right?

25 A. Yes, it was in the corridor. Mr. Hysni Gucati, Nasim Haradinaj,



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1 and their lawyer Tome Gashi, as well as some other representatives  
2 were present.

3 JUDGE BARTHE: How many times, Ms. Ballhazi, were you present in  
4 these days between, let's say, 16 September and 17 September in the  
5 offices of the KLA WVA? Was it just once or did you ...?

6 A. Maybe more than once, given that I'm a journalist and it is my  
7 duty to follow events unfolding.

8 JUDGE BARTHE: Okay. Ms. Ballhazi, my last question concerns  
9 paragraph 31 of your statement, which reads, and I quote:

10 "I would like to say that at no time has the SPO or anyone else  
11 contacted me after I was at the KLA WVA offices on that day. I was  
12 not asked personally, nor did anyone from the SPO contact  
13 arbresh.info, the media outlet where I was working at the time in  
14 2020."

15 Ms. Ballhazi, did you, or, as far as you know, anyone else from  
16 arbresh.info inform the SPO that you have video footage showing the  
17 delivery of the documents?

18 A. I do not understand the question, please.

19 JUDGE BARTHE: Did you, for example, send an e-mail to office,  
20 to the SPO, indicating that you are in possession of video footage or  
21 arbresh.info is in possession of video footage showing the delivery  
22 of the documents, or did you call, or do you know that anybody else  
23 called from arbresh.info the SPO?

24 A. No.

25 JUDGE BARTHE: Thank you very much. I have no further

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1 questions.

2 THE WITNESS: Thank you, too.

3 MS. STEPHENSON: Could I ask a couple more questions, please.

4 PRESIDING JUDGE SMITH: Yes.

5 Re-examination by Ms. Stephenson:

6 Q. Ms. Ballhazi, were you present at the third press conference on  
7 22 September?

8 A. [Interpretation] Yes, I was.

9 Q. How clear is your recollection that SPO officers were present on  
10 16 September or 22 September?

11 A. I remember them wearing masks, hats, and holding some bags. I  
12 cannot recall anything else.

13 Q. Are you sure that SPO officers were present on the 16th, or  
14 could they also have been present at the 22nd and you might be  
15 confusing the two?

16 A. I cannot recall any more details.

17 Q. So are you sure that SPO officers were present on the 16th, or  
18 might it be that they were present on the 22nd? How clear is your  
19 memory on those facts about when the SPO officers were present at the  
20 KLA WVA?

21 A. I mentioned that in one of the paragraphs of my statement that I  
22 heard there that SPO investigators are about to arrive. I did not  
23 see them coming in, but I saw them leaving. They did not greet the  
24 journalists. They were wearing masks, hats, and holding bags.

25 Q. On which date are you referring to?

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1 A. It's the date of the film, the 16th September.

2 Q. Thank you. And one final question. Are you sure that  
3 Tome Gashi was present for second press conference, or was he present  
4 at the third conference, or are you not sure?

5 A. He was there on the second press conference where the media  
6 learned that he was their representative.

7 Q. No further questions, thank you.

8 MS. STEPHENSON: Thank you.

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 MR. WORBOYS: Thank you, Your Honour.

11 Cross-examination by Mr. Worboys:

12 Q. One question from me first on paragraph 1 of your statement.

13 MR. WORBOYS: And if we could have that up, just for the record,  
14 please.

15 Q. Regarding paragraph 1 of your statement, is it correct to  
16 describe your meeting with Mr. Cadman in March 2021 as simply  
17 preliminary in scope?

18 A. Yes.

19 Q. Is it further correct that once you'd met Mr. Cadman, you were  
20 then subsequently interviewed by other members of the Defence teams  
21 for the purposes of establishing your evidence?

22 A. Yes.

23 MR. WORBOYS: Thank you, Your Honour.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 MR. HALLING: Your Honour, I'm afraid now we have many

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1 questions.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MR. HALLING: We would like to seek Your Honours' leave to  
4 question the witness at this time.

5 PRESIDING JUDGE SMITH: Oh, I thought you said you had no.

6 MR. HALLING: Many, I'm sorry.

7 PRESIDING JUDGE SMITH: Oh, go ahead. Go ahead.

8 MR. HALLING: Yes.

9 Could the Court Officer --

10 Cross-examination by Mr. Halling:

11 Q. Ms. Ballhazi, I have some questions for you in relation to the  
12 evidence that you've recently given.

13 MR. HALLING: I would ask the Court Officer to please bring up  
14 video P12, and that is 08193101 on the screen, and the transcript is  
15 P12-ET.

16 Q. Ms. Ballhazi, I'm going to play you a video of a KLA War  
17 Veterans Association press conference and then ask you some  
18 questions.

19 MR. HALLING: Once the video is pulled up, I would ask that the  
20 witness be played timestamp from the beginning of the video to 1  
21 minute, and the classification of the video is public.

22 [Video-clip played]

23 THE INTERPRETER: [Voiceover] "They are -- they are waiting.  
24 That's about to start. Let's just greet them. Move -- come -- move  
25 over. Move over. Greet, greet the visitors. Greet them. Goodbye.

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1 I hope you find the leak. Come, let's start."

2 MR. HALLING: Thank you.

3 Q. Ms. Ballhazi, you were at that press conference, aren't you?

4 A. Yes.

5 Q. In fact, we could actually see you on screen at the beginning of  
6 that video?

7 PRESIDING JUDGE SMITH: You have to answer "yes" or "no," ma'am.

8 THE WITNESS: [Interpretation] Yes.

9 MR. HALLING:

10 Q. Thank you. It's because the hearing is being transcribed.

11 Is this the press conference that you were recalling in your  
12 statement that the Judges asked you about earlier?

13 A. If I recall correctly, this is the third press conference.

14 After the delivery by the Lightning Strike 3.

15 Q. Is this the press conference that you were recalling in your  
16 statement?

17 A. As I said earlier, I think this is the third news conference,  
18 and this pertains to Lightning Strike 3.

19 Q. Madam Witness, in the footage that was played, Mr. Haradinaj  
20 said that there will be a CD with more. Did you hear that in the  
21 video?

22 A. Yes, I did.

23 Q. In relation to paragraph 26 of your statement, I'll quote, it  
24 says:

25 "During the conference, Nasim Haradinaj said that the person had

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1 said he will bring other files."

2 Do you remember that?

3 A. Can you ask the question again, please.

4 Q. Do you remember what I just said from your statement? Do you  
5 recall putting that in your statement? I can read the quote again,  
6 if you would like.

7 A. [In English] Okay. [Interpretation] Please.

8 Q. "During the conference, Nasim Haradinaj said that the person had  
9 said that he will bring other files."

10 Did you say that?

11 A. Yes.

12 Q. And Mr. Haradinaj said something very similar at the beginning  
13 of the video we just heard, but it's a different press conference  
14 you're remembering. Is that your evidence?

15 A. I think this is the third press conference. This is after  
16 Lightning Strike 3 and the delivery, and I'm repeating this for the  
17 third time.

18 Q. Madam Witness, I'd like to show you another video.

19 MR. HALLING: This is P4, if the Court Officer could pull it up.  
20 This is also public. And the timestamp that I'd like to play now is  
21 from the beginning of the video to 35 seconds.

22 Q. So, Madam Witness, we're going to play the excerpt of this  
23 video, and then I'll ask you a few further questions about it.

24 [Video-clip played]

25 THE INTERPRETER: [Voiceover] "These are original documents that

1 prove that they come from the KSC or the Specialist Chambers of  
2 Kosovo. Because otherwise, they wouldn't have taken them. Another  
3 one? Yes. It's for you who film these. Otherwise, it's okay as far  
4 as I'm concerned. Is it okay? Can I take them away? There's  
5 another two minutes to go."

6 MR. HALLING: Thank you, Madam Court Officer.

7 Q. Ms. Ballhazi, were you at this event?

8 A. Yes, I'm close to Tome Gashi, the lawyer.

9 Q. Is this the press conference that you were remembering from your  
10 statement?

11 A. Yes, I think this is the second one after the Lightning Strike 2  
12 delivery. I think it's this one. There's been -- 16 months have  
13 elapsed since then, and my memory is not as fresh.

14 Q. I understand. And do you recognise Tome Gashi in the footage,  
15 on the still that you see on the screen?

16 A. Yes.

17 Q. Ms. Ballhazi, if I told you that this video is from 17 September  
18 2020, what would you say?

19 A. I said that I could not recall the dates exactly, whether it was  
20 the 16th or the 17th. But I know that it was the day Lightning  
21 Strike 2, as it has been termed, brought the packages to the WVA.

22 Q. But you said in your statement that Lightning Strike 2 was on  
23 16 September. Are you saying now that Lightning Strike 2 was on the  
24 17th?

25 A. I said the 16th, I think. But, I mean, in my statement I've

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1     only said September 2020.

2     Q.    Madam Witness, at paragraph 3 of your statement it says, and  
3     I'll quote:

4            "On 16 September 2020, sometime between 11.00 or 12.00 hours, I  
5     mentioned seeing a white or grey car ..."

6            And then it continues.

7            So you said in your statement it was on 16 September; isn't that  
8     right?

9     A.    I said -- I said or. I said or on the 16th September. I've  
10    emphasised that.

11    Q.    In relation to the video that we saw admitted when you were  
12    being questioned by the Gucati Defence, if that video happened on  
13    16 September, are you sure that the last video I played you happened  
14    on the same day?

15    A.    Can you please ask the question one more time?

16    Q.    You recall the video that the Gucati Defence showed you a little  
17    while ago; yes? I'm sorry, just for the record, if you could just --

18    A.    [In English] Yeah. [Interpretation] Yes.

19    Q.    Thank you. Is the video that the Gucati Defence showed you and  
20    the last video I showed you from the same day?

21    A.    I do not recall it exactly, but I think it is. I think so.

22    Q.    And, Ms. Ballhazi, am I correct that you've said in a  
23    preparation session with the Defence before your testimony this week,  
24    you said that you have some confusion over dates; is that right?

25    A.    It's been 15 months. Many other things have occurred since, so



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1 I cannot recall them all.

2 Q. I understand. I would like to show you another video.

3 MR. HALLING: Could I ask the Court Officer to please bring up  
4 ERN 10428401. This does not have an exhibit number. It is public.  
5 And it has an English transcript 10428401-TR-ET. And I would ask the  
6 Court Officer to play this video from the beginning to 28 seconds.

7 Q. And then, Madam Witness, I would have some questions about this.

8 [Video-clip played]

9 THE INTERPRETER: [Voiceover] "Ms. Gjeljone is a woman few people  
10 know. She has never given interviews to the Kosovo media, as opposed  
11 to her husband who is very known to the public. He is among the  
12 first men who, with his omnipotent justice, has touched many people."

13 MR. HALLING:

14 Q. Madam Witness, did you recognise yourself in the video footage?

15 A. Yes, that's me.

16 Q. And this is an interview with you and Nasim Haradinaj's wife  
17 after Mr. Haradinaj's arrest; is that correct?

18 A. Yes, correct.

19 Q. You called Mr. Haradinaj a person of omnipotent justice. Why is  
20 Mr. Haradinaj a person of omnipotent justice?

21 A. Being aware that when the war occurred I was only 4 and a half  
22 years old while today, when I turn 27, there is freedom in Kosovo.  
23 So I have a respect for Mr. Haradinaj and all the other fighters who  
24 fought for the freedom that I enjoy today. I have described it this  
25 way, because alongside many other people in Kosovo he has been

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1 unjustly put into jail.

2 Q. How long have you known Nasim Haradinaj?

3 A. I have seen him only on television. It's not that I have been  
4 close to him.

5 Q. Have you ever interviewed Mr. Haradinaj?

6 A. Maybe. I have taken a brief statement, but not more than that.

7 Q. Do you remember when you took that brief statement?

8 A. I don't recall.

9 Q. Madam Witness, when Hysni Gucati was arrested on 25 September  
10 2020, this was a big news story in Kosovo. You'd agree with that,  
11 wouldn't you?

12 A. Yes.

13 Q. And before Nasim Haradinaj was arrested that same day, he made a  
14 few public remarks. Are you aware of that?

15 A. No, I'm not.

16 MR. HALLING: If the Court Officer could please pull up P4.  
17 This is a public document -- public video, rather. And I am  
18 interested in playing seconds 26 to 35. So 00:26 to 00:35.

19 For the benefit of the interpreters, this video, it looks like  
20 you can hear people talking but there is no sound.

21 Q. I just want you to see the video, and then, Ms. Ballhazi, I will  
22 ask you a question or two.

23 [Video-clip played]?

24 MR. HALLING: I apologise. It's P27. This is the video that  
25 I'd like to play now, but the timestamp is the same.

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1 [Video-clip played]

2 MR. HALLING: Thank you.

3 Q. Madam Witness, that's you in the video, isn't it?

4 A. Yes.

5 Q. And that is an exclusive interview you're having with

6 Mr. Haradinaj on the day of his arrest, isn't it?

7 A. I don't remember.

8 MR. HALLING: Your Honour, one moment, please.

9 [Specialist Prosecutors confer]

10 MR. HALLING: I apologise. I'm told it's on 22 September 2020  
11 is this footage.

12 Q. But, Madam Witness, my question for you now is how did you get  
13 this exclusive interview?

14 A. I was waiting. And the conference ended, as far as I remember,  
15 and I asked him to give me a brief statement for my portal. And I  
16 know that it was a very brief statement, because I am a journalist  
17 and I had to take care of the news.

18 Q. You said this followed the press conference that you saw on  
19 22 September; yes?

20 A. I think --

21 THE INTERPRETER: The interpretation or the translation, please.

22 THE WITNESS: [Interpretation] Yes, I think so.

23 MR. HALLING:

24 Q. I would like to show you a small excerpt from that third press  
25 conference.

1 MR. HALLING: Your Honours, for the record, this is P3, and the  
2 transcript is P35-ET. And the section that I would like played is  
3 from 23:15 to 23:40.

4 Your Honours, for this one the timestamps in the transcript in  
5 the video are slightly different, because they come from two  
6 different sources.

7 For the benefit of the interpreters, the relevant portion on the  
8 transcripts, if you're looking at those timestamps, is from 26:46 to  
9 27:21.

10 And I would ask if the Court Officer could please play this part  
11 of the video.

12 [Video-clip played]

13 THE INTERPRETER: [Voiceover] "Come and take them. Take pictures  
14 of the chairman. Even if we put them in their pocket, they won't be  
15 getting them. I have to record it because they would say that why  
16 haven't you given them to the journalists."

17 MR. HALLING:

18 Q. Ms. Ballhazi, do you see yourself in that footage?

19 A. Yes.

20 Q. In the excerpt we watched, that's you whispering something in  
21 Mr. Haradinaj's ear, isn't it? Did you see that?

22 A. Yes, I did.

23 Q. What did you say to him?

24 A. Maybe I asked him about that interview that I mentioned after  
25 the press conference, I think. To have an exclusive interview.

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1 Q. And he agreed; right?

2 A. Yes. You saw it, that he was giving me the interview.

3 Q. How often did you speak with Mr. Haradinaj in September 2020?

4 A. I don't think -- I don't remember. I don't know.

5 Q. Did you call him on the phone?

6 A. Maybe I have. To ask him to give me a statement, because I'm a  
7 reporter and that's part of my duty.

8 Q. Madam Witness, I'd like to read you part of paragraph 17 of your  
9 statement. You said that when you went to go see the War Veterans  
10 Association, Mr. Haradinaj "... then stepped out into the corridor  
11 and yelled at me, asking repeatedly, 'Why are you here? Why are you  
12 here? You have become like the CIA.'"

13 Do you remember that from your statement?

14 A. Yes, I remember, because he was very upset and very tense. He  
15 was red in his face.

16 Q. How was what you were doing acting like the CIA?

17 A. Maybe he was joking.

18 Q. It's in reference to you having repeated contact with him, isn't  
19 it?

20 A. I don't know that.

21 Q. Did you ever make Facebook posts in support of the accused in  
22 this case?

23 A. To say the truth, I had a Facebook account where I published  
24 what I did as a journalist, videos, but it was closed in April this  
25 year. So now I have a new Facebook account. I don't know. It was

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1 hacked, the first one.

2 Q. Ms. Ballhazi, you didn't answer my question. Did you ever make  
3 Facebook posts in support of the accused? Could you please answer  
4 that question.

5 A. I don't remember if I did any such support posts.

6 Q. And you say your Facebook account was closed in April of this  
7 year. Why was it closed?

8 A. Since I am a journalist, and I have covered several topics, not  
9 only about this process, I don't know the reason why.

10 Q. From your evidence earlier, this was about a month after you  
11 first met with Mr. Cadman; is that correct?

12 A. Yes.

13 Q. Ms. Ballhazi, do you consider yourself to be a supporter of the  
14 KLA War Veterans Association?

15 A. First, allow me to explain. That, first of all, my first  
16 allegiance go to my duty as journalist. Then I support the values of  
17 the war, because I was a young child when we crossed over the border  
18 to Macedonia through Hani i Elezit.

19 Q. Had the SPO ever been interested in speaking with you, would you  
20 have told the War Veterans Association?

21 A. I don't understand the question.

22 Q. I'll repeat it. Had the SPO ever been interested in speaking  
23 with you, would you have told the War Veterans Association?

24 A. I don't know.

25 Q. You're here today because you support the accused; isn't that

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1 true?

2 A. First, allow me to explain. These two persons,  
3 Mr. Nasim Haradinaj and Hysni Gucati, for me are not accused.

4 Q. Why are they not accused?

5 A. For me, they are being held unjustly here.

6 Q. Why is that?

7 A. For the sole reason that the leak of documents, I think, came  
8 from the Office of the Specialist Prosecutor, because the Court is  
9 stationed here and not in Kosovo. Why did you allow such documents  
10 to be leaked? I think that they were being held ransom. They are  
11 not accused.

12 Q. And when you say you think that the documents come from the  
13 Specialist Prosecutor, what evidence do you have for that assertion,  
14 if any?

15 A. This is my opinion as a journalist.

16 Q. What facts are behind that opinion, if any?

17 A. This is my free opinion as journalist.

18 MR. HALLING: Your Honours, no further questions.

19 PRESIDING JUDGE SMITH: Anything further, Ms. Stephenson?

20 MS. STEPHENSON: If I may just ask a few more questions?

21 PRESIDING JUDGE SMITH: Yes.

22 MS. STEPHENSON: Thank you, Your Honour.

23 Further re-examination by Ms. Stephenson:

24 Q. So, Ms. Ballhazi, we're going to help you clarify the date of  
25 the video footage, and that's the video footage we played earlier.

1 MS. STEPHENSON: Madam Court Officer, please, could we put up  
2 again on the screen DHG0495.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MS. STEPHENSON: Thank you, Your Honour.

5 Madam Court Officer, I'm going to ask you to play the video, and  
6 could you please stop it when I tell you to stop it. Thank you.

7 [Video-clip played]

8 MS. STEPHENSON: Could you please stop it now? Thank you.

9 Q. Ms. Ballhazi, could you just take a close look at the man on the  
10 screen. Okay. Can you see him?

11 A. [In English] Yes. [Interpretation] Yes.

12 MS. STEPHENSON: Okay. Madam Court Officer, could you then  
13 bring up 081979-10.

14 THE COURT OFFICER: Is it in the Defence presentation queue?

15 MS. STEPHENSON: It's not, Madam Court Officer, but we didn't  
16 know this was going to happen, and we thought these facts were  
17 agreed.

18 MR. HALLING: Your Honour, we're struggling to find an ERN that  
19 matches the one given by Ms. Stephenson.

20 To the extent that the question is about CCTV footage, that  
21 starts with 091925 at the beginning of each of those videos.

22 MS. STEPHENSON: For us, Your Honour, from what we can see,  
23 that's not the case. It's 081979-10. Thank you.

24 Would you mind playing that video? Thank you, Madam Court  
25 Officer.



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Further re-examination by Ms. Stephenson

1 [Video-clip played]

2 MS. STEPHENSON: Could you stop it now, please, Madam Court  
3 Officer.

4 Q. Ms. Ballhazi, did you see that man enter from the lift in the  
5 bottom right-hand corner?

6 A. Yes.

7 Q. And can you confirm that that is the man that you saw with the  
8 boxes outside the KLA WVA?

9 A. Yes, yes.

10 Q. And can you confirm that you can see, in the top right-hand  
11 corner of the CCTV, I know it's a bit blurred, but it is 16 September  
12 2020? Can you confirm that?

13 A. Here up?

14 Q. Yes.

15 MS. STEPHENSON: Madam Court Officer, could you play it a bit --

16 THE WITNESS: [Interpretation] Yes, I see 16th.

17 MS. STEPHENSON:

18 Q. Could you see that?

19 MS. STEPHENSON: Could you play it a little bit longer and stop  
20 it, if possible, when the date is clearer?

21 THE WITNESS: [Interpretation] Yes.

22 MS. STEPHENSON:

23 Q. Okay. You confirm that you can see it's 16 September 2020, the  
24 date of the CCTV?

25 A. Yes. September, yes.

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Further re-examination by Ms. Stephenson

1 Q. Thank you. Do you think it's possible that you went to the  
2 offices of the KLA WVA the next day? That would be the 17th. Is  
3 that a possibility?

4 A. After I saw that person, then I continued towards the offices of  
5 the WVA to get a statement.

6 Q. Yes, I understand that. But my question was: Is it possible  
7 that you went to the offices the following day as well, the day after  
8 you saw this man delivering the boxes on 17 September 2020?

9 A. Maybe I did, but I don't remember well. I have forgotten.

10 Q. So one final question. Did you, or anybody else, ask for the  
11 video to be made public in any way?

12 A. To tell you the truth, while I was waiting for the conference to  
13 be held, none of the colleagues knew that I had this video. I didn't  
14 mention it to anyone. After the conference was over, I went to the  
15 offices of arbresh.info and I talked with my editor-in-chief and  
16 editor, and then we agreed to publish it.

17 Q. So how did you publish it?

18 A. In the portal, which is in Facebook, and in the YouTube channel  
19 that Arbresh.com has.

20 MS. STEPHENSON: No further questions, Your Honour.

21 PRESIDING JUDGE SMITH: Thank you.

22 Mr. Worboys, anything else?

23 MR. HALLING: Your Honour, just with your leave to ask one  
24 question, but the Haradinaj Defence can go first.

25 PRESIDING JUDGE SMITH: Okay. Go ahead. Oh. All right,

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1 Mr. Worboys.

2 MR. WORBOYS: Subject to hearing the question from Mr. Halling,  
3 nothing further from our side. Thank you.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. HALLING: Very short. And only in relation to the photo on  
6 the screen now.

7 Further cross-examination by Mr. Halling:

8 Q. Ms. Ballhazi, can you see the timestamp on that video, where it  
9 says 15:32?

10 A. Yes, it's a little blurred.

11 Q. And is that the time when this batch was dropped off?

12 A. I don't remember very well the time. I mentioned it earlier.  
13 Because 15 months have passed, and I have had to cover a lot of other  
14 different events. I didn't focus only on this.

15 Q. You said at paragraph 3 of your statement that this car that you  
16 saw came sometime between 11.00 and 12.00. Looking at the video in  
17 front of you, is that correct?

18 A. Yes, I said it. But I -- in the meantime, I was taking vox  
19 interviews and we had some pauses. It was a sunny day. It was hot.  
20 And sometimes we sit down to rest.

21 MR. HALLING: No further questions.

22 PRESIDING JUDGE SMITH: Now, Mr. Worboys, anything?

23 MR. WORBOYS: No, thank you, Your Honour.

24 PRESIDING JUDGE SMITH: All right.

25 [Microphone not activated].

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Further cross-examination by Mr. Halling

1 THE INTERPRETER: Microphone, please.

2 PRESIDING JUDGE SMITH: We are finished with your testimony  
3 today, Ms. Ballhazi, and the Court Usher will escort you out of the  
4 room. Thank you for being with us.

5 THE WITNESS: Thank you so much.

6 PRESIDING JUDGE SMITH: And happy birthday.

7 [The witness withdrew]

8 [Trial Panel and Court Officer confers]

9 PRESIDING JUDGE SMITH: Defence ready for Mr. Marashi? He is  
10 here.

11 MR. REES: If he's here.

12 PRESIDING JUDGE SMITH: Yes.

13 MR. REES: Then yes.

14 PRESIDING JUDGE SMITH: They have to wipe the desk down and then  
15 they'll be ready.

16 MR. REES: I understand. Mr. Bowden will be taking this  
17 witness.

18 PRESIDING JUDGE SMITH: Okay.

19 Before Mr. Marashi is brought in, do we have the same agreement  
20 on Mr. Marashi's witness statement?

21 MS. BOLICI: Yes, we do, Your Honour. Thank you.

22 [The witness entered court]

23 PRESIDING JUDGE SMITH: Good afternoon, Mr. Marashi.

24 THE WITNESS: [Interpretation] Good afternoon.

25 PRESIDING JUDGE SMITH: The Court Usher will provide you with

1 the text of the solemn declaration that you are asked to take  
2 pursuant to Rule 141(2) of our Rules. You may proceed when you're  
3 ready by reading it aloud.

4 THE WITNESS: [Interpretation] Conscious of the significance of  
5 my testimony and my legal responsibility, I solemnly declare that I  
6 will tell the truth, the whole truth, and nothing but the truth, and  
7 that I shall not withhold anything which has come to my knowledge.

8 WITNESS: PREN MARASHI

9 [Witness answered through interpreter]

10 PRESIDING JUDGE SMITH: Thank you. You can be seated.

11 Mr. Marashi, today we will hear your testimony. As you may  
12 know, Mr. Bowden will go first and will ask you questions about your  
13 statement. Then the Court will have a brief discussion about your  
14 statement. And once that is done, the admitted part of your  
15 statement will be read into the record.

16 Then Mr. Bowden might ask you some more questions, if he has  
17 any. Next, the lawyers representing Mr. Haradinaj may ask some  
18 questions as well. Then it will be the Prosecution's turn. Members  
19 of the Panel might also ask you some questions.

20 Mr. Bowden estimates that his examination will be short, maybe  
21 15 minutes. The Prosecution estimate is longer, as much as two  
22 hours, but we don't expect it to take that long. The Panel may allow  
23 re-examination by the Defence by Mr. Bowden if conditions are met.

24 Please try to answer the questions clearly with short answers.  
25 If you don't understand a question, feel free to ask counsel to

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1 repeat it or tell them that you don't understand and they will  
2 clarify. Also, please try to indicate the basis of your knowledge of  
3 facts and of circumstances that you will be asked about.

4 Please also speak into the microphone and wait five seconds  
5 before answering a question and speak at a slow pace for the  
6 interpreters to catch up.

7 While you are giving evidence in this Court, you are not allowed  
8 to discuss with anyone the contents of your testimony. If any person  
9 asks you questions outside this Court about your testimony, please  
10 let us know.

11 Mr. Bowden, as with the previous witnesses, please first ask if  
12 his statement accurately reflects what he would say in court. Then  
13 we will have submissions on the admissibility of the statement, and  
14 then you can read what is admitted, and we can continue with the  
15 examination.

16 MR. BOWDEN: Thank you, Your Honour.

17 PRESIDING JUDGE SMITH: Go ahead, Mr. Bowden.

18 MR. BOWDEN: Thank you, Your Honour.

19 Examination by Mr. Bowden:

20 Q. Good afternoon, Mr. Marashi.

21 A. Good afternoon.

22 Q. Can you confirm that your full name is Pren Marashi and your  
23 date of birth 14 July 1963?

24 A. Yes.

25 Q. Mr. Marashi, I know you speak some English, but your intention

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1 is, for the purpose of today, to give your evidence in Albanian; is  
2 that correct?

3 A. Yes, certainly.

4 Q. Thank you. You've been provided, I hope, with a copy of your  
5 statement. If not, can you be provided with that copy.

6 MR. BOWDEN: Madam Court Officer, the Albanian version is at  
7 DHG0144-DHG0147, and the English version DHG0218-DHG0221. I  
8 wonder -- I'm grateful if they could be displayed, which they are.

9 Q. Mr. Marashi, may I ask you to look at the statement in front of  
10 you. The written copy, please. And if you could go to the final  
11 page. Page 4. Can you see a name and a signature and a date of  
12 28 July 2021?

13 A. Yes, yes.

14 Q. And the statement has been made -- you've been given a copy of  
15 your statement previously?

16 A. Yes.

17 Q. You are aware of the contents?

18 A. Yes.

19 Q. The contents are true?

20 A. Yes.

21 Q. And you can confirm that the statement accurately reflects the  
22 evidence that you would give to this Court?

23 A. Yes.

24 MR. BOWDEN: Your Honour, we would seek to tender or admit the  
25 statement in evidence.

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1           PRESIDING JUDGE SMITH: I know you have some objections,  
2           Mr. Halling -- or, I'm sorry, Ms. Bolici.

3           MS. BOLICI: No problem.

4           PRESIDING JUDGE SMITH: If you could please indicate them and  
5           your reasons.

6           MS. BOLICI: Yes, Your Honour. The SPO objects to the admission  
7           of paragraphs 22 to 24 and 26 to 28 of the statement of this witness,  
8           considering that the matters addressed in these paragraphs are  
9           irrelevant to the charges against the accused, do not provide any  
10          factual information, and consist of the unsubstantiated opinion of  
11          the witness on irrelevant matters.

12          PRESIDING JUDGE SMITH: And it's my understanding, Mr. Bowden,  
13          that you do not object to that objection.

14          MR. BOWDEN: Indeed.

15          PRESIDING JUDGE SMITH: You're willing to have those matters  
16          deleted from the material.

17          MR. BOWDEN: As before, the observations made are that there is  
18          no objection to the statement being tendered in the amended form.

19          PRESIDING JUDGE SMITH: Thank you.

20          You may now -- I'm sorry, Mr. Worboys, do you have any comment?

21          MR. WORBOYS: Nothing, Your Honour. Thank you.

22          PRESIDING JUDGE SMITH: You may now read the statement.

23          MR. BOWDEN: Thank you, Your Honour.

24          The statement reads as follows.

25          I, Pren Marashi, will say as follows.



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1 I was born in the town of Kline, located in the district of Peja  
2 of north-western Kosovo. I now live in the village of Gllavicice, in  
3 the municipality of Peja, in Kosovo.

4 After secondary school, I was conscripted into the Yugoslav Army  
5 in Sarajevo, where I was from 1983 to 1984. Prior to this, in 1981 I  
6 took a demonstration [sic] Kosovo with groups of other activists  
7 against Yugoslavia. We represented the six republics and two  
8 provinces of Kosovo and during this time we distributed brochures on  
9 trains and buses and almost everywhere else to make the public aware  
10 of the fact that Kosovo should become a republic. I knew that if me  
11 or my friends from activist groups were caught, then we could be  
12 imprisoned for anything from six months up to ten years.

13 At this time, I knew and was aware that Nasim Haradinaj's father  
14 had been arrested twice for his activists in the cause for the love  
15 of the homeland.

16 On 4 April 1998, I was formally inducted into the KLA as a  
17 soldier. And on 5 April 1988, I was made commander of the 4th  
18 Battalion of the 138th Brigade on the front line infantry where  
19 Hysni Gucati's father was one of my infantry soldiers.

20 I was active service from 1998 to 1999. In 2000, I became a  
21 member of the KPC-TMK, the Kosovo Protection Corps, after it had been  
22 transformed from the KLA. I was a lieutenant-colonel. In 2000, I  
23 married and started a family.

24 Since then, I own a farm which I inherited from my father. The  
25 farm is in the village of Gllavicice in the municipality of Peja,

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1 Kosovo.

2 After the WVA was formed in Prishtine, I became an officer from  
3 the Civil Military Association I refer to as G5. When the KPC-TMK  
4 was established, I was a civil military liaison monitoring team.  
5 This is to cooperate with civilian populations. The most painful  
6 thing for a soldier was being transformed from a soldier to the  
7 KPC-TMK. We also had communications with the International  
8 Organisation for Migration, IOM in Kosovo, and the Organization for  
9 Security and Cooperation in Europe, the OSCE. We had no  
10 infrastructure in the KPC-TMK at the time. In coordination with  
11 command staff, we would take people to different trainings and would  
12 coordinate former soldiers. I was only a link in the chain.

13 Soon after the war, in 2000 we established an organisation for  
14 the war veterans, the War Veterans Association of the Kosovo  
15 Liberation Army, KLA WVA, with the main aim of supporting invalids  
16 and families of veterans.

17 From 2000 to 2019, I became a member of the headship committee,  
18 which became the steering council of the WVA, a group of 61 members.  
19 I was also branch manager for the organisation.

20 In 2019, I resigned from the headship committee after Hysni  
21 Gucati and Nasim Haradinaj were elected as president and  
22 vice-president. I gave my position to someone else so I could avoid  
23 needing to travel to Prishtine all the time, as travel was not  
24 compensated. I had to travel 180 kilometres back and forth every  
25 day. It had become too much of a burden for me.

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1           Hysni and Nasim had patriotic military backgrounds, so I knew  
2           that we would be well represented in them.

3           I am still a member of the steering council.

4           In May 2011, we unanimously agreed as a committee not to  
5           cooperate with the Kosovo Specialist Chambers, KSC, European Union  
6           Rule of Law Mission in Kosovo, EULEX, and the UN mission in Kosovo,  
7           UNMIK, in a way as we did not trust any of them.

8           We know that the freedom of Kosovo would not have happened  
9           without the assistance of the international community, but the KSC  
10          was dealing with just prosecuting Albanians but not Serbs, and this  
11          is why we did not trust them. There were hundreds of cases at the  
12          International Criminal Tribunal for the former Yugoslavia, ICTY,  
13          where Kosovan Albanians were acquitted. We have had hundreds of KLA  
14          members who have been killed and no one has investigated these cases.  
15          EULEX came here to advise but eventually assumed the role of a  
16          prosecutor.

17          I would like to describe the events of 8 September 2020 when the  
18          SPO arrived at the offices of the WVA. At the time, I was in the  
19          canteen area of the offices with Faton Klinaku.

20          Two investigators came from the SPO along with two interpreters.  
21          I did not know their names. I found out later that one was Swedish  
22          but Chinese looking. They said they were from the SPO at the KSC.

23          I was irritated by the behaviour of the SPO investigators. The  
24          SPO know that the KLA WVA does not recognise the KSC and will not  
25          cooperate with them. No one could force us to speak to them. One of

1 the investigators kept standing and refused to sit down. The man  
2 standing, who was masked, said that he was here for security. We  
3 said to the SPO investigators, "Do you know where you are? You are  
4 in the WVA offices. We provide the security." Faton told them that  
5 unless they sit down, then there would be no meeting.

6 Eventually he sat down, relaxed, drank coffee, and began to be  
7 more polite. In the office at the time was Faton, Cele Gashi, and I.

8 The SPO were asking us to hand over to them documents that had  
9 been delivered. Initially, we were not going to provide them with  
10 the documents as per the previously agreed collective decision of the  
11 steering council, as referred to in paragraph 13 above.

12 Faton then contacted Hysni to ask whether we should hand over  
13 the documents to the SPO. Hysni was on holiday in Albania at the  
14 time. He consented to us giving the documents over to the SPO. We  
15 informed Nasim at this point, too. We then handed over the documents  
16 to the SPO as per Hysni's instruction. As far as I'm aware, we had  
17 no legal advice at the time of the hand-over. Soon after the  
18 hand-over, I was happy with what had happened. I left the WVA  
19 offices and I returned home.

20 As far as I'm aware, Tome Gashi acts as a lawyer in an official  
21 capacity for the WVA. I know that Hysni and Nasim have previously  
22 spoken to Tome Gashi on the phone for legal advice.

23 I never actually read the documents, as I was not interested in  
24 them.

25 I am willing to go to The Hague to give evidence.

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Examination by Mr. Bowden

1           Your Honour, the content of the statement is sought to be  
2       admitted in evidence.

3           PRESIDING JUDGE SMITH: Any objection from the Prosecution?

4           MS. BOLICI: Besides to the paragraphs I already mentioned, no  
5       objection.

6           PRESIDING JUDGE SMITH: Thank you.

7           Anything further, Mr. Worboys?

8           Please assign a number to it, Madam Court Officer.

9           THE COURT OFFICER: Your Honour, the statement will receive  
10       Exhibit 1D7.

11          PRESIDING JUDGE SMITH: The Panel admits the written statement  
12       of Mr. Marashi in evidence under Rule 154 of the Rules, except  
13       paragraphs 22 to 24 and 26 to 28 as objected to by the SPO. The  
14       Panel notes that the statement is relevant and has probative value as  
15       it goes to the acts and conduct of the accused in relation to the  
16       charges.

17          Furthermore, Mr. Marashi is present in court and is available  
18       for cross-examination and questioning by the Panel. He also attested  
19       that the written statement accurately reflects what he would say in  
20       court, and the Panel therefore admits the written statement with a  
21       public classification.

22          Any further questions, Mr. Bowden?

23          MR. BOWDEN: No further questions on behalf of Mr. Gucati.

24       Q. And, Mr. Marashi, this will be further questions of you, as you  
25       know, from the Prosecution and Their Honours.

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Cross-examination by Ms. Bolici

1 MR. BOWDEN: Thank you, Your Honour.

2 PRESIDING JUDGE SMITH: Mr. Worboys.

3 MR. WORBOYS: No questions, Your Honour.

4 PRESIDING JUDGE SMITH: Mr. Halling -- I'm sorry, Ms. Bolici.

5 MS. BOLICI: No problem, Your Honour. I have a few questions,  
6 yes.

7 PRESIDING JUDGE SMITH: All right. Go ahead.

8 Cross-examination by Ms. Bolici:

9 Q. Mr. Marashi, good morning.

10 A. Good morning.

11 Q. My name is Valeria Bolici. I will be putting you a few  
12 questions.

13 In paragraph 10 of your statement, you say that you resigned in  
14 2019 as a member of the headship committee of the KLA War Veterans  
15 Association. And in paragraph 11 of your statement, you state that  
16 you are still a member of the steering council. I have a few  
17 questions in relation to these two organs.

18 Can you please explain us what is the head --

19 PRESIDING JUDGE SMITH: Excuse me, Ms. Bolici, that's  
20 paragraph 12 of the English.

21 MS. BOLICI: That's true, paragraph 12. Apologies.  
22 Paragraph 12 of the English.

23 Q. Could you please explain us what is the headship committee of  
24 the KLA War Veterans Association?

25 A. Your Honour, the veterans organisation works like a pyramid. So

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Cross-examination by Ms. Bolici

1 from its dome, it goes all the way down into the chapters and  
2 branches. The central part of it, with the exception of the closed  
3 chairmanship, there is a steering committee made of up 61 members.  
4 That's what's mentioned there.

5 And given that some points from my declaration were excised, I  
6 remain obliged to explain a few things about the organisation of the  
7 War Veterans Association and its remit. It would be of benefit to  
8 you. And given that I have been working for 20 years for the  
9 organisation, I can attest here that the organisation is not an  
10 organisation of violence. It is a free association of the war  
11 veterans.

12 Q. Mr. Marashi --

13 PRESIDING JUDGE SMITH: Please, you can wait on that. For right  
14 now, just answer the questions from Madam Prosecutor. And then if  
15 the attorney for the Defence has something to add or to ask of you,  
16 they will.

17 For now, please answer Ms. Bolici's question.

18 MS. BOLICI:

19 Q. Mr. Marashi, I am interested in understanding better the  
20 structure. You explained there is a steering committee composed of  
21 61 members; is this correct?

22 A. Yes.

23 Q. Is the headship committee something different from the steering  
24 committee?

25 A. You cannot be a member of the close council if you are not a

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Cross-examination by Ms. Bolici

1 member of the steering council. The steering council is the highest  
2 organ of the War Veterans Association. The close council, the  
3 headship council has got more duties to carry out, and that's why  
4 there is a chairman, deputy chairman, secretary, and other members of  
5 this committee that deal with the day-to-day operations of this  
6 organisation.

7 Q. So, Mr. Marashi, you told us that the organisation is like a  
8 pyramid. Starting from the top of this pyramid, you told us there is  
9 a presidency. How many members compose the presidency?

10 A. The presidency elected by the latest assembly, it has a chairman  
11 and a deputy chairman, and it can decide the membership of this  
12 organisation. It can go from six to 22.

13 Q. How many members of the presidency were there in September 2020?

14 A. I was not a member of the presidency in September 2020.

15 Q. And do you know how many members composed the presidency in  
16 September 2020?

17 A. I know how many members the steering council is composed of. I  
18 don't know how many there are in the presidency.

19 Q. And in September 2020, besides Hysni Gucati, Nasim Haradinaj,  
20 and Faton Klinaku, do you recall who else was a member of the  
21 presidency?

22 A. Can you please ask the question again.

23 Q. In September 2020, were Hysni Gucati, Nasim Haradinaj, and Faton  
24 Klinaku members of the presidency?

25 A. Yes, they still are members of the presidency.



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Cross-examination by Ms. Bolici

1 Q. And do you recall if in September 2020 there were other members  
2 of the presidency? Who else was a member of the presidency at the  
3 time?

4 A. As I explained quite well, I myself was not a member of the  
5 presidency and did not attend the meetings of the presidency. I  
6 attended, however, the meetings of the steering council.

7 Q. Mr. Marashi, I'm asking if you knew -- if you know whether in  
8 September 2020 there were other members of the presidency. It's  
9 pretty clear you were not part of that, but do you know whether there  
10 were other members besides Gucati, Haradinaj, and Klinaku?

11 A. There most certainly have been, but I don't recall the name.

12 Q. I understand. Now, going down from the presidency, the first  
13 next layer is the steering council; is this correct?

14 A. Yes.

15 Q. This is composed by 61 members?

16 A. Yes.

17 Q. Then going further then, what's the next level of the  
18 organisation?

19 A. There is no other level at the main headquarters. There are  
20 branches at the regional levels. The organisation, as I said  
21 earlier, it begins by subbranches in the municipalities. Then the  
22 delegates are sent to the main headquarters where they elect a  
23 steering council, the presidency, the chairman, and so on and so  
24 forth.

25 Q. I understood. Now just for clarity, when in paragraph 10 you

1 refer to -- you say that in 2019 you resigned from the headship  
2 committee, are you referring here to the presidency?

3 A. The year 2019 is wrong. It's meant to be 2017. It's the time  
4 when Hysni Gucati was elected chairman and Nasim, his deputy. At the  
5 first meeting of this group, I resigned and my resignation was  
6 accepted by the majority of votes.

7 Q. Okay. So you would like to make a correction to paragraph 10 of  
8 your statement as it is inaccurate; is this correct?

9 A. Only the year is wrong. It should be 2017. Not 2019. It's the  
10 time when Hysni Gucati was elected chairman.

11 I apologise to the Defence, but there's a mistake there.

12 Q. I understand. And, Mr. Marashi, do you know how many members  
13 does the KLA War Veterans Association have?

14 A. What do you mean how many members? How many veterans  
15 altogether?

16 Q. So it's an association and there are persons who are members of  
17 this association. Do I understand well?

18 A. Yes.

19 Q. And do you know how many persons are members of this  
20 association?

21 A. Roughly speaking, yes, I do know.

22 Q. Could you give us an approximate number of how many members does  
23 the KLA War Veterans Association count?

24 A. I apologise. But no, I can't.

25 Q. Is it in the order of tens, hundreds, thousands? How many, more

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1 or less?

2 A. It's not a secret. But because you've been raiding the offices  
3 and seizing a large number of documents from the WVA offices without  
4 a proper procedure and without leaving proper documentation, you  
5 probably have an idea of what the rough number is, but I wouldn't  
6 want to speculate however.

7 Q. Mr. Marashi, please answer the question. Are you able to say in  
8 which order of numbers the members the KLA War Veterans Association  
9 are? Are there, like, hundreds of members, thousands of members, ten  
10 thousands of members, more or less?

11 MR. BOWDEN: Your Honour, may I object. He's been asked this  
12 question now on three occasions, and the last answer was he shouldn't  
13 speculate. And I'm sure Your Honour and Ms. Bolici wouldn't wish him  
14 to speculate.

15 PRESIDING JUDGE SMITH: We don't want you to speculate. But if  
16 you don't know, say you don't know.

17 THE WITNESS: [Interpretation] Your Honour, I'm not obliged to  
18 give out the number, I'm sorry. The secretariat has the details of  
19 every single member of the war veterans organisation. It is not my  
20 job.

21 PRESIDING JUDGE SMITH: Mr. Marashi, they asked you for an  
22 estimate. Do you know or do you not know?

23 THE WITNESS: [Interpretation] I know.

24 PRESIDING JUDGE SMITH: Then you will give the answer. You are  
25 ordered to give an answer here.

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1 THE WITNESS: [Interpretation] Over 10.000.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 MS. BOLICI:

4 Q. Thank you, Mr. Marashi. I would like to refer to paragraph 17  
5 of your statement, where you refer to the meeting that you had with  
6 the SPO investigators on the occasion when the first batch of  
7 documents delivered at the KLA War Veterans Association was seized.  
8 And you state here:

9 "We said to the SPO investigators: 'Do you know where you are?  
10 You are in the War Veterans Association offices. We provide the  
11 security.'"

12 Did you mean, Mr. Marashi, that the SPO investigator did not  
13 have any authority within the KLA War Veterans Association offices?

14 A. Let me explain in detail, Your Honour, how the events unfolded.

15 Q. I would like, Mr. Marashi, you to answer this question. And  
16 then we'll go, if necessary, to the rest of the events. What did you  
17 mean by this sentence?

18 A. There's a reason why we said what we said.

19 Q. What did you mean by this sentence?

20 A. It was the way they came in and entered the WVA offices, which  
21 went beyond the remit and the code of behaviour of them as officials.  
22 They set an ultimatum by telling Faton and I, we were in the  
23 cafeteria at the time, that you have two minutes to report into your  
24 offices. And that irritated us, and we retorted by saying, "You know  
25 where you are, don't you?" It was not in keeping with the behaviour

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1 of an official who kindly seeks a service to be done. There were two  
2 of them and had two interpreters with them.

3 Q. Mr. Marashi, when you told the investigator, "Do you know where  
4 you are? You are in the War Veterans Association offices," did you  
5 mean that the SPO investigators had no authority within the offices  
6 of the KLA War Veterans Association?

7 A. They did not, obviously, because the entire opinion in Kosovo is  
8 aware of the stance of the War Veterans Association, that it is  
9 against this Chambers, would not cooperate with them. So without any  
10 representative of the state of Kosovo, of the justice system, the  
11 prosecution, the police, and so on and so forth, so in the absence of  
12 them, we were the ones providing security. No one else was there to  
13 provide security in our offices.

14 Q. Did you tell the investigators that you do not recognise the  
15 Kosovo Specialist Chambers on that occasion?

16 A. Yes.

17 MS. BOLICI: Your Honour, if the Panel wishes, we can stop for  
18 the break.

19 PRESIDING JUDGE SMITH: How many more questions do you have?

20 MS. BOLICI: I think I would have another 15 minutes.

21 PRESIDING JUDGE SMITH: [Microphone not activated].

22 THE INTERPRETER: Microphone for Your Honour, please.

23 PRESIDING JUDGE SMITH: Can the interpreters go 15 more minutes?

24 MS. BOLICI: Or half an hour, let's see.

25 PRESIDING JUDGE SMITH: Oh, you think more. All right. Well,

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1 we'll break for lunch then. We'll break for lunch.

2 MS. BOLICI: Thank you.

3 PRESIDING JUDGE SMITH: Be back here at 2.30.

4 MS. BOLICI: Thank you.

5 PRESIDING JUDGE SMITH: Remember, Mr. Marashi, you should not be  
6 talking to anybody about your testimony outside of this -- outside of  
7 the testimony you give in the courtroom.

8 You may be escorted from the courtroom now. And please be back  
9 at 2.30.

10 THE WITNESS: [Interpretation] [indiscernible].

11 [The witness stands down]

12 PRESIDING JUDGE SMITH: All right. We are adjourned.

13 You have something?

14 MR. BOWDEN: Your Honour, only in relation to the management of  
15 the remainder of the afternoon. There is another witness who could  
16 be called. It would seem that there is --

17 PRESIDING JUDGE SMITH: There will be enough time, I think. I  
18 hope.

19 MR. BOWDEN: At least for his evidence in-chief, as it is. The  
20 question then for Your Honour whether or not you would wish to -- his  
21 evidence to be adjourned overnight, or if the --

22 PRESIDING JUDGE SMITH: We'll just see if we can get finished  
23 with him.

24 MR. BOWDEN: He would be willing to attend.

25 PRESIDING JUDGE SMITH: Okay. We're adjourned until 2.30.

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Cross-examination by Ms. Bolici

1 --- Luncheon recess taken at 1.02 p.m.

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

3 PRESIDING JUDGE SMITH: Madam Court Usher, you can bring the  
4 witness back in.

5 [The witness takes the stand]

6 PRESIDING JUDGE SMITH: All right, Ms. Bolici. You may  
7 continue.

8 MS. BOLICI: Thank you, Your Honour.

9 Q. Mr. Marashi, good afternoon. Before the break, we were talking  
10 about the events of 8 September 2020 at the KLA War Veterans  
11 Association premises, and you told us that you and Faton Klinaku  
12 stated to the SPO investigators that you did not recognise this  
13 Court; is this correct?

14 A. Yes, that's correct.

15 Q. And, Mr. Marashi, were the investigators there in order to serve  
16 an order of a Judge of the Kosovo Specialist Chambers; is this  
17 correct?

18 A. No, it's not entirely correct. Let us not forget the way that  
19 they made their entry into the restaurant. They did not identify  
20 themselves. They had no identification documents. They just orally  
21 told us that we had two minutes to report into the office, and that  
22 irritated us and affected the start of the meeting.

23 Q. Mr. Marashi, were the investigators of the SPO there in order to  
24 serve an order of a Judge of the Kosovo Specialist Chambers?

25 A. After the situation eased down, when the member who initially

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1 refused -- member of the team who initially refused to sit down  
2 finally did so, then they did produce an order.

3 Q. Thank you. And you state at paragraph 19 of your statement  
4 that:

5 "Initially, we were not going to provide them with the documents  
6 as per the previously agreed collective decision of the steering  
7 council."

8 Is this correct?

9 A. The statement is correct, yes.

10 Q. So do I understand well that initially you did not intend to  
11 respond to a judicial order based on a decision of the KLA War  
12 Veterans Association; is this correct?

13 A. Yes, that's correct. And if it weren't for the phone call to  
14 the chairman by Faton, that would have been the case.

15 Q. You and Faton Klinaku called Mr. Gucati on that occasion; is  
16 this right?

17 A. Just Faton. Not Faton and I.

18 Q. Were you present when the telephone call was made?

19 A. Yes, I was.

20 Q. And did you hear what Faton Klinaku told Mr. Gucati?

21 A. Yes, certainly so. It's a three-by-three room; the office, that  
22 is.

23 Q. And what did Mr. Klinaku tell Mr. Gucati?

24 A. Please, these are just details. He said the representatives of  
25 the SPO have come in and they want the files, and presumably the



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1 answer at the other end of the line was, yes, give it to them.

2 Q. And after the telephone call with Mr. Gucati, you and  
3 Faton Klinaku handed over the file to the SPO investigators; is this  
4 correct?

5 A. Yes.

6 MS. BOLICI: I would like to put on the screen the document in  
7 the SPO presentation queue, please, Madam Court Officer, is the  
8 document with ERN 104298-104334 together with the corresponding  
9 English translation. And I would like to move to page 104301. It's  
10 in Albanian only. It's just about the picture.

11 Q. Mr. Marashi, is it you in this picture?

12 A. Yes, in front of my house.

13 Q. Is this your Facebook profile?

14 A. Yes, and it's a public account.

15 Q. And do you manage your own Facebook profile?

16 A. Yes, only I. No one else.

17 Q. Thank you.

18 MS. BOLICI: I would like to move to page 104333 of both the  
19 English translation and the Albanian version. This is a Facebook  
20 post dated 7 September 2020.

21 Q. Mr. Marashi, on your Facebook profile, which reads:

22 "After the files, from now on the special court will work based  
23 on the statements of the public protected witnesses!"

24 Were you referring here to the events that occurred at the KLA  
25 War Veterans Association earlier that day?

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1 A. Given that you've been following me on Facebook, you will have  
2 seen that there are a number of aphorisms on my account. Every  
3 single post of mine is publicly available. Sometimes I analyse that  
4 one.

5 However, as far as the Kosovo Specialist Chambers is concerned,  
6 the stance of the WVA is well known and well publicised. I --  
7 this -- it can be seen from here, or I think, it is to do with the --  
8 the Kosovo Specialist Chambers. Not the files, which I have not  
9 read.

10 Q. In this post, Mr. Marashi, were you referring to the press  
11 conference that was held at the KLA War Veterans Association earlier  
12 on the same day, on 7 September 2020?

13 A. I was not at the KLA WVA on September 7.

14 Q. Mr. Marashi, please listen carefully to the question and answer  
15 to the question. And I'm asking: In this post that you published on  
16 your Facebook profile, are you referring to what had happened at the  
17 KLA War Veterans Association that day; meaning the press conference  
18 of 7 September 2020?

19 A. Please, there's no mention here of any press conference or the  
20 name of a single witness. It is simply my opinion on the work of  
21 this Court, and I stand by it fully.

22 Q. And when you say "after the files," to which files are you  
23 referring to in this post on your Facebook profile?

24 A. This was publicly well known. The media in Kosovo covered the  
25 whole thing. It was to do with the files that had leaked from your

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1 offices.

2 Q. And it was publicly well known in relation to the press  
3 conference that was held that day; is this correct?

4 A. Yes, all of Kosovo was aware of it.

5 Q. And were you happy that statements of protected witnesses had  
6 been made public that day, Mr. Marashi?

7 A. Yes, I remain happy to this day. I can state here that the way  
8 this Court was set up has made us unhappy for over 20 years. As a  
9 former member of the KLA, and as a veteran, we are unhappy and we are  
10 unhappy with everything. With all the international missions  
11 deployed to Kosovo, including UNMIK, EULEX, and the Kosovo Specialist  
12 Chambers.

13 There is nothing to hide here. It's -- it's our opinion and we  
14 stand by it, and it's a view which is shared by the overwhelming  
15 majority of the Kosovo Liberation Army veterans.

16 Q. Is this a view that is shared by Hysni Gucati and  
17 Nasim Haradinaj?

18 MR. BOWDEN: Well, Your Honour, I would object. It's not within  
19 the remit of this witness to comment on behalf of other persons.

20 PRESIDING JUDGE SMITH: Only if he knows. You might want to ask  
21 him if he knows how they feel, first.

22 MS. BOLICI:

23 Q. Do you know, Mr. Marashi, if this view is also shared by  
24 Mr. Gucati and Nasim Haradinaj?

25 MR. BOWDEN: Your Honour, again, whether or not there has been a

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1 direct conversation, perhaps, with Mr. Gucati or Mr. Haradinaj would  
2 be a fair question. But this is again an unfair question I would  
3 object to.

4 PRESIDING JUDGE SMITH: Your objection is overruled. It's a  
5 fair question.

6 You can answer the question.

7 THE WITNESS: [Interpretation] When I say "the overwhelming  
8 majority" of the former soldiers of the KLA, that includes the  
9 chairman, the deputy chairman, and all the soldiers of the KLA. The  
10 publication -- and allow me to finish, please.

11 The publication and the arrival of these files into the WVA, in  
12 fact, should be a question of concern to all of us. We know where it  
13 leaked from. It is an action to be -- to be condemned. I mean, this  
14 is not an issue to -- to take revenge against the KLA veterans. The  
15 responsibility --

16 Q. Mr. Marashi --

17 A. -- should rest with these institutions, not with the soldiers --  
18 former soldiers of the KLA.

19 Q. Mr. Marashi, please do answer the questions without deviating.

20 MS. BOLICI: I would like to move to page 104328 of both the  
21 English and the Albanian version.

22 Q. This is a post published on your Facebook profile on 8 September  
23 2020, which reads:

24 "The life of spies; they seduce them to cooperate, then they  
25 compromise them, and eventually eliminate them themselves!"

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1           Are you in this post, Mr. Marashi, referring to witnesses as  
2       spies, don't you?

3       A.    Generally speaking, it's spies. And the testimony of their life  
4       is -- comes via the publication of the dossiers from the SPO. If  
5       these were protected witnesses, how come it was possible that the --  
6       that the documents would be leaked? That's the -- that's their life.  
7       I have not mentioned any names. I said "spies." Maybe it's spies  
8       coming from this Court, but spies in general is what I mean to say.

9           History shows that their life is simply like this.

10      Q.    Mr. Marashi --

11      A.    These --

12      Q.    Mr. Marashi, can you --

13      A.    -- are my posts.

14      Q.    Thank you. Answer the questions without deviating.

15           So do I understand well that when you say "spies," you refer to  
16       witnesses? Is this correct?

17      A.    I am not saying witnesses there. Read that status. It refers  
18       to spies in general. The same was the case during World War I, World  
19       War II, and all wars. Spies have always been betrayed by those  
20       they've worked for. On this occasion, it is the files of the SPO.  
21       It's a document that you -- and responsibility that you cannot evade.  
22       We can try to -- to have a blame game; however, generally speaking,  
23       the -- it's their employers who usually betray the spies. It is not  
24       our responsibility to protect anyone.

25           MS. BOLICI: I would like to move to page 104301 of both the

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1 Albanian and the English version.

2 Q. This is a post of 21 September 2020, which reads:

3 "Hello, waiting for new things, in particular from Lightning  
4 '3'!"

5 Did you know, Mr. Marashi, that Lightning 3 would come to the  
6 KLA War Veterans Association on the next day?

7 A. No.

8 Q. Were you hoping that Lightning 3 would come to the KLA War  
9 Veterans Association in the next days?

10 A. Because we had been forewarned by the person who had sent  
11 deliveries twice before. And, yes, we were waiting for them.

12 Q. Were you wishing that Hysni Gucati and Nasim Haradinaj would  
13 distribute more documents in the course of new press conferences?

14 A. I don't understand the question. In what way, "distribute"?  
15 How in what way were they to distribute? To distribute something  
16 that has yet to arrive?

17 Q. Were you wishing that more documents would arrive to the KLA War  
18 Veterans Association and that what happened already on two occasions,  
19 on the 7th and 16th September, would happen again?

20 A. Your Honour, since the first delivery to the WVA, which  
21 compromises the Specialist Chambers, yes, everything was well -- was  
22 welcome as far as we're concerned. And that's why I had objections  
23 to excising point 22, which centres on our opposition to the  
24 Specialist Chambers. Yes, I was delighted. Yes.

25 MS. BOLICI: And I would like to show now the page 104311 in

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Cross-examination by Ms. Bolici

1 both the English and Albanian translations.

2 Q. This post is published on your Facebook profile. It's dated  
3 29 September 2020. And reads:

4 "Are you spies and bootlickers now convinced that we have killed  
5 fear a long time ago, and the stance of Nasim Haradinaj is that of  
6 the majority of the freedom fighters!"

7 Who are you referring here as "spies" and "bootlickers"?

8 A. This is a view of my own. I addressed public opinion, the  
9 public opinion showing that Nasim's stance was a stance shared by all  
10 the former Kosovo Liberation Army soldiers. And as a sign of a  
11 family that has given a lot for the freedom of Kosovo, he remains an  
12 example. And every single member of the Kosovo Liberation Army would  
13 share that view, and I am one of those who shares that view.

14 Q. You support Nasim Haradinaj, don't you?

15 A. I support him. We are co-fighters. We have fought together.  
16 We know each other from the early youth. And, in particular, my idol  
17 was his father.

18 Q. Thank you, Mr. Marashi.

19 MS. BOLICI: No further questions from the Prosecution.

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

21 Mr. Bowden.

22 MR. BOWDEN: Your Honour, if I may, arising from the  
23 cross-examination, just ask one clarification question.

24 PRESIDING JUDGE SMITH: You may.

25 Re-examination by Mr. Bowden:

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Re-examination by Mr. Bowden

1 Q. Mr. Marashi, you mentioned in paragraphs 9 and 10 of your  
2 statement the time you spent as a member of the headship committee,  
3 2000 to 2019. And you said that you may be mistaken. And, in fact,  
4 you resigned in 2017; is that correct?

5 A. Yes.

6 Q. Was it the case that Mr. Hysni Gucati was appointed on  
7 15 October 2017? Can you remember?

8 A. Yes.

9 Q. Would you have remained a member of the committee at the time of  
10 his appointment?

11 A. First, first, I'm addressing the interpreter, because I can see  
12 mention of a word "committee." There is no such thing within the  
13 WVA. There is a steering council.

14 Upon the election of Mr. Gucati as chairman, I resigned, and  
15 that was during the first meeting of the board. And my resignation  
16 was approved with a majority of one.

17 Q. I see. So at the time of his election, you were a member but  
18 you resigned shortly thereafter, shortly afterwards?

19 A. Yes, yes.

20 Q. Thank you.

21 MR. BOWDEN: Nothing further.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. WORBOYS: No further questions. Thank you, Your Honour.

24 PRESIDING JUDGE SMITH: No questions from Mr. Worboys.

25 Any members of the Panel have any questions? No questions from



1 the Panel.

2 Mr. Marashi, this concludes your testimony. You may leave now.

3 We wish you a good day.

4 THE WITNESS: [Interpretation] Thank you.

5 [The witness withdrew]

6 PRESIDING JUDGE SMITH: Just before we continue, and before we  
7 call in the next witness, just to clarify something on the record.

8 The classification of admitted Exhibits 1D5 and 1D6 will be  
9 public.

10 Madam Usher, you can bring Mr. Kryeziu in.

11 [The witness entered court]

12 PRESIDING JUDGE SMITH: He can remove his mask.

13 Can you hear me, Mr. Kryeziu? No. Can you hear now?

14 THE WITNESS: [Interpretation] Yes, I can.

15 PRESIDING JUDGE SMITH: Good afternoon, Mr. Kryeziu.

16 Am I pronouncing your name correctly, Kryeziu?

17 THE WITNESS: [Interpretation] Yes, Kryeziu.

18 PRESIDING JUDGE SMITH: Okay. Mr. Kryeziu, the Court Usher will  
19 now provide you with the text of the solemn declaration which you are  
20 asked to take pursuant to our rules. So please read it aloud.

21 THE WITNESS: [Interpretation] Conscious of the significance of  
22 my testimony and my legal responsibility, I solemnly declare that I  
23 will tell the truth, the whole truth, and nothing but the truth, and  
24 that I shall not withhold anything which has come to my knowledge.

25 WITNESS: METUSH KRYEZIU

1 [Witness answered through interpreter]

2 PRESIDING JUDGE SMITH: Thank you, Mr. Kryeziu. You may be  
3 seated.

4 Mr. Kryeziu, today we will hear your testimony. As you may  
5 know -- I'm sorry, who is going to be doing the questioning,  
6 Mr. Rees? Mr. Bowden?

7 MR. BOWDEN: Yes, again, Your Honour. Thank you.

8 PRESIDING JUDGE SMITH: Mr. Bowden will go first and ask you  
9 some questions about your statement. And then the Court will have a  
10 brief discussion about your statement. And once that is done, the  
11 admitted part of your statement will be read into the record.

12 Then Mr. Bowden might ask you some more questions, if he has  
13 any. Next the lawyers representing Mr. Haradinaj may ask some  
14 questions as well. Then it will be the Prosecution's turn. Members  
15 of the Panel might also ask you some questions.

16 Mr. Bowden estimates that his examination will be short, perhaps  
17 15 minutes. And the Prosecution may have a longer group of questions  
18 for you, which may take a bit longer. The Panel will allow the  
19 re-examination by the Defence if the conditions for it are met.

20 Please try to answer the questions clearly with short sentences.  
21 If you don't understand a question, feel free to ask counsel to  
22 repeat a question or tell them that you don't understand and they  
23 will clarify. Also, please try to indicate the basis of your  
24 knowledge of facts and circumstances that you will be asked about.

25 Please also speak into the microphone and wait about five

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1 seconds before answering a question and speak at a slow pace so that  
2 the interpreters can catch up to you.

3 While you are giving evidence in this Court, you are not allowed  
4 to discuss with anyone the content of your testimony. If any person  
5 asks you questions outside the court about your testimony, please let  
6 us know.

7 Mr. Bowden, as with the previous witness, please first ask if  
8 his statement accurately reflects what he would say in court, and  
9 then we will have submissions on the admissibility of the statement,  
10 and then you can read what is admitted, and we can continue with the  
11 examination.

12 The floor is yours, Mr. Bowden.

13 MR. BOWDEN: Thank you, Your Honour. I wonder whether the  
14 witness might be allowed a copy of his statement.

15 Examination by Mr. Bowden:

16 Q. Good afternoon, Mr. Kryeziu.

17 A. Good afternoon.

18 Q. Would you confirm, please, your full name.

19 A. My name is Metush Kryeziu, born on 14 May 1965, in the village  
20 of Bubavec, Malisheve municipality.

21 Q. Thank you. There is a witness statement that is before you.  
22 Could you take a look at that witness statement.

23 MR. BOWDEN: Madam Court Officer, I wonder, as you are already,  
24 if you could place the English version and the Albanian version. And  
25 perhaps if we could go to the final page of both.

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1 Q. On the statement that you have before you, could you turn to the  
2 final page, please. And you will see a name and a signature. Can  
3 you confirm that that is your name and signature?

4 A. Yes, that's my full name and my signature.

5 Q. And the date of that document is 6 September 2021?

6 A. Yes, 6 September 2021.

7 Q. And can you confirm that you've had access previously, you've  
8 had sight previously of that statement?

9 A. Yes, I have seen it.

10 Q. Have you been able to read its contents?

11 A. Yes.

12 Q. And the contents of that statement are true?

13 A. What I see here is what I said and it's true.

14 Q. And you confirm the statement reflects the evidence that you  
15 would give to this Court?

16 A. Can you please repeat it?

17 Q. You can confirm that the content of your statement is the  
18 evidence which you would wish to give to this Court?

19 A. Yes, that is the testimony that I would like to give.

20 Q. Thank you.

21 MR. BOWDEN: Your Honour, the contents of that statement is one  
22 which the Defence would seek to admit as an exhibit.

23 PRESIDING JUDGE SMITH: Thank you, Mr. Bowden.

24 I know the SPO objects to two paragraphs. Can you please state  
25 the reasons for your objections and the paragraphs on the record.

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1 MR. PACE: Yes, Your Honour. The paragraphs that we object to  
2 admitting are paragraphs 19 and 20 of this statement, and the reasons  
3 are much the same as we've set out before. In particular, that these  
4 statements contain improper opinion which is not based on facts and  
5 they are irrelevant to the charges against the accused.

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

7 Mr. Worboys, any objection?

8 MR. WORBOYS: The same position as we've taken on the prior  
9 statements.

10 PRESIDING JUDGE SMITH: I'm sorry?

11 MR. WORBOYS: Same position as we have taken on the prior  
12 statements.

13 PRESIDING JUDGE SMITH: Thank you.

14 [Microphone not activated].

15 THE INTERPRETER: Microphone, please.

16 PRESIDING JUDGE SMITH: Would you please assign a number to the  
17 document?

18 THE COURT OFFICER: Your Honours, this statement will receive  
19 Exhibit 1D8.

20 PRESIDING JUDGE SMITH: I'm sorry, was it 1D8?

21 THE COURT OFFICER: Yes, Your Honour, 1D8.

22 PRESIDING JUDGE SMITH: Thank you.

23 Mr. Bowden, you may now read the statement into the record  
24 without the excluded paragraph. Or paragraphs, plural.

25 MR. BOWDEN: Thank you, Your Honour.

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1 The statement reads as follows.

2 I, Metush Kryeziu, will say as follows.

3 I was born in Bubavec, in the municipality of Malisheve, Kosovo.

4 I have six children, three sons and three daughters. I am currently  
5 employed as an economist. I work in a company called Eco-Region  
6 which deals with waste management. I have worked there since 2013.

7 In my early years, I was educated in local schools in the Kieve  
8 area of Kosovo. I was conscripted into the Yugoslav Army to do  
9 national service from 1983 to 1984. I then went to economic school  
10 in Peja, Kosovo. In 1987, I finished my schooling.

11 At the end of the 1980s, I worked in agriculture and became a  
12 member of the Democratic League of Kosovo, LDK, and became involved  
13 in activities which I did until 1998.

14 Because of the oppression that I faced in the 1990s, it pushed  
15 me to become a member of the Kosovo Liberation Army, KLA. I joined  
16 the KLA on 20 March 1998 until 19 September 1999, when the  
17 transformation happened.

18 In October 1998, I became a platoon commander. In December  
19 1998, I became battalion commander. From 1999 until 2008, I was  
20 chief of brigade in KPC.

21 In 2013, I became employed in public enterprise in the field of  
22 public hygiene. In 2016, I ran for chairmanship of my local branch  
23 of the WVA, to best serve the rights of veterans that have been  
24 violated.

25 I was made chairman in 2016 and I remain so to this day. I am

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1 chairman of the Malisheve branch of the WVA. I am also a member of  
2 the 23-member committee of the WVA. This committee comprises all the  
3 leading members of the KLA WVA, including the presidency of the  
4 central office, Hysni Gucati, president; Nasim Haradinaj,  
5 vice-president; Faton Klinaku, secretary; and the rest of the  
6 chairmanship.

7 I was made aware via media coverage that three deliveries of  
8 documentation had occurred at the WVA offices on separate dates. The  
9 stories were covered on RTK, public broadcast service, KTV, and all  
10 the other media outlets too.

11 The decision to make public any documents that were delivered  
12 was a collective decision taken by the majority vote of the WVA  
13 chairmanship - all 23 members. As far as I recall, the vote on  
14 whether to publish such documents was unanimous. Hysni, Nasim, and  
15 Faton just implemented the decision of the chairmanship. The WVA was  
16 always against the Kosovo Specialist Chambers, KSC, and we thought  
17 these documents that were delivered were linked to the Serbs. Every  
18 veteran Albanian is considered a terrorist by the KSC.

19 On 17 September 2020, I attended the offices of the WVA. I was  
20 assisting with membership cards at the time and was present when the  
21 Specialist Prosecutor's Office, SPO, arrived at the offices.

22 The membership cards can only be made in Prishtine. The members  
23 need them because they help them with free healthcare. I therefore  
24 bring applications to Prishtine to make the membership cards there.

25 On this day, I was in the room on the fourth floor where the

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1 technical staff were, Taibe Miftari and Elvir Gucati. The room was  
2 on the same floor as the other offices.

3 At approximately 1100 hours, the SPO arrived at the offices.  
4 They stayed for approximately two to three hours. I did not speak to  
5 anyone from the SPO. I just observed the situation. Hysni Gucati  
6 and Nasim Haradinaj were the ones who spoke with the SPO, but I was  
7 present in Hysni's office with them.

8 Eventually the documents were handed over to the SPO. On this  
9 day, I had superficially glanced through the documents. I was moving  
10 around and was originally with the technical staff, and perhaps I  
11 helped them carry the documents themselves into Hysni's office.  
12 There was a box of documents. The SPO then signed the documents,  
13 which I believe to be a hand-over document, but I never actually  
14 personally saw this document. The SPO then took the box and left the  
15 offices.

16 I wish to say that I would prefer for myself to be jailed in  
17 The Hague instead of Hysni and Nasim. Hysni is wounded in his leg,  
18 he has rods in his leg, and he suffers from chronic diabetes.  
19 Regarding Nasim, I am unaware of any other family in Kosovo that has  
20 suffered more than Nasim's. His parents, wife and siblings have all  
21 been to prison. There is nothing more that Nasim can give.

22 I am aware that Tome Gashi is a lawyer who has advised the WVA  
23 after the second illicit delivery of documents. To my knowledge,  
24 Tome Gashi had stopped acting for the WVA due to other personal  
25 engagements. But his assistance was on a pro bono basis and for that



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1 we thank him.

2 I have seen the videos of the third illicit delivery of  
3 documents to the WVA. I became aware of the incident through the  
4 media. The story was covered on all Kosovo media channels.

5 On the day of Hysni and Nasim's arrest, friends in Malisheve saw  
6 the news of their arrests on Facebook and informed me. I then  
7 travelled to Prishtine, a 40-minute drive, to see what was going on.

8 I --

9 THE INTERPRETER: Could the counsel be asked to slow down,  
10 please, the interpreters ask.

11 MR. BOWDEN: I then travelled to Prishtine, a 40-minute drive,  
12 to see what was going on. I felt that this was my obligation. On  
13 arrival at the WVA offices, I tried to go inside but was not  
14 permitted. The international police, EULEX, had blocked the  
15 entrance.

16 Furthermore, Nasim was not trying to run away on the day of his  
17 arrest. He was heading towards Prishtine. Nasim asked me to calm  
18 the situation down on the day of his arrest.

19 I am willing to go to the Court in The Hague to give evidence.

20 That's the contents of the statement, Your Honour.

21 PRESIDING JUDGE SMITH: It's my understanding that you have  
22 withdrawn any resistance to the SPO's objection to those two  
23 paragraphs?

24 MR. BOWDEN: That's correct, Your Honour.

25 PRESIDING JUDGE SMITH: The Panel admits the written statement

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1 of Mr. Kryeziu into evidence under Rule 154 of the Rules, except  
2 paragraphs 19 and 20, objected by the SPO.

3 The Panel notes that the rest of the statement is relevant and  
4 has probative value as it goes to the acts and conduct of the accused  
5 in relation to the charges.

6 Furthermore, Mr. Kryeziu is present in court and is available  
7 for cross-examination and questioning by the Panel. He has also  
8 attested that the written statement accurately reflects what he would  
9 say in court, and the Panel, therefore, admits the written statement  
10 with a public classification. And the assigned number is 1D8.

11 Mr. Bowden, any other questions?

12 MR. BOWDEN: No further questions, Your Honour.

13 I would point out that I think the live transcript feed seems to  
14 have stopped. I don't know whether that's just on my feed or  
15 throughout the courtroom.

16 PRESIDING JUDGE SMITH: Mine seems to have stopped as well.

17 MR. BOWDEN: But no further questions, Your Honour.

18 PRESIDING JUDGE SMITH: Mine is working now. Madam Court  
19 Officer, mine is now working.

20 Is yours working now?

21 MR. BOWDEN: It doesn't appear to be, Your Honour, no.

22 I'm not sure how we can switch it off and switch it back on  
23 again, as Mr. Worboys would recommend.

24 PRESIDING JUDGE SMITH: Maybe Mr. Worboys should do it for us.

25 [Trial Panel and Court Officer confers]

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1           PRESIDING JUDGE SMITH: Are the other screens there working?

2           None of them? None of the Defence.

3           MR. BOWDEN: No.

4           PRESIDING JUDGE SMITH: Nobody's. Okay.

5           MR. PACE: Your Honour, just, perhaps not to interrupt the flow  
6           of the proceedings, if Defence counsel could make it clear if there  
7           are any further questions. I might not have any myself. So if you  
8           were thinking of taking a break to refresh, that might be a relevant  
9           consideration because I don't think the transcript is needed if I  
10          have no questions. If, of course, that's okay with everybody.

11          PRESIDING JUDGE SMITH: Well, I can certainly ask the question.  
12          Any other questions from you, Mr. Bowden.

13          MR. BOWDEN: None, Your Honour, no.

14          PRESIDING JUDGE SMITH: Mr. Worboys.

15          MR. WORBOYS: No.

16          PRESIDING JUDGE SMITH: And for the Prosecution?

17          MR. PACE: No cross-examination, unless anything arises out of  
18          any subsequent questions.

19          PRESIDING JUDGE SMITH: Unless what?

20          MR. PACE: Unless anything arises out of any subsequent  
21          questions of this witness.

22          PRESIDING JUDGE SMITH: Mr. Kryeziu, this concludes your  
23          testimony. You may leave now and we wish you a good day.

24          Madam Usher, you may escort the witness out.

25          Mr. Buckley --

1 THE WITNESS: [Interpretation] Can I take this document with me?

2 [The witness withdrew]

3 PRESIDING JUDGE SMITH: I think that's the end of the witnesses  
4 for today.

5 Mr. Worboys, you said earlier today that you will have some  
6 information for us at the end of the hearing about the plans for next  
7 week.

8 MR. WORBOYS: I do. I do, Your Honour. The good news is, of  
9 course, we will be able to open next week, irrespective of  
10 Mr. Cadman's state at that point.

11 We have been making inquiries about witnesses, and my  
12 understanding, as of lunch, was that Witness 1246 was due to  
13 arrive -- or is due to arrive in The Hague on Tuesday evening, and  
14 will therefore be available next week.

15 Regarding the question of a second witness. Your Honours, I've  
16 done a calculation based on the time which we have in the new year,  
17 and my understanding is that the estimate for Mr. Haradinaj is around  
18 three days. The estimate for Witness 1254 is around four hours. And  
19 the estimate for Witness 1252 is two hours.

20 My understanding is in January we have four and a half days.  
21 With those estimates being accurate, and I would submit based on  
22 today's activities that that would be fair, our position is that it's  
23 entirely possible to take those witnesses within the window in the  
24 new year.

25 Given Mr. Cadman's absence, we would respectfully ask the Court

1 to grant that indulgence and simply to hear 1246 next week in  
2 conjunction with the opening.

3 PRESIDING JUDGE SMITH: Why not 1254 at least?

4 MR. WORBOYS: 1254, we -- in Mr. Cadman's absence, which we are  
5 expecting will be the case next week, the preference of the Defence,  
6 given the availability of time in the new year and, therefore, the  
7 lack of prejudice to the trial completing by 17 January, would be for  
8 it to be heard then when Mr. Cadman is back.

9 PRESIDING JUDGE SMITH: We also have the matter, Ms. Bolici or  
10 Mr. Pace, about the two witnesses to be recalled for  
11 cross-examination. Are they available Wednesday, Thursday or Friday?

12 MR. PACE: Yes, Your Honour, they are.

13 PRESIDING JUDGE SMITH: All three days?

14 MR. PACE: Yes, with a preference for Wednesday and Thursday, if  
15 possible.

16 PRESIDING JUDGE SMITH: I think probably if you would call them  
17 first thing Wednesday we could take care of those in a fairly short  
18 period of time.

19 MR. PACE: Yes, Your Honour. I do, with your indulgence, want  
20 to say something about the submissions by the Haradinaj Defence just  
21 now, Your Honour.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 MR. PACE: Thank you, Your Honour.

24 Just to note that we have heard no good reason not to proceed,  
25 as Your Honour instructed yesterday. In Your Honour's comments at

1 the close of testimony yesterday, were heard the reasons as to why,  
2 in fact, everything should proceed as it should in terms of  
3 Mr. Haradinaj being adequately -- more than adequately represented  
4 with current counsel. And despite counsel for Mr. Haradinaj's  
5 current estimations, we know for a fact, based on the last week and  
6 the last months, that unforeseen events may arise. So we do have a  
7 court day that we can use next week. It is in everybody's best  
8 interests to use that court day. And I just want to put it on the  
9 record that the SPO is ready to proceed with the witnesses now, and  
10 next week we would be ready to cross-examine them as well of course.

11 And just to note one brief issue, that there will be a filing in  
12 relation to the scheduled testimony of the two Prosecution witnesses,  
13 which will be notified shortly today. That's something we're filing  
14 in relation thereto. I won't say more than that, but it will be  
15 notified -- or at least filed today, Your Honour.

16 Thank you.

17 PRESIDING JUDGE SMITH: Just to be correct. We have four and a  
18 half days in January. And if we have the slightest misstep, we would  
19 put ourselves in a position of not being able to finish this case in  
20 January, which is our stated purpose, and has been our stated purpose  
21 since day one.

22 So I believe that we are going to deliberate shortly and ask you  
23 just to step aside.

24 MR. WORBOYS: Your Honours, one point that I was about to make  
25 before the SPO's intervention, was that, of course, to aid

1 efficiency, this week and in January, to the extent possible, we  
2 would seek to rely on Rule 154 as well.

3 MR. PACE: Your Honour --

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 MR. PACE: Sorry, Your Honour, but -- sorry, Your Honour,  
6 perhaps this might be also relevant to your deliberation. But  
7 especially in light of what Mr. Worboys just mentioned, can we have  
8 some clarity as to whether Rule 154 is or is not going to be relied  
9 upon in relation to the testimony of Mr. Haradinaj himself?

10 And, further, if it is not going to be relied upon, what is the  
11 updated estimate for that examination. Your Honour mentioned four  
12 and a half days in January, so this would have a very big impact, the  
13 length of the direct examination.

14 PRESIDING JUDGE SMITH: So who are you going to use Rule 154 on?

15 MR. WORBOYS: For now, Your Honour, I was proposing to deal with  
16 it next week in respect of 1246, and 1254 in the new year, hopefully,  
17 on our submission, and potentially 1252.

18 I would need to take instructions on the position of  
19 Mr. Haradinaj, but our submission is we will manage to do it in the  
20 days that are available in the new year, irrespective of the approach  
21 we take.

22 PRESIDING JUDGE SMITH: As I said, we will retire to deliberate.  
23 I am not certain about your request, and we will talk about it and be  
24 back in a few minutes.

25 --- Recess taken at 3.20 p.m.

1 --- On resuming at 3.29 p.m.

2 PRESIDING JUDGE SMITH: Under Rule 149, Ms. Myers will have to  
3 appear in person or by video but cannot be handled by a  
4 154 Rule submission. We are certainly willing to have her testify by  
5 Zoom, if that would help any.

6 Part of the problem is the number of hours that this could take  
7 in January could put us, as I said earlier, to the point that we  
8 couldn't close the case as intended. We believe you should be  
9 prepared next week to do your opening statement and have two  
10 witnesses. Which two they are is totally up to you, and we will, as  
11 we said, cooperate as far as a Zoom meeting if that's what's  
12 necessary, and then we will proceed with the other two witnesses,  
13 including Mr. Haradinaj, after the 1st of the year.

14 And first thing Monday morning, we will have the  
15 cross-examination witnesses here, the re-cross-examination witnesses  
16 here for your benefit. I'm sorry, Wednesday. Wednesday, yes. And  
17 we will take those the first thing in the morning, so we can deal  
18 with it. Opening would be Wednesday afternoon.

19 Mr. Rees.

20 MR. REES: Your Honour, can I ask for some further guidance then  
21 in relation to the witness that's due to give evidence tomorrow  
22 morning, Mr. Cele Gashi. It's Witness DW1245. It will assist us if  
23 we have some advance notice as to how he is to be examined in-chief,  
24 as it were.

25 We will be asking for parts of the statement to be adduced under



1 Rule 154, assuming that the witness does confirm that the  
2 truthfulness of the statement and, of course, if he wishes, that to  
3 be his evidence in testimony. But assuming that he does, we will  
4 seek to -- we will ask for the statement to be admitted in lieu of  
5 his testimony, save for paragraph 16, paragraph 32, and paragraph 34.

6 We do not seek admission of those paragraphs, so the SPO does  
7 not need to make a formal objection to them. We don't seek to admit  
8 those.

9 In relation to paragraphs 20 and 22, which are the only other  
10 paragraphs the SPO have raised an issue in relation to, they do not  
11 object that those paragraphs contain irrelevant material. They  
12 couldn't. It's clearly relevant material. That is the testimony  
13 that he wishes to give, or at least we assume that he will confirm  
14 that tomorrow when he begins his testimony.

15 And in the circumstances, the fact that they are controversial,  
16 from the Prosecution's point of view, we, in our submission, there is  
17 no basis for us not to be able to take advantage of Rule 154. They  
18 can cross-examine the witness on those paragraphs and the other  
19 paragraphs in his testimony. That is the effect of Rule 154 which,  
20 unlike Rule 153, requires the witness to be present for  
21 cross-examination on any controversial parts.

22 So we will, tomorrow, be seeking to admit the statement, save  
23 for paragraphs 16, 32, and 34 under Rule 154 as is in lieu of his  
24 testimony.

25 PRESIDING JUDGE SMITH: So you want to offer all of the

1 statement except for 16, 32, and 34 --

2 MR. REES: That's right.

3 PRESIDING JUDGE SMITH: -- including in your offering 20 and 22.

4 MR. REES: Including 20 and 22.

5 PRESIDING JUDGE SMITH: Okay.

6 Mr. Pace or whoever is in charge of that particular one. Go  
7 ahead, Mr. Halling.

8 MR. HALLING: It looks like it's me.

9 Yes, so we are going to be objecting to paragraphs 20 and 22.  
10 It's premature at the moment, because the Rule 154 criteria aren't  
11 even met. I'm happy to address it now or tomorrow, as the Court  
12 pleases.

13 PRESIDING JUDGE SMITH: Well, let's assume for a moment that  
14 they can be addressed properly, what's your objection?

15 MR. HALLING: The objection would be that the nature of these  
16 particular facts are more appropriately adduced spontaneously by the  
17 witness in the courtroom, and that the principle of orality should  
18 find that it's more appropriate to hear this evidence orally rather  
19 than simply introducing it in writing.

20 So this isn't our evidence. We aren't going to elicit the  
21 account ourselves in cross-examination. But we think given the  
22 nature of the facts at issue that it would be more appropriate for it  
23 to be elicited in the way that we've described.

24 PRESIDING JUDGE SMITH: And, of course, we could accept all of  
25 the exhibit except 20 and 22 and allow you to put the witness on for

1 that purpose if you wanted to do it that way.

2 MR. REES: We could. But we say this: That the principle of  
3 orality is maintained and reflected in Rule 154 by the requirement  
4 that the witness is present to, firstly, confirm that the contents of  
5 the statement reflect the evidence that the witness wishes to give;  
6 and then is available for cross-examination on those parts by the  
7 opposing party who does not accept them.

8 PRESIDING JUDGE SMITH: Well, it's an interesting question, and  
9 we'll discuss it tonight, and give you an interesting answer tomorrow  
10 morning then. Okay?

11 MR. REES: So does that mean that my request for guidance to  
12 allow us to plan ahead and, indeed, to give some --

13 PRESIDING JUDGE SMITH: Well, we've got something. We just know  
14 that we have those two that we have to decide on, and I guess we  
15 can't give you any more guidance than that.

16 MR. REES: All right. Thank you.

17 PRESIDING JUDGE SMITH: So you wasted all that time for nothing.

18 MR. REES: Thank you.

19 PRESIDING JUDGE SMITH: Mr. Pace.

20 MR. PACE: Thank you, Your Honour. While we're talking about  
21 planning.

22 If it's possible for the Haradinaj Defence to identify who the  
23 potential other witness would be next week, that would really assist  
24 us a lot because, of course, we need to prepare, and whether we  
25 prepare one witness or the other makes a big difference at such short

1 notice.

2 So if we could be told now, if known; or if not, at latest  
3 tomorrow that would be useful.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 Are you in a position to say that now?

6 MR. WORBOYS: I think it would be best if we could say it  
7 tomorrow morning. I would let the SPO know before court starts.

8 PRESIDING JUDGE SMITH: Fair enough. That's fair enough. Okay.

9 MR. WORBOYS: Your Honour, while I'm on my feet, can I ask two  
10 or make two minor points, please.

11 One is that I think a minute ago you said opening would be on  
12 Wednesday afternoon. My understanding was we had the first two  
13 morning sessions on Wednesday. Is that correct?

14 PRESIDING JUDGE SMITH: [Microphone not activated].

15 MR. WORBOYS: We only have the first two morning sessions on  
16 Wednesday.

17 PRESIDING JUDGE SMITH: You're correct about that, yes.

18 MR. WORBOYS: So am I correct in thinking it will be the second  
19 session or --

20 PRESIDING JUDGE SMITH: [Overlapping speakers] ... well, you  
21 said there was only -- I believe Mr. Cadman had indicated it was a  
22 one-hour opening.

23 MR. WORBOYS: Yes, that would be correct. My question was  
24 simply: Is it correct that we are only sitting on Wednesday morning  
25 and not Wednesday afternoon?

1           PRESIDING JUDGE SMITH: [Microphone not activated].

2           MR. WORBOYS: Yes, of course.

3           PRESIDING JUDGE SMITH: [Microphone not activated].

4           MR. WORBOYS: Fine.

5           PRESIDING JUDGE SMITH: [Microphone not activated].

6           THE INTERPRETER: Microphone, please.

7           PRESIDING JUDGE SMITH: Two sessions in the morning and there  
8 will be nothing after that, so there should be adequate time to do  
9 both. And if for some reason Mr. Rees's cross-examination of those  
10 other two witnesses takes too long, then we will have to go over to  
11 Thursday morning.

12          MR. WORBOYS: Of course, thank you.

13          And, Your Honour, one other point which I make, and purely for  
14 the purposes of the record, was yesterday afternoon Your Honours,  
15 you'll recall, you made comments on the fairness of the proceedings.  
16 And I just wanted to make two observations on that. Not in the least  
17 in the sense of reopening it, but merely just for the record.

18          The first was that on page 115 of the transcript, there was a  
19 comment about phone calls that have been made by Mr. Haradinaj to the  
20 Defence counsel. I have checked with Mr. Haradinaj, and he says he  
21 never made telephone calls. I don't know what, in fact, happened. I  
22 am aware Mr. Cadman did have a missed call on his phone, but he had a  
23 very high temperature. So I did want to accurately reflect what my  
24 understanding of the position was.

25          And the second point was, again, not seeking to open debate on

1 it, but simply to say that, of course, our Defence reserves its  
2 position in respect of any questions of fairness for the future.

3 PRESIDING JUDGE SMITH: Yes, the question of the phone calls  
4 came to us directly from the Registry who monitors calls being made,  
5 so that's where that came from.

6 All right. We are completed today. We will adjourn and see you  
7 tomorrow morning at 9.30.

8 --- Whereupon the hearing adjourned at 3.38 p.m.

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