

1 Tuesday, 19 October 2021

2 [Open session]

3 [The accused entered court]

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

5 PRESIDING JUDGE SMITH: Good morning. Welcome back, everyone.

6 Mr. Court Officer, please call the case.

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

10 PRESIDING JUDGE SMITH: The only change in your composition is
11 that Mr. Whiting is not here today; is that correct?

12 MS. BOLICI: Correct, Your Honour.

13 PRESIDING JUDGE SMITH: Mr. Rees, any changes?

14 MR. REES: No, Your Honour.

15 PRESIDING JUDGE SMITH: Mr. Cadman?

16 MR. CADMAN: Good morning, Your Honours. Just one addition,
17 Ms. Chelsea Qu, Case Manager, is joining us today.

18 PRESIDING JUDGE SMITH: Today we continue hearing the evidence
19 of the Prosecution in this case.

20 Now, before we bring back the witness, the Panel will issue an
21 order on the admissibility of some of the exhibits tendered
22 yesterday. I am specifically referring to P92 MFI, P103 MFI, and
23 P105 MFI.

24 The Panel notes that these are Official Notes prepared by two
25 SPO investigators on the search and seizure of Batches 1, 2, and 3 by

1 the SPO. The Defence object --

2 THE INTERPRETER: The interpreters ask His Honour to speak or to
3 read out more slowly, please.

4 PRESIDING JUDGE SMITH: Sure.

5 The Defence objects to the admissibility of these reports on the
6 basis that they are created by SPO officers who were not called as
7 witnesses and that the current witness has no association with the
8 content of the reports and cannot assist on the truth and reliability
9 of the account recorded therein.

10 The Panel considers that these three reports constitute written
11 statements falling under Rules 153 or 154 of the Rules and are,
12 therefore, not admissible through the current witness. They go to
13 issues that are important to the SPO case and might cover aspects of
14 what the SPO regards as acts and conduct of the accused and/or those
15 they refer to as their associates.

16 The Panel understands that the SPO investigators are available
17 to testify and their reports do not fall under Rule 155. Even if
18 these reports were considered as exhibits falling only under
19 Rule 138(1) of the Rules, the Panel notes that the Defence cannot
20 effectively confront the evidence and challenge the truthfulness and
21 reliability of the accounts thus recorded through the current
22 witnesses.

23 For this reason, the prejudicial effect of these three reports
24 outweighs their probative value and their reports would not be
25 admissible for that reason also through Rule 138(1). The Panel

1 further notes that the SPO would have to tender these reports through
2 their authors if they wish to have them admitted.

3 Should the SPO choose to call the authors of these reports as
4 witnesses, the Panel orders that the SPO inform the Defence and the
5 Panel of this decision by 25 October 2021, close of business,
6 together with, A, an indication of the time necessary to complete any
7 disclosure obligations that this would trigger; and, B, a time
8 estimate for the evidence in chief of these witnesses.

9 The Defence should indicate whether they have any objections to
10 these two individuals being added to the witness list by October 26,
11 2021, close of business.

12 The Trial Panel would make it clear that if these witnesses are
13 to be called at this late stage as part of the Prosecution case, they
14 would be called, as far as Prosecution case is concerned, for the
15 limited purpose of questioning in respect of these three reports.

16 This concludes this oral order.

17 All right, then. Let's continue with the testimony of
18 Ms. Pumper.

19 You can bring the witness into the courtroom, Madam Usher.

20 [The witness takes the stand]

21 PRESIDING JUDGE SMITH: [Microphone not activated] Ms. Pumper,
22 you may be seated.

23 We will continue today with your testimony, Ms. Pumper.

24 Madam Prosecutor.

25 THE WITNESS: Good morning.

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 MS. BOLICI: Thank you, Your Honour.

2 WITNESS: ZDENKA PUMPER [Resumed]

3 Examination by Ms. Bolici: [Continued]

4 Q. Good morning, investigator.

5 A. Good morning.

6 MS. BOLICI: I would like to show the witness the document with
7 the ERN SPOE002220920 to SPOE002220928, which is the last document that
8 was shown to the witness yesterday.

9 Q. And, investigator, this is tab 42.

10 MS. BOLICI: And I would also ask the Court Officer please to
11 display, side by side with this document, the document with
12 ERN SPOE002222289 to SPOE002222297.

13 Q. And this is, investigator, the document in tab 49.

14 Do you have both documents in front of you also in hard copy?

15 A. Yes, I do.

16 Q. And do these documents -- looking at each page, do these
17 documents appear to be the same?

18 A. They -- they appear the same with the difference that the ERN
19 number is different.

20 Q. Okay. And can you say if also the second document I've shown
21 you today with ERN SPOE002222289 to 222297 was part of Batch 3 as the
22 first document on your screen?

23 A. Sorry, I cannot remember the ERN number that you showed me.

24 Q. The second one, the document with tab 49, which has the
25 following ERN: SPOE002222289 to SPOE002222297.

Witness: Zdenka Pumper (Resumed) (Open Session)

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Examination by Ms. Bolici (Continued)

1 A. Yes.

2 Q. And are these pages from the two different sets of Batch 3 that
3 you told us about in your testimony of yesterday?

4 A. Yes, they are.

5 Q. Thank you.

6 MS. BOLICI: I would like to seek admission into evidence also
7 of the second document, which is the one with the ERN SPOE00222289 to
8 SPOE00222297 as relevant, probative, and authenticated by the
9 witness.

10 PRESIDING JUDGE SMITH: The admission will be deferred.
11 Please, Mr. Court Officer, assign it a P number.

12 THE COURT OFFICER: And that will be assigned P107 MFI,
13 Your Honours.

14 PRESIDING JUDGE SMITH: Thank you.
15 You may proceed.

16 MS. BOLICI: Thank you.

17 I would now like to show to the witness the document with the
18 ERN SPOE00220946 to SPOE00220947RED.

19 Q. This is tab 43 in your folder.

20 MS. BOLICI: And side by side with it, I would like to also show
21 the document with ERN SPOE00222315 to SPOE00222316RED.

22 Q. And this is tab 50 in your folder.

23 Have you seen these pages before?

24 A. Yes, I have.

25 Q. Have you seen the redacted versions of these pages?

Witness: Zdenka Pumper (Resumed) (Open Session)

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Examination by Ms. Bolici (Continued)

1 A. No, I don't remember.

2 Q. Can you say if the documents in Batch 3 that you reviewed
3 contained any redactions such as the ones that you can see on the
4 bottom of these pages?

5 A. Can you say that again, please?

6 Q. This black box at the bottom of the page, was such redaction
7 included in the documents that you have reviewed as part of Batch 3?

8 A. No.

9 Q. Okay. So the documents in Batch 3 did not contain such black
10 box, such redactions?

11 A. No, they did not.

12 Q. You have seen the unredacted versions of these documents?

13 A. Yes, I did.

14 Q. Thank you. And are the pages in front of you part of the
15 documents of Batch 3 that you have reviewed?

16 A. Yes, they are.

17 Q. And do these two documents look the same?

18 A. Yes, they do.

19 Q. And are they part of the two different sets of Batch 3 that you
20 have reviewed?

21 A. Yes, they are.

22 Q. Thank you.

23 MS. BOLICI: And I would like to request admission into evidence
24 of both documents that have been just shown. I will repeat the ERN
25 numbers: SPOE00220946 to SPOE00204947RED; and SPOE00222315 to

Witness: Zdenka Pumper (Resumed) (Open Session)
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1 SPOE00222316RED.

2 PRESIDING JUDGE SMITH: Same order on your request for
3 admission, it is deferred.

4 And the Court Officer can please provide a P number for those.

5 THE COURT OFFICER: Your Honours, the first one with the ERN
6 range SPOE00220946 till SPOE00204947RED will be assigned P108 MFI.
7 And the next document with the ERN range SPOE00222315 to SPOE00222316
8 will be assigned P109 MFI.

9 MS. BOLICI: Thank you.

10 PRESIDING JUDGE SMITH: Thank you.

11 MS. BOLICI: I would like to show now the document with the ERN
12 SPOE00220961 to SPOE00220961.

13 Q. This is tab 44.

14 MS. BOLICI: And side by side with that, I would like to show
15 the document with ERN SPOE00222330 to SPOE00222330.

16 Q. Which is tab 51.

17 THE COURT OFFICER: Could counsel please confirm the ERN range,
18 please?

19 MS. BOLICI: SPOE00222330 to SPOE00222330. Thank you.

20 Q. Investigator, have you seen these documents before?

21 A. Yes, I have.

22 Q. Were they part of Batch 3 that you have reviewed?

23 A. Yes, they were.

24 Q. Do they appear to be the same?

25 A. They are the same with the difference of the ERN number.

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 Q. And do they belong to different sets of documents contained in
2 Batch 3 that you have reviewed?

3 A. Yes, they do.

4 Q. Thank you.

5 MS. BOLICI: I would like to seek admission of both documents.
6 And I will repeat the ERN number again: SPOE00220961 to
7 SPOE00220961, and SPOE00222330 to SPOE00222330.

8 PRESIDING JUDGE SMITH: Same ruling. Court Officer, you may
9 [Microphone not activated].

10 THE COURT OFFICER: Your Honours, the first document with ERN
11 range SPOE00220961 will be assigned P110 MFI. And the next document
12 with ERN range SPOE00222330 will be assigned P111 MFI.

13 PRESIDING JUDGE SMITH: Thank you.

14 MS. BOLICI: Now, the last two documents of this nature that I
15 will show to the witness are the following: SPOE00221078 to
16 SPOE00221078RED.

17 Q. And this is tab 48 in the hard copies.

18 MS. BOLICI: And the document to be shown side by side with this
19 is SPOE00222448 to SPOE00222448RED.

20 Q. And this is tab 55.

21 Investigator, have you seen these documents before?

22 A. Yes, I have.

23 Q. Have you seen the unredacted version of these documents without
24 the black boxes on the bottom side of these pages?

25 A. Yes, I only reviewed the unredacted version.

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 Q. And were these documents part of Batch 3?

2 A. Yes, they were.

3 Q. Do the documents look the same?

4 A. Yes, with the exception of the ERN number.

5 Q. And are they part of the two sets of Batch 3 that you have
6 reviewed?

7 A. Yes, they are.

8 Q. Thank you.

9 MS. BOLICI: And I would like to seek admission of these two
10 documents as well, SPOE00221078 to SPOE00221078RED, and SPOE00222448
11 to SPOE00222448RED.

12 PRESIDING JUDGE SMITH: The same ruling, deferred [Microphone
13 not activated]. The same ruling and deferred.

14 And you may assign a P number to those exhibits.

15 THE COURT OFFICER: Your Honours, the first document with ERN
16 range SPOE00221078 to -1078RED will be assigned P112 MFI. And the
17 next document with ERN range SPOE00222448 will be assigned P113 MFI.

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

19 You may proceed.

20 MS. BOLICI: Your Honour, I have two more actually. So I will
21 proceed.

22 I would now like to show to the witness the document with the
23 ERN SPOE00221063 to SPOE00221063RED.

24 Q. Which is tab 45.

25 MS. BOLICI: Along with SPOE00222433 to SPOE00222433RED.

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 Q. Which is tab 52.

2 Investigator, have you seen these documents before?

3 A. Yes, I have.

4 Q. Have you seen the unredacted versions of these documents?

5 A. Yes, only the unredacted version.

6 Q. Are they part of Batch 3?

7 A. Yes, they are.

8 Q. Do they appear to be the same?

9 A. Yes, with the exception of the ERN number.

10 Q. And are they part of the two different sets of documents
11 contained in Batch 3 that you have reviewed?

12 A. Yes, they are.

13 MS. BOLICI: I would like to seek admission of both documents,
14 SPOE00221063 to SPOE00221063RED, and SPOE00222433 to SPOE00222433RED.

15 PRESIDING JUDGE SMITH: The same ruling, deferred.

16 And the Court Officer will please provide a P number for the
17 documents.

18 THE COURT OFFICER: Your Honours, the first document with ERN
19 range SPOE00221063 will be assigned P114 MFI. And the next document,
20 SPOE00222433, will be assigned P115 MFI.

21 PRESIDING JUDGE SMITH: You may proceed.

22 MS. BOLICI: I show now to the witness the document with
23 ERN SPOE00221065 to SPOE00221066RED.

24 Q. Which is tab 46.

25 MS. BOLICI: Along with SPOE00222435 to SPOE00222436RED.

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1 Q. Which is tab 53.

2 Have you seen the unredacted versions of these documents before?

3 A. Yes, I have.

4 Q. Were these documents part of Batch 3 that you have reviewed?

5 A. Yes, they were.

6 Q. Do they appear to be the same?

7 A. Yes, with the exception of the ERN.

8 Q. And do they belong to the two different sets of documents
9 contained in Batch 3 that you have reviewed?

10 A. Yes, they do.

11 MS. BOLICI: I would like to seek admission of both documents.
12 These are SPOE00221065 to SPOE00221066RED; and SPOE00222435 to
13 SPOE00222436RED.

14 PRESIDING JUDGE SMITH: [Microphone not activated] The same,
15 deferred ruling.

16 Please assign that a P number.

17 THE COURT OFFICER: Your Honours, the first document with ERN
18 range SPOE00221065 to -66 will be assigned P116 MFI. The second
19 document with ERN range SPOE00222435 to -436 will be assigned
20 P117 MFI.

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

22 You may proceed.

23 MS. BOLICI: And I would like to show the document with ERN
24 SPOE00221072 to SPOE00221072RED.

25 Q. This is tab 47.

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 MS. BOLICI: And along with it, document with ERN SPOE00222442
2 to SPOE00222442RED.

3 Q. This is tab 54.

4 Now, investigator, have you seen the unredacted versions of
5 these documents before?

6 A. Yes, I have.

7 Q. And were they part of Batch 3 that you have reviewed?

8 A. Yes.

9 Q. And do they appear to be the same?

10 A. Yes, they are -- appear the same, with the exception of the ERN
11 which is different.

12 Q. And do they belong to the two different sets of documents
13 contained in Batch 3 that you have reviewed?

14 A. Yes, they do.

15 Q. Thank you.

16 MS. BOLICI: I would like to seek admission of both documents
17 with ERN SPOE00221072 to SPOE00221072RED; and SPOE00222442 to
18 SPOE00222442RED.

19 PRESIDING JUDGE SMITH: The same deferred ruling.

20 Mr. Court Officer, please assign a P number.

21 THE COURT OFFICER: Your Honours, the document with ERN range
22 SPOE00221072 will be assigned P118 MFI. And the next document with
23 ERN SPOE00222442 will be assigned P119 MFI.

24 PRESIDING JUDGE SMITH: Thank you.

25 You may proceed.

1 MS. BOLICI: Thank you.

2 Q. Investigator, in your review of Batch 3, did you verify if
3 Batch 3 includes references to witness interviews that were carried
4 out by either the SITF or the SPO?

5 A. Yes, I did.

6 Q. And do you recall how the references -- how these witness
7 interviews are referred to? Do they include the witness name?

8 A. Generally speaking, yes, they included the witness name.

9 Q. And are there references to the dates when the interviews were
10 carried out?

11 A. Yes, there is a combination. Some, I think, have dates; others
12 don't.

13 Q. Is there reference to the ERN of the transcripts of interviews
14 that were carried out?

15 A. Yes, there were.

16 Q. And did you verify what is the most recent interview that is
17 referenced in Batch 3 based on the date, without mentioning the
18 interview? Just, like, what's the most recent reference?

19 A. I recall clearly that I did do this check, but I do not remember
20 now.

21 Q. I would like to refer to your declaration with the ERN 095533 to
22 095602.

23 THE COURT OFFICER: For the purposes of the record, Your Honour,
24 that is P0090 MFI.

25 MS. BOLICI:

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1 Q. And in particular to the third page with the ERN 095535, and the
2 last paragraph. I read here the date appearing in the header of the
3 document is December 2019. However, the document contains specific
4 references to dates of witnesses and suspect interviews dated up to
5 March 2020. Is this information accurate?

6 A. Yes, this is accurate.

7 Q. Thank you. And did you verify whether Batch 3 contains
8 references to evidence provided to other Prosecution authorities?

9 A. Yes, I did.

10 Q. And considering both the references to evidence provided to the
11 SPO and references to evidence provided to other prosecution
12 authorities -- or other judicial authorities, how many references to
13 witnesses or potential witnesses have you identified, approximately?

14 A. Now I don't remember the number, but there were many. Over a
15 hundred.

16 Q. Looking at the same page that is still on your screen and, in
17 particular, paragraph 8(iv), it reads:

18 "The approximate number of (potential) witnesses referred to in
19 Set 1: Set 1 contains references to approximately 150 (potential)
20 witnesses."

21 Is this information accurate?

22 A. This is accurate.

23 Q. And did you identify any difference between set 1 and set 2, or
24 the approximate number is the same?

25 A. The approximate number is the same.

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 Q. Now, I would like to refer to your declaration with the
2 ERN 084015 to 084026, which is tab 1.

3 THE COURT OFFICER: And for the purpose of the record,
4 Your Honours, that is P86 MFI.

5 PRESIDING JUDGE SMITH: Thank you.

6 MS. BOLICI: And I would like to direct the witness to the fifth
7 page of the declaration with ERN 084019, paragraph 29.

8 Q. I read here that:

9 "Batch 3 is composed of two incomplete copies (counting 244 and
10 245 pages ...) of the same document."

11 And:

12 "In particular, Batch 3 includes incomplete copies of an SPO
13 confidential document, counting 261 pages, which pertains to SPO
14 investigations and official proceedings and which constitutes
15 internal work product."

16 Now, did you compare the documents in Batch 3 with an SPO
17 internal document?

18 A. Yes, I did.

19 Q. And is it correct that the SPO internal document you considered
20 counted 261 pages?

21 A. That is correct.

22 Q. And did you see this document in hard copies or in soft copy?

23 A. I received an electronic copy.

24 Q. And was it a Word document?

25 A. Now I don't remember -- yes, it was. Yes, it was. Sorry.

Witness: Zdenka Pumper (Resumed) (Open Session)

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Examination by Ms. Bolici (Continued)

1 Q. And is the internal document that you have reviewed
2 substantially similar to the documents included in Batch 3?

3 A. Yes.

4 Q. Did the internal document have the same logo as the documents
5 included in Batch 3?

6 A. Yes, it did.

7 Q. Did it have the same header?

8 A. Yes, it did.

9 Q. And the same footer?

10 A. Yes, it did.

11 Q. The same formatting?

12 A. Yes, it did.

13 Q. Did it address the same subject matter?

14 A. Yes.

15 Q. Did it refer to the same persons?

16 A. Sorry, when you say "the same persons," do you mean the five
17 individuals? Because I don't know it by heart, so ...

18 Q. Yes.

19 A. Yes, it referred to these five individuals.

20 Q. And did it refer to -- did it include the same information?

21 A. It was identical with the exception of one issue that I noticed.

22 Q. Thank you. And are you aware whether there are multiple
23 versions of the same document within the SPO?

24 A. I have seen in the SPO database different versions of this
25 documents was work in progress, so to speak.

Witness: Zdenka Pumper (Resumed) (Private Session)
Examination by Ms. Bolici (Continued)

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1 Q. Thank you.

2 MS. BOLICI: Now, I would like to briefly go into private
3 session.

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 THE INTERPRETER: Microphone for Your Honour, please.

6 PRESIDING JUDGE SMITH: Thank you. For purposes of
7 confidentiality, we will go to private session.

8 Mr. Court Officer.

9 [Private session]

10 [Private session text removed]

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

23 Q. Thank you. Now, staying in private session. Did you verify
24 whether as of 22 September 2020 any of the identities of the
25 witnesses included in Batch 3 was subject to non-disclosure orders

Witness: Zdenka Pumper (Resumed) (Private Session)
Examination by Ms. Bolici (Continued)

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1 issued by Judges of the Kosovo Specialist Chambers or requests for
2 non-disclosure advanced by the SPO before Judges of the Kosovo
3 Specialist Chambers?

4 A. Yes, I checked that. Yes.

5 Q. And can you explain how did you check that?

6 A. Is it for this specific individual?

7 Q. No, in general.

8 A. Okay. So how I checked this. I went -- I went through both
9 sets in Batch 3, and I basically made a list of individuals. And
10 then I cross-checked a sample population of this, over 100 people,
11 whether they are listed in the indictments, or, better said, the
12 indictment and the associated evidence outline where the -- the
13 witness statements which support the indictment are listed. So I
14 compared that to see whether these people, these witnesses are listed
15 there.

16 [Private session

17 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Private Session)

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Examination by Ms. Bolici (Continued)

1 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Private Session)
Examination by Ms. Bolici (Continued)

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1 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Private Session)

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Examination by Ms. Bolici (Continued)

1 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Private Session)

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Examination by Ms. Bolici (Continued)

1 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Private Session)
Examination by Ms. Bolici (Continued)

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1 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Private Session)
Examination by Ms. Bolici (Continued)

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1 [Private session text removed]

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

12 MS. BOLICI: We can go back to public session, Your Honour.

13 PRESIDING JUDGE SMITH: Mr. Cadman, does this need to be in
14 private session?

15 MR. CADMAN: Well, I don't think I am going to be saying anything
16 more confidential than the Prosecution has said in the last
17 20 minutes.

18 But we were concerned yesterday that we were going into private
19 session. We didn't raise it yesterday. We went into private session
20 yesterday when there was clearly no need to be in private session.
21 We've just spent 20 minutes talking about publicly redacted
22 documents.

23 Our application would be that the entirety of that transcript
24 for the last 20 minutes should be made public. There is no reason
25 for that.

Witness: Zdenka Pumper (Resumed) ~~(Private Session)~~ Reclassified as Public in F611/A3 Page 961
Examination by Ms. Bolici (Continued)

1 PRESIDING JUDGE SMITH: We will consider reclassification.

2 MR. CADMAN: I'm grateful.

3 PRESIDING JUDGE SMITH: Thank you for your point.

4 Mr. Court Officer, you can go to public session.

5 [Open session]

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

7 PRESIDING JUDGE SMITH: Thank you.

8 Ms. Bolici, you may continue.

9 MS. BOLICI: Thank you.

10 Q. And, investigator, have you verified if Batch 3 includes
11 references to names, pseudonyms, and evidence of witnesses subject to
12 protective measures issued by Kosovo courts?

13 A. Yes, I have.

14 Q. And can you explain how did you make this check?

15 A. I have been provided by the Prosecution specific names, and
16 these names I researched our internal database and I found that there
17 are applications of prosecutors and rulings of courts which grant
18 individuals whom are identified in Batch 3 protective measures.

19 MS. BOLICI: I would like to show to the witness the document
20 with the ERN SITF00372142 to 00372153.

21 Q. Which is tab 56.

22 Is this one of the documents that you consulted to verify
23 whether a witness is referred to by name and pseudonyms in Batch 3
24 were subject to previous Kosovo court protective measures?

25 A. Yes, this is one of them.

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 Q. And I note that in the first paragraph, paragraph 1, under the
2 word "Order" in page 2, there is a reference to an application made
3 by the Prosecution for protective measures. Did you consult this
4 application as well?

5 A. Your Honours, it is a bit difficult for me now to confirm what I
6 have specifically consulted. What I can say is that I have
7 established, clearly, that a person who is named in Batch 3 has been
8 granted by a court protective measures.

9 PRESIDING JUDGE SMITH: Is that your answer?

10 THE WITNESS: That's my answer.

11 MS. BOLICI: I would like to refer the witness to the
12 declaration with ERN 084015 to 084026.

13 THE COURT OFFICER: And that is P86 MFI, for the record,
14 Your Honours.

15 PRESIDING JUDGE SMITH: Thank you.

16 MS. BOLICI:

17 Q. And, in particular, to the information included in paragraph 33.
18 Now, can you please look at footnote 6 referred to in paragraph 33.

19 Do you recall now if you specifically looked, besides the order
20 that was shown to you moments ago, also to the petition for
21 protective measures that was associated to such order?

22 A. I can confirm that what is written in this footnote, this is
23 what I have consulted.

24 Q. And could you identify in the documents that you consulted the
25 order, together with the petition, the names and pseudonyms of

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1 witnesses that were mentioned in Batch 3?

2 A. Your question is whether I have identified individuals mentioned
3 in Batch 3 which are subject of these protective measures in the
4 orders which we talked about?

5 Q. Yes.

6 A. That, I can confirm in the positive.

7 Q. And do you recall how many such individuals were subject to the
8 protective measures addressed in this order?

9 A. I would prefer referring to the documents as opposed to -- to my
10 declaration as opposed to my memory now.

11 Q. And based on your declaration, can you say how many witnesses
12 were identified that were subject to the order that we just consulted
13 and that were also mentioned in Batch 3?

14 A. Three witnesses.

15 Q. Thank you. And have you done a similar exercise in relation to
16 other witnesses and pseudonyms contained in Batch 3?

17 A. Yes, I have.

18 Q. And which methodology did you apply?

19 A. I applied in all cases the same methodology, and I have listed
20 the samples in my comments in the declaration.

21 Q. And do you recall whether you identified other witnesses who
22 were subject to protective measures issued by Kosovo courts?

23 A. Yes, I did.

24 Q. Do you remember approximately how many such examples did you
25 identify?

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1 A. I think in one case I have five, in one case two, but I would
2 really prefer if you could go back to my comments in my declaration
3 because this number is accurate and correct.

4 Q. Yes.

5 MS. BOLICI: Can I ask, Your Honour, that the witness is
6 authorised to consult her notes?

7 PRESIDING JUDGE SMITH: [Microphone not activated] Do you have
8 your notes there?

9 THE WITNESS: Yes, I do.

10 PRESIDING JUDGE SMITH: You may consult with your note.

11 THE WITNESS: Thank you.

12 MR. REES: Your Honour, can I just check. Clearly, there was an
13 order last week that the witness was entitled to refer to her notes
14 as long as prior disclosure was made ahead of her testimony.

15 PRESIDING JUDGE SMITH: Yes.

16 MR. REES: We did receive a document. Can I just check that
17 what the witness is now referring to --

18 PRESIDING JUDGE SMITH: Yes, which declaration --

19 MR. REES: -- was the document that was provided to us --

20 PRESIDING JUDGE SMITH: Which declaration are you referring to?

21 THE WITNESS: I have -- it's the declaration dated
22 29 October 2020.

23 MR. REES: So it's just the declaration then --

24 PRESIDING JUDGE SMITH: Yes.

25 MR. REES: -- rather than any note.

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1 PRESIDING JUDGE SMITH: It's a declaration -- she's referring to
2 her declaration. That's what she asked for.

3 MR. REES: Right.

4 PRESIDING JUDGE SMITH: Go ahead.

5 THE WITNESS: Excuse me, I think there is a misunderstanding.
6 There is the declaration and there is an annotated declaration, so
7 what I would like to see is my annotated declaration, because I have
8 specified the exact figures there, what I have looked at, and the
9 cases.

10 PRESIDING JUDGE SMITH: And have you received the annotated
11 declaration?

12 MR. REES: We have received an annotated declaration. Perhaps
13 the Prosecution can confirm it's the document that we have received.

14 PRESIDING JUDGE SMITH: Thank you.

15 MS. BOLICI: Yes, it's the same document that you have received.
16 It was disclosed [overlapping speakers] ...

17 PRESIDING JUDGE SMITH: I take that as an affirmative by the
18 Prosecution that it is the same one you received.

19 MS. BOLICI: Yes.

20 PRESIDING JUDGE SMITH: Now you may proceed.

21 THE WITNESS: Thank you.

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

23 MS. BOLICI:

24 Q. And, investigator, the question is just if you have done checks
25 similar to the ones that you address in paragraph 33 of your

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1 declaration in relation to other cases from Kosovo courts?

2 A. Yes, I have.

3 Q. And if you have identified other names and pseudonyms of
4 witnesses that were subject to protective measures by Kosovo courts
5 besides the one that you have referred to in paragraph 33 of your
6 declaration of 29 October?

7 A. Yes, I have.

8 Q. And can you just tell the approximate number of such protected
9 witnesses that you have identified?

10 A. I have identified in one case five, in another case four, in one
11 case three, and in one case two.

12 Q. Okay. Thank you.

13 [Specialist Prosecutors confer]

14 MS. BOLICI:

15 Q. And just for clarity, investigator, when you looked at your
16 notes, were you looking at what you wrote next to paragraph 33 of
17 your declaration?

18 A. Yes, that is correct.

19 Q. Thank you.

20 MS. BOLICI: And the notes of the investigator are available for
21 inspection, if you want to check that it's the same document that was
22 provided to you.

23 MR. REES: Sorry, I'm grateful for that. I'm not sure I follow.
24 Are there other notes that are available that we can check, did you
25 say?

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1 MS. BOLICI: No, no, the same. Just I was offering to check the
2 same document that's --

3 MR. REES: I follow. So you're offering that we can check the
4 document that the witness actually has at the moment?

5 MS. BOLICI: Yes.

6 MR. REES: I understand. Thank you.

7 PRESIDING JUDGE SMITH: Thank you.

8 MS. BOLICI: Thank you.

9 Q. I would like to ask you now, investigator, whether you have
10 carried out any review to verify whether Batch 3 contains information
11 that was provided to the SPO by international organisations.

12 A. Yes, I have.

13 Q. And can you explain how did you carry out your review?

14 A. Also here I have been provided a sample names of individuals,
15 and those names I then confirmed are in Batch 3. And I reviewed
16 documents which relate to the same individuals from international
17 organisations which put restrictions on the disclosure of their
18 statements -- of individual statements or documents which were
19 provided by these organisations.

20 MS. BOLICI: I would like to show to the witness - and we need
21 to move in private session for that, Your Honour - document with
22 ERN 094674 to 094675.

23 PRESIDING JUDGE SMITH: And are we ready with the confidential
24 portion to be listed at this time prior or after, or do we have some
25 preparatory matters before we get to that?

Witness: Zdenka Pumper (Resumed) (Private Session)
Examination by Ms. Bolici (Continued)

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1 MS. BOLICI: No, we can -- it's immediately -- yes, the content
2 of the document is confidential.

3 PRESIDING JUDGE SMITH: All right. You may go to private
4 session.

5 [Private session]

6 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Private Session)

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Examination by Ms. Bolici (Continued)

1 [Private session text removed]

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1 [Private session text removed]

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Examination by Ms. Bolici (Continued)

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1 [Private session text removed]

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6 [Open session]

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

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

9 Did you suggest you want to break at this time --

10 MS. BOLICI: Yes, Your Honour.

11 PRESIDING JUDGE SMITH: It's convenient for your --

12 MS. BOLICI: Considering that it's five minutes to 11.00, I
13 think it would be a good moment.

14 PRESIDING JUDGE SMITH: All right. Everyone, we will adjourn
15 for the -- yes, I am just announcing that we will adjourn for the
16 mid-morning break and be back here at 11.30.

17 You may escort the witness out.

18 [The witness stands down]

19 PRESIDING JUDGE SMITH: We are adjourned.

20 --- Recess taken at 10.56 a.m.

21 --- On resuming at 11.31 a.m.

22 PRESIDING JUDGE SMITH: All right. We're ready to proceed.

23 Madam Prosecutor, we'll call in the witness.

24 [The witness takes the stand]

25 PRESIDING JUDGE SMITH: You may be seated.

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 We will continue, Ms. Pumper, with the direct examination from
2 the Prosecution.

3 Madam Prosecutor, you can continue.

4 MS. BOLICI: Thank you, Your Honour.

5 Q. Investigator, have you reviewed any press articles in relation
6 to the review that you carried out on the materials that were
7 obtained at the KLA War Veterans Association on the 8th, 17th, and
8 22nd September?

9 A. Yes, I did.

10 Q. I would like to go through some of the articles that you
11 addressed in your declaration of 29 October 2020 with the ERN 084015
12 to 084026. It's tab 1. And I would like to draw your attention on
13 the information you provide in paragraph 39 of this declaration.

14 MR. REES: Sorry, Your Honour. During the break I was
15 discussing with the court staff the presentation of the exhibits on
16 the screens, and there is a way of having the full page available and
17 legible at a size that it can be read. So that's what, I think,
18 Mr. Haider was just checking on my screen.

19 PRESIDING JUDGE SMITH: [Microphone not activated] And is this
20 the example that's now on the screen? Yes. Can everybody read this
21 okay in this format?

22 MR. REES: Yes, indeed.

23 PRESIDING JUDGE SMITH: All right. Helpful. Thank you.

24 MS. BOLICI: Thank you.

25 Q. I would like to draw your attention on the information that you

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 provide at paragraph 39. You refer to a media publication. Can you
2 explain which kind of review did you carry out in relation to this
3 publication?

4 THE COURT OFFICER: Could counsel please confirm the page
5 number? Thank you.

6 MS. BOLICI: It's page 084021 and the paragraph is 39.

7 THE WITNESS: Yes.

8 PRESIDING JUDGE SMITH: Go ahead.

9 THE WITNESS: I have reviewed -- this is an article titled
10 "The Hague Dossier. These are the charges against Thaci, Veseli, and
11 the KLA leadership," and it was published on 22 September by
12 Top Channel on the online platform, with various pictures and a
13 video-clip. What my standard review was -- is that all the videos
14 which I was shown were accessed and uploaded by the analysts and they
15 wrote an Official Note. So when I reconstructed this process, I read
16 the Official Note, I checked in the database that this Official Note
17 is there, that -- in this case, it is an article was uploaded. I
18 checked the article with the Official Note. I even accessed online
19 whether the article is still there. And this is the process how --
20 what I did.

21 MS. BOLICI:

22 Q. And in relation to this particular article, did you compare it
23 with the information or pages included in Batch 3?

24 A. Yes, I did.

25 Q. Thank you.

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Examination by Ms. Bolici (Continued)

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1 MS. BOLICI: I would like to now show to the witness the
2 document with the ERN 081381 to 081392.

3 Q. Which is in tab 72 of the document in front of you.

4 A. 72?

5 Q. Yes.

6 A. Thank you.

7 MS. BOLICI: And I would like to show, in particular, the page
8 with the ERN 081385.

9 Q. Now, can you recognise, investigator, what picture is depicted
10 in this page of this article?

11 A. This is the front page of Batch 3.

12 Q. And in order to come to this conclusion, did you compare this
13 picture with the first page of Batch 3?

14 A. Yes, I did.

15 MS. BOLICI: I would like to show, side by side with this
16 document, also document with ERN SPOE00220920 to SPOE00220928. And
17 in particular, yes, this first page, SPOE00220920.

18 Q. Did you compare the page on the left side of your screen with
19 the page on the right side of your screen in order to provide the
20 information that you address in your declaration?

21 A. Yes, I did.

22 Q. Thank you.

23 MS. BOLICI: Now I would request that the Court Officer moves
24 the document on the left side to page 081387, and the document on the
25 right to page SPOE00220922.

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Examination by Ms. Bolici (Continued)

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1 Q. Now, I read in paragraph 44 of your declaration that the picture
2 with ERN 081387 depicts page 4 of Batch 3. Some words are
3 highlighted with a green marker in the picture which are not
4 highlighted in the corresponding pages of Batch 3.

5 Are these the pages that you compared in order to provide the
6 information addressed in your declaration?

7 A. Yes, I did.

8 Q. Thank you.

9 MS. BOLICI: Now, I would like to move, as for the document on
10 the left side of the screen, to the page with ERN 081388; and the
11 document on the right side of the screen, the page with
12 ERN SPOE00220928.

13 Q. I read in paragraph 45 of your declaration that the picture with
14 ERN 081388 depicts page 10 of Batch 3. Some words are highlighted
15 with a green marker in the picture which are not highlighted in the
16 corresponding pages of Batch 3.

17 Are these the pictures that you compared when providing this
18 information?

19 A. That is correct.

20 Q. Did you access a coloured version of these pictures?

21 A. Yes, I did.

22 MS. BOLICI: Now, I would like to move the document on the left
23 side of the screen to page 081389, and the document on the right side
24 of the screen to the picture with ERN SPOE00220923.

25 Q. Now, I read in paragraph 46 of your declaration that picture

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1 with the ERN 081389 depicts page 5 of Batch 3. Some words are
2 highlighted in green with a green marker which are not highlighted in
3 the corresponding pages of Batch 3.

4 Are these the pictures that you compared in order to provide the
5 information addressed in your declaration?

6 A. That is correct.

7 MS. BOLICI: Now, I would like to ask to move the document on
8 the left side to the page with ERN 081386. And I would ask that the
9 document on the right side is now -- that a different document is now
10 uploaded on the right side -- just a moment. No, that's fine. That
11 the document on the right side is moved to page SPOE00220921.

12 Q. Now, I read in page 43 of your declaration that the picture with
13 ERN 081386 depicts page 3 of Batch 3. Some words are highlighted in
14 a green marker in the picture which are not highlighted in the
15 corresponding pages of Batch 3.

16 Are these the pages that you compared in order to provide the
17 information in your declaration?

18 A. Yes.

19 MS. BOLICI: And, finally, I would like to move the page in the
20 document on the left side to the page with ERN 081390, and ask that
21 the document on the right side be removed, and that it's uploaded
22 instead the document with ERN SPOE0022921. Sorry, so it's the
23 document with ERN SPOE00220961.

24 THE COURT OFFICER: And that is P110 MFI for the purpose of the
25 record, Your Honours.

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Examination by Ms. Bolici (Continued)

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1 MS. BOLICI: Yes.

2 PRESIDING JUDGE SMITH: Thank you.

3 MS. BOLICI:

4 Q. I read in your declaration that the picture with ERN 081390
5 depicts page 44 of Batch 3, and some words are highlighted with a
6 green marker in the picture which are not highlighted in the
7 corresponding page of Batch 3.

8 Are these the pages that you compared in order to provide the
9 information which is addressed in your declaration?

10 A. Yes, these are the pages.

11 Q. Now, in your declaration, you also referred to a video which was
12 associated to the same article. Did you make a similar exercise in
13 order to provide the information in your declaration concerning the
14 pictures that are visible in this video?

15 A. Yes, I did.

16 Q. I would now like to draw your attention to paragraph 52 of your
17 declaration and -- declaration of 29 October 2020 with ERN 084015 to
18 084026. Have you reviewed the article that is addressed in
19 paragraph 52 of your declaration?

20 A. Yes, I have.

21 Q. And did you apply the same methodology that you described for
22 the previous article we just addressed?

23 A. Yes, I have.

24 MS. BOLICI: I would like to show to the witness the document
25 with ERN 081395 to 081404.

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Examination by Ms. Bolici (Continued)

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1 Q. Which is tab 78 in the documents in front of you.

2 Is this the article that you have reviewed?

3 A. Yes, it is.

4 MS. BOLICI: I would like to show on screen the picture with the
5 ERN 081399 and, on the side of that, the document with

6 ERN SPOE00220920 to -928. And I would like to move to page 081399.

7 And on the side of that, I would like to show the document with ERN

8 SPOE00220920 to -928 and, in particular, page with ERN SPOE00220924.

9 Q. Now, I read in paragraph 53 of your declaration that the picture
10 with ERN 081399, together with another page we'll look at in a
11 moment, depicts page 6 of Batch 3. Some words are highlighted with a
12 green marker in the picture which are not highlighted in the
13 corresponding pages of Batch 3. Are these the pages that you
14 consider when providing this information?

15 A. Yes.

16 MS. BOLICI: And can we move to the following page, 081400.

17 Q. Is this the same picture as the one on page 081399?

18 A. Yes, it is.

19 Q. And you compared it with the same page at Batch 3?

20 A. Yes, I did.

21 MS. BOLICI: Then I need to move the document on the left to
22 page 081401, and the document on the right to page SPOE00220925.

23 Q. And I read in paragraph 44 of your declaration that the picture
24 with ERN 081401 depicts page 7 of Batch 3. Some names are
25 highlighted with a green marker which are not highlighted in the

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1 corresponding page. Part of the footnotes in the picture are blanked
2 out with Post-it patches. These parts are readable in the
3 corresponding pages of Batch 3.

4 Are these the pages that you compared when providing the
5 information in your declaration?

6 A. Yes, these are the pages.

7 MS. BOLICI: Now, I will need to move to page 081402 in the
8 document on the left and document -- page SPOE0020926 for the
9 document on the right.

10 Q. Are these the pages that you compared when providing information
11 in your declaration? I refer to paragraph 55 which reads that the
12 picture with ERN 081402 depicts page 8 of Batch 3, and some names are
13 highlighted with a green marker which are not highlighted in the
14 corresponding page of Batch 3. Part of the footnotes in the picture
15 are blanked out with Post-it patches.

16 A. That is correct.

17 Q. Thank you. And, finally, in relation to --

18 MS. BOLICI: I will need to move the document on the left to the
19 page with ERN 081403, and the document on the right to the pages with
20 ERN SPOE220 -- sorry, it's a different document, and it has the
21 following ERN: SPOE220946 to SPOE220947RED.

22 Q. Now, I read in paragraph 56 of your declaration that the picture
23 with the ERN 081403 depicts part of page 28 of Batch 3, and some
24 names are highlighted with a green marker which are not highlighted
25 in the corresponding page of Batch 3.

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Examination by Ms. Bolici (Continued)

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1 Are these the pages that you compared when providing the
2 information in your declaration?

3 A. Yes, those are the pages.

4 MS. BOLICI: And moving to the following page for each of the
5 two documents, meaning 081404 for the document on the left and
6 SPOE220947 for the document on the right.

7 Q. I read in your declaration that the picture with ERN --
8 paragraph 57 of your declaration, that the picture with ERN 081404
9 depicts page 29 of Batch 3. And you noticed some differences between
10 the two pages.

11 Are these the pages that you compared when providing the
12 information in paragraph 57 of your declaration?

13 A. Yes, these are the pages.

14 Q. And is the information provided therein accurate?

15 A. Yes, it is accurate.

16 Q. And in relation to this article, you also mention in your
17 declaration to have reviewed a video which was associated to this
18 article. Have you provided information in your declaration based on
19 a similar exercise as the one that we just did together in court?

20 A. Yes, I did.

21 Q. I will now draw your attention to paragraph 64 of your
22 declaration. And I would ask you how did you carry out the --
23 whether you carried out the review of the document you refer in this
24 paragraph of your declaration and which methodology did you apply?

25 A. I reviewed this article the same way as I did the other two

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1 which we spoke before.

2 MS. BOLICI: And I would like to show to the witness the
3 document with ERN 081414 to 081422.

4 Q. Tab 82.

5 MS. BOLICI: And side by side with it, I would like to show the
6 document with ERN SPOE00221063RED.

7 Q. And, investigator, is this the article that you reviewed and you
8 referred to in your declaration?

9 A. Yes, it is.

10 Q. I read in paragraph 65 that the picture with ERN 081414, and
11 another picture we'll look at in a moment, depict part of the
12 page 157 of Batch 3. And you highlight some differences within the
13 two pages.

14 Are these the pages you looked at when making the comparison?

15 A. Yes, these are the pages.

16 Q. And the information in the declaration is accurate?

17 A. Yes, it is.

18 MS. BOLICI: And I would like to move the document on the left
19 to page 081417.

20 Q. Does it also depict part of page 157 of Batch 3?

21 A. Yes, it does.

22 MS. BOLICI: I now would like to move to the page on the left
23 side of the screen with ERN 081416. And on the right side, I will
24 need to show the document with ERN SPOE00221066.

25 Q. Now, you write in paragraph 66 of your declaration that the

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 picture, together with another picture, depict the top part of
2 page 160 of Batch 3, and you describe some of the differences between
3 the two pictures.

4 Are these the pages that you compared to provide the information
5 in your declaration?

6 A. Yes, these are the pages.

7 JUDGE METTRAUX: Ms. Bolici.

8 MS. BOLICI: Yes.

9 JUDGE METTRAUX: Just a second, if I may. You've made reference
10 repeatedly to a declaration of Ms. Pumper.

11 MS. BOLICI: Yes.

12 JUDGE METTRAUX: Could you, for the record, refer to the date of
13 the declaration you are referring to?

14 MS. BOLICI: I am referring to the declaration of 29 October
15 2020, and it is the declaration with ERN 084015 to 084026.

16 JUDGE METTRAUX: Thank you.

17 MS. BOLICI: Now, if we could move to the following picture on
18 the left side of the screen. That is the page with ERN 081419. Yes.

19 Q. Is this the same picture as the one that we just saw on screen
20 with ERN 081418?

21 A. Yes, that is correct.

22 Q. No, it's my mistake. Apologies. That's the one we -- that we
23 just saw had the ERN 081416.

24 MS. BOLICI: Now, I would like to show the picture on the left
25 side of the screen with ERN 081418; and on the right side of the

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1 screen, the document with ERN SPOE00221065 to SPOE00221066RED. And I
2 would need to go to the page SPOE00221065. Yes.

3 Q. And you write in your declaration that the picture with
4 ERN 081418 depicts part of the page 159 of Batch 3.

5 Are these the pictures that you compared in order to carry out
6 your review?

7 A. Yes, I did.

8 MS. BOLICI: The last page is addressed in page with ERN 081420
9 on the left side of the screen. And I would like to show on the
10 right side of the screen the document with ERN SPOE00221072 to
11 SPOE00221072RED.

12 THE COURT OFFICER: And that is P118 MFI for the purpose of the
13 record, Your Honours.

14 PRESIDING JUDGE SMITH: Thank you.

15 MS. BOLICI: Court Officer, could I have confirmation that this
16 document was not tendered for evidence earlier?

17 THE COURT OFFICER: This document with ERN SPOE00 [Microphone
18 not activated].

19 MS. BOLICI: It was tendered already for evidence -- for
20 admission? Yes. Okay, thank you.

21 Q. I read in paragraph 68 of your declaration that the picture with
22 ERN 081420 depicts the top part of the page 166 of Batch 3, and you
23 highlight some of the differences between the two documents.

24 Are these the pages that you compared when providing the
25 information in paragraph 68 of your declaration?

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1 A. That is correct. If I can just add that I always reviewed the
2 unredacted version of the page.

3 Q. Thank you for that clarification.

4 And in paragraphs 69 to 74 of the same declaration, you also
5 provide information in relation to a video, which you refer to in the
6 relevant footnotes, which also you described as containing pictures
7 of pages of Batch 3.

8 Did you provide this information based on a similar exercise as
9 we just did for the articles?

10 A. Yes, I did.

11 MS. BOLICI: I would now like to show the document with
12 ERN 081361 to 081378. And I would like to refer to the page with
13 ERN 081374.

14 Q. In the same declaration of 29 October 2020 that we addressed
15 earlier, you refer in paragraph 36 of the review of yet another
16 publication and you indicated -- with the ERN 081361 to 081378, in
17 particular, the pages 74 to 78.

18 Which kind of review have you done in relation to this article?

19 A. Can you give me my --

20 Q. Tab?

21 A. Yes, please.

22 Q. It's tab 64.

23 A. So I see the entire document. What kind of review I've done?

24 Q. Yes.

25 A. The review was the same as I've done with the other articles

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1 we've discussed before.

2 Q. Okay. And when you write that the article depicts parts of
3 page 1 of Batch 3, did you compare the pictures in the article to the
4 same pictures that were shown to you earlier today?

5 A. Yes, I did.

6 Q. Thank you.

7 MS. BOLICI: I would like to now show to the witness the
8 document with ERN SPOE00220827 to 00220829.

9 Q. This is tab 95.

10 MS. BOLICI: Sorry, I will withdraw this question. It's the
11 same copy of -- different copy of a similar article. And I would
12 instead, please, show to the witness the document with
13 ERN SPOE00220851 to 00220857.

14 Q. And this is tab 103.

15 Do you recall having reviewed this article?

16 A. Yes, I do.

17 Q. And have you carried out, in relation to this article, a similar
18 exercise as you did for the ones addressed in your declaration?

19 A. Yes, I did.

20 Q. And looking at the pictures in page SPOE00220852, are you able
21 to recognise some of the pages of Batch 3 that were shown to you
22 earlier today?

23 A. Yes, this is page 29 of Batch 3.

24 Q. I will do the exercise only once.

25 MS. BOLICI: I would like to show, side by side with this

1 picture, the document with ERN SPOE00220920 to -928. And, in
2 particular, page SPOE00220926. And on the left side, the following
3 page ending by -853.

4 Q. Now, can you say if the picture in the article reproduced the
5 page of Batch 3 which is shown next to it?

6 A. Yes, it does.

7 MS. BOLICI: And, Your Honour, I would like to tender the
8 article that has been just shown to the witness in evidence. And
9 it's the article with ERN SPOE00220851 to 00220857.

10 PRESIDING JUDGE SMITH: Any objection by the Defence?

11 MR. REES: [Microphone not activated].

12 PRESIDING JUDGE SMITH: That exhibit will be admitted.

13 MS. BOLICI: Thank you.

14 THE COURT OFFICER: And that will be assigned P00120,
15 Your Honours.

16 PRESIDING JUDGE SMITH: Thank you.

17 MS. BOLICI: And now I would like to show the document with
18 ERN SPOE00220858 to SPOE00220865.

19 Q. Tab 105.

20 Now, have you reviewed, investigator, this press article as
21 well?

22 A. Yes, I did.

23 Q. And you applied the same methodology as you described earlier?

24 A. Yes, I did.

25 MS. BOLICI: And just as a way of example, I would like to show

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1 the picture with ERN SPOE00220862 and, side by side with it, the
2 picture with ERN SPOE00220927.

3 MR. REES: Your Honour, could I ask for this assistance from the
4 Prosecutor. Could I ask for the relevant declaration paragraph that
5 these documents are addressed in, please.

6 MS. BOLICI: I'd like to but these articles --

7 PRESIDING JUDGE SMITH: Please address the Court.

8 MS. BOLICI: Sorry?

9 PRESIDING JUDGE SMITH: Just address the Court.

10 MS. BOLICI: Yes. As I highlighted before, Your Honour, these
11 are not articles that have been addressed in declarations. They are
12 additional articles that I'm submitting to the witness right now.

13 PRESIDING JUDGE SMITH: Previously disclosed?

14 MS. BOLICI: Previously disclosed. And on the list of exhibits
15 to be shown to this witness.

16 PRESIDING JUDGE SMITH: You may proceed.

17 MS. BOLICI: Thank you.

18 I wanted to show side by side with this picture the document
19 with the ERN SPOE00220920 to -928. And in particular, the picture
20 with the ERN ending by 927.

21 Q. And in the course of your review of this article, could you
22 establish whether the pictures in the article reproduced page of
23 Batch 3?

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

25 Q. For example, in relation to the pages that have just been shown

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1 to you on screen, can you confirm the correspondence between the
2 picture in the media article and the corresponding page of Batch 3?

3 A. Yes, I can confirm that.

4 MS. BOLICI: And I would like to seek admission into evidence of
5 this media article as well with SPOE00220858 to 00220865.

6 PRESIDING JUDGE SMITH: Any objection? Thank you. That exhibit
7 is admitted.

8 THE COURT OFFICER: And that will be assigned P121,
9 Your Honours.

10 PRESIDING JUDGE SMITH: Thank you.

11 MS. BOLICI: And, finally, I would like to show the article with
12 ERN SPOE00220866 to 00220871. And the page on the right can stay the
13 same. Yes.

14 Q. Have you reviewed this article, investigator?

15 A. Would you please give me my -- the --

16 Q. Ah, your tab. 107.

17 A. Your Honour, I can -- I cannot recall whether I have seen this
18 particular article. I've seen so many.

19 MS. BOLICI: And I would like to move the article on the left to
20 page SPOE00220870.

21 Q. And based on what you see on screen, can you tell whether you
22 recognise any similarities between the picture shown on the left and
23 the page of Batch 3 which is shown on the right?

24 A. Yes, it appears to me it's the same document.

25 Q. Thank you.

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1 MS. BOLICI: And I would like to seek admission of this press
2 article with ERN SPOE00220866 to 00220871.

3 PRESIDING JUDGE SMITH: Any objection to that?

4 MR. REES: [Microphone not activated].

5 PRESIDING JUDGE SMITH: This exhibit is admitted.

6 THE COURT OFFICER: And that will be assigned P122,
7 Your Honours.

8 MS. BOLICI: I would like to show to the witness the -- a
9 timestamp from a video, and the video is the one with ERN 08197904.
10 And I would like to stop at timestamp 00:00:23.

11 [Video-clip played]

12 MS. BOLICI:

13 Q. Investigator, do you recall having seen this video?

14 A. I do.

15 Q. And have you verified what's the origin of this video?

16 A. Yes, I did.

17 Q. Do you recall that?

18 A. The -- the publisher?

19 Q. Yes.

20 A. No, I'm sorry, I don't recall it.

21 Q. Okay. My reference is the fact that in the description of this
22 item it's written that it was posted on the Facebook profile of
23 Nasim Haradinaj on 20 September 2020. Do you recall having verified
24 that?

25 A. Yes, I did.

1 Q. Thank you. Now, I would like for you to look at the image that
2 is depicted at 00:00:23 seconds. Can you tell what do you see on the
3 picture?

4 A. What I see is what appears to be a coordination request from the
5 SITF.

6 Q. And based on what do you say that?

7 A. It has the SITF logo, the outline is the same, the -- the case
8 numbers, it's dated 28 May 2014 with place Brussels, addressed to the
9 War Crimes Prosecution Office, with the --

10 Q. Okay.

11 A. Sorry, yeah.

12 MS. BOLICI: And I would like now to move to the image with
13 timestamp 00:00:26.

14 [Video-clip played]

15 MS. BOLICI:

16 Q. Can you identify what is the coordination request that appears
17 to be depicted in the video?

18 A. That is Coordination Request 41.

19 Q. And without mentioning the name, do you see any particular name
20 highlighted in the picture that is shown to you on video?

21 A. Yes, I do.

22 MS. BOLICI: And I would now like show to the witness the --
23 side by side with this video the document with ERN 081031-081031.

24 Q. Which is in tab 14 in the folder in front of you.

25 And in the course of your review of this video, have you

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1 compared the images that appear on video with any of the pages in the
2 batches that you have reviewed?

3 A. Yes, I did.

4 Q. And what can you say about the pages that I've just asked you to
5 look at?

6 A. The page or two pages, they are part of Batch 1.

7 Q. Okay. And do you see any resemblance between the picture in the
8 video and the page from Batch 1 that is shown on the right side of
9 your screen?

10 A. Sorry, can you repeat the question?

11 Q. Do you see any correspondence between the picture depicted in
12 the video, which is on the left side of your screen, and the page of
13 Batch 1, which is depicted on the right side of your screen?

14 A. Yes, I can confirm that a majority of the text is identical.

15 MS. BOLICI: And I would like to request admission, Your Honour,
16 of the video that was just shown to the witness, which is the
17 document with ERN 08197904, as well as the corresponding transcript
18 in the English and Albanian versions, 08197904-TR-ET and
19 08197904-TR-AT.

20 PRESIDING JUDGE SMITH: Any objection?

21 MR. REES: No, thank you.

22 PRESIDING JUDGE SMITH: Mr. Cadman?

23 MR. CADMAN: Well, Your Honour, it seems that my client is
24 trying to get my attention. If I could just have 30 seconds --

25 PRESIDING JUDGE SMITH: Yes.

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1 MR. CADMAN: -- and then I'll come straight back.

2 [Specialist Counsel and accused confer]

3 [Specialist Prosecutors confer]

4 MR. CADMAN: Your Honours, I think it's a matter that I'm going
5 to have to take fuller instructions over lunch. So if I can reserve
6 our position on that particular matter until after lunch.

7 PRESIDING JUDGE SMITH: All right. You may reserve on that.
8 [Microphone not activated].

9 THE INTERPRETER: Microphone for Your Honour, please.

10 THE COURT OFFICER: That will be assigned P --

11 PRESIDING JUDGE SMITH: Please give it a P number.

12 THE COURT OFFICER: That will be assigned P123 marked for
13 identification, Judge.

14 PRESIDING JUDGE SMITH: Thank you.

15 MS. BOLICI: And to conclude on this, I would like to show to
16 the witness the article within ERN 081915 to 081919, the last page in
17 particular. And I would need to show to the witness also the English
18 translation, please, so that would be 081914-081919-ET, the last
19 page.

20 Q. Now, in relation to the contents of this article, can you see
21 whether the names of the individuals mentioned in this article match
22 with the page of Batch 1 that was just shown to you? And if
23 necessary, I can display it again.

24 A. If you -- because before the tab number was not correct. So if
25 you just give me the tab number, then I can check on the hard copy.

1 Q. Yes. So the tab number is 14.

2 MS. BOLICI: And I would like, please, to show on screen as well
3 the document with ERN 081031-081031.

4 THE WITNESS: Your Honour, if I may, I think that the tab 14
5 displays a different coordination request --

6 MS. BOLICI:

7 Q. Okay.

8 A. -- than the one you are referring to.

9 Q. Okay.

10 A. But I can see the correct one --

11 Q. Would you be able --

12 A. -- on the screen again.

13 Q. -- to see it on screen?

14 A. Yes.

15 Q. Yes. So this is the same coordination request that we looked at
16 moments ago.

17 A. Yes.

18 Q. That was relevant to the video that we just saw. And I'm asking
19 whether you can notice, in relation to the contents, the information
20 provided in the text of the article, any correspondence between
21 information provided in the article and the contents of the
22 coordination request displayed on the right side of the screen?

23 A. Yes, I can confirm that there are similarities.

24 Q. Thank you.

25 A. Maybe to clarify, the name is displayed in the article as well

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1 as in the Coordination Request 41.

2 Q. Thank you.

3 MS. BOLICI: I would like to show to the witness the document
4 with ERN 08 -- the article that we just mentioned, Your Honours, is
5 already tendered for admission as an associated exhibit to the
6 declarations of the investigator. Just to repeat, I would like to
7 seek for admission this item as well.

8 PRESIDING JUDGE SMITH: Any objection?

9 MR. REES: No, thank you, Your Honour.

10 MR. CADMAN: In the interest of not wasting the Court's time,
11 we'll reserve our position until after lunch. I'll be able to come
12 back then on all these points.

13 PRESIDING JUDGE SMITH: All right. Thank you. We'll give it a
14 number.

15 THE COURT OFFICER: [Microphone not activated].

16 THE INTERPRETER: Microphone, please.

17 THE COURT OFFICER: Can counsel please confirm the number again,
18 please?

19 MS. BOLICI: It's 081915-081919, as well as the English
20 translation, 081914-081919-ET.

21 THE COURT OFFICER: Thank you. And that will be assigned
22 P124 MFI, Your Honours.

23 MS. BOLICI: And now I would like to show to the witness the
24 item 081361 to 081378 and, in particular, pages 081371 to 081373.
25 And I would like to move to the page 081373.

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1 Q. Investigator, this is in tab 64 of the documents in front of
2 you.

3 Have you reviewed this article before?

4 A. Yes, I have.

5 Q. And did you carry out your review in the same way as you
6 describe it in relation to the other articles?

7 A. Yes, I did.

8 Q. And I would like you to look at the picture on page 081373.

9 MS. BOLICI: And I would also request that one page of Batch 2
10 is displayed on screen, so the full ERN range is 079512 to 080448RED,
11 and the specific page is 080319.

12 Q. Now, looking at the two pages displayed on screen, on the left
13 the page of the article we just considered, and on the right side one
14 of the pages of Batch 2, based on the legible parts of the picture in
15 the article, can you tell whether you can identify any correspondence
16 between the two pages?

17 A. I can identify that it's the same author, the same date, the
18 location of the court, as well as a case number, and that the
19 original is in English. This document is in English. And partial
20 stamp.

21 Q. Okay. And does the stamp on the bottom right look the same?

22 A. Well, I can't see it now. But when I reviewed it, I enlarged it
23 on the screen.

24 Q. Thank you.

25 A. Yes.

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1 MS. BOLICI: And I would like to also tender this article for
2 admission into evidence. It's within an ERN range which is already
3 pending admission, but the specific English translation is 081371 to
4 081373-ET.

5 PRESIDING JUDGE SMITH: Any objection?

6 MR. REES: No, thank you, Your Honour.

7 MR. CADMAN: The same position. I think there's some confusion
8 as to what is, in fact, being admitted, and so I will need time with
9 Mr. Haradinaj at lunch.

10 PRESIDING JUDGE SMITH: All right. Deferred.

11 Grant a number.

12 THE COURT OFFICER: That will be assigned P125 MFI,
13 Your Honours.

14 PRESIDING JUDGE SMITH: Thank you.

15 MS. BOLICI: And, Your Honour, before moving to the next matter,
16 I noticed that English translations of some of the exhibits that have
17 been tendered or admitted today need to also be tendered into
18 evidence. And these are in relation to Exhibit P120, the relevant
19 translation is SPOE00220851 to SPOE00220857-ET. In relation to
20 Exhibit P121, the English translation is SPOE00220858 to
21 SPOE00220865-ET. And in relation to Exhibit P122, the relevant
22 translation is SPOE00220866 to SPOE00220871-ET.

23 PRESIDING JUDGE SMITH: We have about five minutes, Ms. Bolici.

24 MS. BOLICI: Yes. And before moving to the next topic, I would
25 request, Your Honour, whether it would be a good time to take a break

1 now rather than starting a new line of questioning.

2 PRESIDING JUDGE SMITH: Okay. Before we break, just a couple of
3 matters.

4 First of all, the witness can be escorted from the courtroom.

5 Remember not to speak to anybody, Ms. Pumper. Remember not to
6 speak to anybody about your testimony.

7 THE WITNESS: Yes, Your Honour.

8 [The witness stands down]

9 PRESIDING JUDGE SMITH: I have three short items.

10 Ms. Bolici, I'm not sure. We went through a lot of material in
11 this session, and I'm not sure all of it got offered by you. You
12 might want to review your notes or compare with the Court Officer's
13 notes over the noon hour to make sure. It seemed to me there were
14 some that did not get offered.

15 MS. BOLICI: [Microphone not activated].

16 PRESIDING JUDGE SMITH: I will ask you one other thing, just to
17 give some fair notice to the Defence, about how much time left in
18 your direct examination do you think there is? And I'm not trying to
19 bind you to something, just give them a notice.

20 MS. BOLICI: We anticipate that we'll be finishing today.

21 PRESIDING JUDGE SMITH: So cross-examination could start
22 possibly today but probably more likely tomorrow.

23 MR. REES: Thank you. Appreciate it.

24 PRESIDING JUDGE SMITH: And, Mr. Cadman, I'll remind you now and
25 then -- you've got, I think, two or three items -- three, I think,

1 items that have to be addressed when we come back.

2 So we will stand adjourned for lunch. Be back here at 2.30, and
3 we'll continue. We are adjourned.

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

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

6 PRESIDING JUDGE SMITH: Mr. Cadman, as to those three exhibits
7 that were offered, what say you?

8 MR. CADMAN: First of all, Your Honours, I'm grateful for the
9 opportunity to have taken instructions on those points. The
10 admission of those news reports are not -- no objection is raised to
11 them. It was more a question of the content and the suggestion that
12 Mr. Haradinaj had been the creator of those. But those are matters
13 that we'll deal with in the fullness of time.

14 PRESIDING JUDGE SMITH: Thank you.

15 Those three exhibits are admitted.

16 MR. REES: Can I -- Your Honour?

17 PRESIDING JUDGE SMITH: Yes.

18 MR. REES: Sorry to surprise you.

19 PRESIDING JUDGE SMITH: Yes.

20 MR. REES: Can I raise an administrative matter.

21 PRESIDING JUDGE SMITH: Yes.

22 MR. REES: Mr. Gucati has a long-standing issue with his leg
23 which the Trial Panel, I think, may be aware of.

24 During the course of the day, sitting over long periods can
25 cause him some pain and discomfort. Occasionally, he may wish to

1 stand up and just listen to proceedings actually as he is standing on
2 his feet. It alleviates the pain. If, therefore, he stands up
3 during the course of testimony, I hope that's okay and wouldn't wish
4 anyone to be alarmed by it.

5 PRESIDING JUDGE SMITH: As long as it's okay with security, it's
6 okay with us.

7 MR. REES: Thank you.

8 PRESIDING JUDGE SMITH: And I don't see any shaking of heads
9 so ...

10 MR. REES: Thank you.

11 PRESIDING JUDGE SMITH: And then, Ms. Bolici, have you checked
12 the admissions?

13 MS. BOLICI: Yes, Your Honours, I did, and there is just one
14 item that still needs to be tendered for admission, and it's item
15 094674-094675.

16 PRESIDING JUDGE SMITH: Please describe what it is. Please
17 describe what it is.

18 MS. BOLICI: It's one of -- a letter from an international
19 organisation that was shown to the witness in the course of the day.

20 PRESIDING JUDGE SMITH: Any objection to that exhibit?

21 MR. REES: May I ask for admissibility on that exhibit to be
22 deferred?

23 PRESIDING JUDGE SMITH: All right.

24 And if the Court Officer would please mark, first of all, the
25 three exhibits that we discussed with Mr. Cadman.

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1 THE COURT OFFICER: Your Honours, P123, P124, and P125 will no
2 longer have the status MFI.

3 And the last document that the Specialist Prosecutor mentioned
4 will be assigned P126 MFI.

5 MS. BOLICI: And if I may, Your Honour, there were another
6 number of exhibits that were mentioned in the course of the
7 examination and that I didn't seek the admission of. The reason for
8 that is because they're all listed as associated exhibits to the
9 declaration of the investigator, and the list of associated exhibits
10 is included in the filing of 14 October, and this is
11 KSC-BC-2020-07/F00367A02.

12 [Trial Panel confers]

13 PRESIDING JUDGE SMITH: We will defer on those at this time and
14 make a decision on whether we want them, in effect, as annexes or
15 whether they should be -- stand on their own. We will rule on that
16 later on.

17 So they'll have to have a P number also, Mr. Court Officer.

18 [Trial Panel and Court Officer confers]

19 PRESIDING JUDGE SMITH: We will tender that as one P exhibit at
20 this time, and then make a decision on whether or not it has to be
21 re-offered in an individual basis -- on an individual basis.

22 THE COURT OFFICER: Could Specialist Counsel confirm if these
23 are in Legal Workflow?

24 MS. BOLICI: Yes, they are in Legal Workflow.

25 THE COURT OFFICER: Your Honours, they would be assigned

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1 P127 MFI.

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

3 And now, Ms. Bolici, you may continue.

4 MS. BOLICI: Yes.

5 Your Honour, just for the record I would like to note that the
6 Deputy Specialist Prosecutor joined the hearing after the break.

7 PRESIDING JUDGE SMITH: Yes.

8 MS. BOLICI: And I will wait for the witness to --

9 PRESIDING JUDGE SMITH: Yes.

10 MS. BOLICI: -- come back.

11 PRESIDING JUDGE SMITH: All right.

12 You may bring in the witness, then.

13 [The witness takes the stand]

14 PRESIDING JUDGE SMITH: All right. Ms. Pumper, you may take a
15 seat. We are ready to continue with the direct examination of you.
16 And, Madam Prosecutor, you have the floor.

17 MS. BOLICI: I would like to show the witness the document with
18 ERN 081915 to 081919.

19 Q. And this is tab 68 on your folder, investigator.

20 MS. BOLICI: Thank you. And I would like also to show on the
21 screen the declaration of 29 October 2020 with ERN 084015 to 084026,
22 page 084017.

23 Q. Now, investigator, I would like to direct your attention to
24 paragraph 17 on this page. You refer to one of the articles that you
25 reviewed, and you refer in the footnote to an ERN number. Can you

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1 tell whether the document that is shown on the left side on your
2 screen is the article that you reviewed?

3 A. Paragraph 17?

4 Q. Yes.

5 MS. BOLICI: And I would like, please, for the document on the
6 left side of the screen to move to page 081917. Yes.

7 THE WITNESS: I can confirm in the positive.

8 MS. BOLICI:

9 Q. Thank you. And can you clarify which kind of review have you
10 carried out?

11 A. It was the same review as I've done with the articles which were
12 shown to me before.

13 Q. Thank you. And in paragraph 17 of your declaration, you
14 highlight that the article mentions the name of a person which is
15 also mentioned in requests included in Batch 1. Do you confirm this
16 information?

17 A. Yes, that is correct.

18 MS. BOLICI: And I would like now to show to the witness the
19 document -- instead of the declaration on the right side of the
20 screen, the document with ERN 080992-080992.

21 Q. Which is tab 16 on your folder.

22 Now, is this the document in Batch 1 that you used as a
23 comparison for the information included in the article on the left
24 side of the screen with ERN 081917-081919?

25 A. That is correct, yes.

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1 MS. BOLICI: And I would now like to show on the right side of
2 the screen an article with ERN SPOE00220808 to 00220810.

3 Q. Which is tab 90. Investigator, this is an article that has been
4 downloaded from the Facebook profile of Nasim Haradinaj. Can you
5 confirm to have reviewed this article?

6 A. Yes, I can confirm.

7 Q. And looking at both the first page and the subsequent pages, if
8 possible, can you tell if the articles include the same pictures and
9 information?

10 PRESIDING JUDGE SMITH: Mr. Cadman.

11 MR. CADMAN: Unless I'm looking at the wrong document, perhaps
12 the Prosecutor would like to look at the top of the page. It does
13 not say what she just said it says.

14 MR. REES: Assuming the evidence screen is the document that
15 Ms. Bolici is referring to, the -- the web page address is present on
16 the screen. It makes it perfectly clear it's not from Facebook.
17 It's gazetanewborn.co.

18 MS. BOLICI: I understand. And my question to the investigator
19 is whether she verified based on the records concerning this article,
20 whether this article was downloaded from the Facebook profile of
21 Nasim Haradinaj.

22 MR. CADMAN: That is not what the Prosecutor said. Perhaps
23 she'd like to have the record read back to her, or she'd like to put
24 the question again.

25 PRESIDING JUDGE SMITH: [Microphone not activated] She just did

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1 put the question.

2 You may answer the question.

3 THE WITNESS: I can confirm that I have seen this article on
4 Mr. Haradinaj's Facebook account.

5 MS. BOLICI:

6 Q. And can you tell whether the article on the left side of the
7 screen and the article on the right side of the screen contain the
8 same pictures and information?

9 A. I mean, I can see the first page and there is --

10 MS. BOLICI: Could we move to the next page for each side of the
11 screen. And if the one on the right side could be made a little
12 smaller.

13 Q. Or if it's more convenient, the tab in your hard copy folder is
14 tab 90.

15 A. I think there could be an error. Tab 19 is not that article.

16 Q. 90, 9-0.

17 A. Sorry, I understood 19.

18 Q. No, 90.

19 A. Thank you. I've seen it.

20 Q. And can you confirm whether the information in the article that
21 you have addressed in your declaration and the article downloaded
22 from the Facebook profile of Mr. Nasim Haradinaj is the same?

23 A. I can confirm that, yes.

24 MS. BOLICI: I would now like to show to the witness a
25 screenshot from a video already admitted into evidence with

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 Exhibit P00003 and the timestamp is 00:07.

2 [Video-clip played]

3 MS. BOLICI: Thank you.

4 Q. And, investigator, can you recognise the accused in this
5 screenshot?

6 A. Yes, I can.

7 Q. And can you tell who is the person at the centre of the picture?

8 A. It's Mr. Gucati.

9 Q. And can you say who is the person on the right-hand side of the
10 picture next to Mr. Gucati?

11 A. It is Mr. Faton Klinaku.

12 Q. Have you ever met Mr. Faton Klinaku?

13 A. Yes, I did.

14 Q. And on which occasion?

15 A. Mr. Klinaku was the representative of the War Veterans
16 Association when we conducted the search.

17 MS. BOLICI: And I would like now to show another screenshot
18 from another video. It's also admitted into evidence. It is the
19 document -- video with ERN P0007. And I would like to go to the
20 timestamp with reference 10 minutes, 30 seconds.

21 [Video-clip played]

22 MS. BOLICI: Yes, that would be fine. That's fine.

23 [Video-clip played]

24 MS. BOLICI: Any will do.

25 [Video-clip played]

Witness: Zdenka Pumper (Resumed) (Private Session)
Examination by Ms. Bolici (Continued)

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1 MS. BOLICI: This is good. So we are referring to the timestamp
2 15 minutes, 45.

3 Q. And can you tell if you recognise the person depicted in the
4 screenshot?

5 A. Yes, I do.

6 Q. Who is this person?

7 A. This is Mr. Tome Gashi.

8 Q. And have you met Tome Gashi before?

9 A. Yes, I have met him on several occasions, including he was the
10 legal representative at the search of the War Veterans Association.

11 MS. BOLICI: And now I would like to please go into a private
12 session for a brief moment.

13 PRESIDING JUDGE SMITH: Mr. Court Officer, we will go into
14 private session.

15 [Private session]

16 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Private Session)

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Examination by Ms. Bolici (Continued)

1 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Private Session)

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Examination by Ms. Bolici (Continued)

1 [Private session text removed]

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Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 [Open session]

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

3 PRESIDING JUDGE SMITH: Thank you.

4 We are back in public session. [Microphone not activated].

5 MS. BOLICI: Thank you.

6 Q. And, investigator, to your knowledge, did SPO staff members
7 contact witnesses or potential witnesses following the press
8 conferences and seizures of documents at the KLA War Veterans
9 Association?

10 A. Yes, they did.

11 Q. And how do you know that?

12 A. I was part of -- I contacted two witnesses myself. It was a
13 very well-organised effort.

14 Q. And can you tell who was involved in the office by mentioning
15 their professional functions?

16 A. To my recollection, the primary persons who called the
17 individuals were to be prosecutors, and they were in company of
18 investigators or a witness security officer.

19 Q. And how were these witnesses contacted?

20 A. As far as I know, they were called.

21 Q. Were there any --

22 A. And met, excuse me. And met.

23 Q. And why were these witnesses contacted?

24 A. The witnesses were contacted as a result of the disclosures of
25 Batch 1, 2, and 3.

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 Q. And what was the purpose of these contacts?

2 A. Well, the purpose of the contacts which I had is to contact the
3 people and to talk to them about what had happened and establish what
4 their feelings are about it and their position to it.

5 Q. And could you -- do you recall any -- without mentioning any
6 names, any specific examples of a person that you had contacted told
7 you?

8 PRESIDING JUDGE SMITH: Excuse me, Madam Prosecutor. Are you
9 speaking about who she contacted herself?

10 MS. BOLICI: Herself.

11 PRESIDING JUDGE SMITH: All right.

12 MS. BOLICI: Yes.

13 THE WITNESS: I personally have spoken to two individuals.
14 Whereas one of them, this person was very frightened and very
15 irritated about --

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

17 PRESIDING JUDGE SMITH: Yes.

18 MR. REES: Obviously, there has been a previous ruling regarding
19 the production of statements made by third parties as reported in
20 Official Notes.

21 I understand the witness has given a brief account of the fact
22 that she had contact with two witnesses. My submission would be that
23 for the witness then to go ahead and give evidence as to what she was
24 told, the statements being made to her, it's in breach of the ruling
25 that the Court has previously made about the admissibility of such

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 evidence.

2 MS. BOLICI: Your Honour, if I may?

3 PRESIDING JUDGE SMITH: Yes.

4 MS. BOLICI: I am not seeking for the admission of the records
5 at the moment of these contacts. I'm just asking the investigator
6 what her experience of these events was.

7 MR. REES: But what she is seeking to do is adduce evidence of
8 the statement made by another person to this witness.

9 PRESIDING JUDGE SMITH: Made to her.

10 MR. REES: Made to --

11 PRESIDING JUDGE SMITH: Hearsay is your objection?

12 MR. REES: We go back to the submission I made before, which is
13 that the SPO is seeking to evade the clear effects of Rules 153, 154,
14 and 155 which are intended to set out a clear regime for the
15 admission of statements made by third parties other than through
16 their own oral testimony.

17 [Trial Panel confers]

18 PRESIDING JUDGE SMITH: Your objection is overruled. The
19 witness will be allowed to testify [Microphone not activated].

20 THE INTERPRETER: Microphone, please.

21 PRESIDING JUDGE SMITH: Your objection is overruled. The
22 witness will be allowed to testify in that regard. And this is
23 hearsay evidence. Of course, it is allowed under these rules. The
24 weight to be afforded to it is for us to decide, and we do understand
25 that there is a confrontation issue and those will be taken into

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 consideration.

2 Go ahead.

3 MS. BOLICI:

4 Q. Investigator, so could you please tell what the witnesses that
5 you contacted told you in the course of these contacts.

6 A. So if I can repeat, one witness, this specific person was very
7 scared, and he -- if I -- the witness explained that he had been
8 burned -- his identity has been made due to the fact of these
9 disclosures. He asked me to return to the court and beg them not to
10 call him as a witness because he feared for his life and for his
11 family's life. And he went to the degree that he asked me whether I
12 could just simply tell the court that I couldn't find him. I've
13 written a detailed note about this interaction.

14 Q. Thank you.

15 MS. BOLICI: I will now, Your Honour, just conclude my
16 examination, and I note that in the course of today's session I have
17 mentioned one more document that has not yet been tendered into
18 evidence. And this is the document with ERN SPOE00220808 to
19 00220810.

20 PRESIDING JUDGE SMITH: What is the document? What is the
21 document?

22 MS. BOLICI: It's the second article that was shown to the
23 witness today and was downloaded from the Facebook profile of
24 Mr. Haradinaj.

25 PRESIDING JUDGE SMITH: Okay. Objection?

Witness: Zdenka Pumper (Resumed) (Open Session)
Examination by Ms. Bolici (Continued)

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1 MR. REES: [Microphone not activated] In the circumstances, yes,
2 there is an objection.

3 THE INTERPRETER: Microphone, please.

4 PRESIDING JUDGE SMITH: Microphone.

5 MR. REES: There is an objection. We will submit that the
6 provenance of that was not properly established. I would ask for a
7 decision on admissibility of that document to be deferred and dealt
8 with in due course.

9 PRESIDING JUDGE SMITH: Could you elaborate on why --

10 MR. REES: Yes.

11 PRESIDING JUDGE SMITH: -- you think the provenance is not
12 established?

13 MR. REES: Indeed. The provenance of the document on its face
14 was clear. It came from gazetanewborn.co, a publicly available web
15 site of a publishing house. It did not come from Facebook, on the
16 face of the document. There is no declaration that had been prepared
17 ahead of today's testimony in which this officer set out that that
18 was to be her evidence. It's a matter that we've complained about
19 before, and we repeat that complaint.

20 PRESIDING JUDGE SMITH: Mr. Cadman.

21 MR. CADMAN: I can only endorse what Mr. Rees has said, and it's
22 certainly the point that we raised earlier when the reference to
23 Facebook was made before lunch.

24 [Trial Panel confers]

25 PRESIDING JUDGE SMITH: The provenance was established by this

Witness: Zdenka Pumper (Resumed) (Open Session)
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1 witness to a satisfactory extent for admission. That document will
2 be issued -- you can, of course, can cross-examine and question the
3 witness on this issue.

4 Anything else, Madam Prosecutor?

5 Oh, I'm sorry, we have to have a number given to that exhibit.

6 THE COURT OFFICER: And that will be assigned P128,

7 Your Honours.

8 PRESIDING JUDGE SMITH: Thank you.

9 MS. BOLICI: Your Honour, I just would like to reiterate my
10 request for admission of the declarations and the associated exhibit
11 under Rule 154, highlighting that the determination on this matter
12 would allow the Prosecution to identify additional issues that need
13 to be addressed with this witness at this stage. Thank you.

14 PRESIDING JUDGE SMITH: Thank you. The previous ruling will
15 continue. I give the Defence an opportunity to cross-examine this
16 witness and will bear in mind your request.

17 Mr. Rees, are you ready to proceed?

18 MR. REES: There are some administrative matters in relation to
19 the finalising of our presentation queue which I would wish to
20 address.

21 We have been, of course, dealing with testimony from a witness
22 who, although we had disclosure of some exhibits, we did not have the
23 assistance of advanced disclosure as to what she would say about
24 them.

25 I note that it is ten past 3.00. I can start if Your Honour

1 wishes me to, and we can submit the presentation queue as it's
2 presently in force, as it were, with a request, if necessary, to make
3 further additions to it to follow. Or, and my invitation would be,
4 that we raise -- we rise at this stage and start afresh at 9.30
5 tomorrow.

6 But I am in Your Honours' hands in that regard.

7 PRESIDING JUDGE SMITH: I'll see what my colleagues think.

8 [Trial Panel confers]

9 PRESIDING JUDGE SMITH: I believe that the Panel would like you
10 to go ahead and start and do those things that you can do, some of
11 it's preliminary and foundational, and we can use the better part of
12 this hour for that purpose. And then you can, overnight, get your
13 queue ready to go to a satisfactory extent for you.

14 MS. BOLICI: Your Honour, if I may.

15 PRESIDING JUDGE SMITH: Yes, ma'am.

16 MS. BOLICI: The counsel mentioned that the presentation queue
17 is not complete yet. We would still like to have the benefit of the
18 part of the presentation queue that is already available in order to
19 be able to address any issue that may arise.

20 PRESIDING JUDGE SMITH: That seems to be a reasonable request.

21 MR. REES: [Microphone not activated].

22 PRESIDING JUDGE SMITH: All right.

23 Mr. Rees, the floor is yours.

24 Cross-examination by Mr. Rees:

25 Q. Ms. Pumper, firstly, forgive me if I am not pronouncing your

1 name properly. Forgive me also if I mispronounce names in Albanian
2 or in Serbian. I will do my best. At least I hope that I will say
3 them well enough so that they're clear. If at any point I say
4 something that is not clear to you, for whatever reason, please stop
5 me and ask me to repeat it perhaps in a different way or to rephrase
6 it and make it clear to you so that you follow. Okay?

7 A. I will do. Thank you.

8 Q. Are you the investigator with overall responsibility for the
9 investigation into this case?

10 A. No, I'm not.

11 Q. Who is that, please?

12 A. The overall responsibility is with the Prosecutor, Ms. Bolici.

13 Q. Is she assisted by an investigator who for the purposes of
14 investigation has overall responsibility over other investigators?

15 A. No, she's not formally. I mean formally not.

16 Q. What about informally?

17 A. Well, I have been assisting her in this investigation, and there
18 were quite a number of staff on off-and-on occasion whom I have
19 supervised in their work.

20 Q. And your involvement in the investigation commenced on what
21 date?

22 A. My involvement started with the search.

23 Q. And that was 25 September?

24 A. That is correct.

25 Q. Can you help us, who had overall responsibility for the

1 investigation from 7 September onwards?

2 A. I cannot really answer that because I've not been involved, so I
3 don't know who was involved. But I would, of course, assume it's
4 Ms. Bolici.

5 Q. Are you able overnight to check any records so that tomorrow you
6 can help us with a firmer answer?

7 A. If I may just clarify. So you would want to know who was
8 overall in charge, not the individuals who were involved?

9 Q. In the first instance --

10 MS. BOLICI: Your Honour, if I may. I have an objection to the
11 counsel's request, that an investigator finds out information she
12 does not have at the moment in the course of the break between
13 sessions.

14 PRESIDING JUDGE SMITH: Is that satisfactory for you?

15 MR. REES: Well, with respect, no, Your Honour. I think it's a
16 perfectly reasonable request.

17 PRESIDING JUDGE SMITH: [Microphone not activated] Well, then she
18 can say she doesn't know.

19 THE INTERPRETER: Microphone, please.

20 MR. REES: She can. She can answer how she wishes to answer.
21 That's a matter for her. But the question, I submit, is perfectly
22 reasonable. How she responds is a matter for her.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 THE INTERPRETER: Microphone, please, for Your Honour.

25 MR. REES: So I'll repeat the question --

1 PRESIDING JUDGE SMITH: Just a second, Mr. Rees. I had my mic
2 off.

3 The question was to you and you can answer if you know. And if
4 you don't know, you can say you don't know. All right?

5 THE WITNESS: Mm-hmm.

6 PRESIDING JUDGE SMITH: All right. Go ahead.

7 MR. REES:

8 Q. So, in fact, the last question I asked was whether you could
9 assist us by checking records overnight so that tomorrow you can
10 assist us with the question who was given responsibility for the
11 investigation from 7 September.

12 MS. BOLICI: And there is an objection to that.

13 PRESIDING JUDGE SMITH: I just asked the same question. She
14 indicated during a break that -- overnight, in this case, because
15 we're not going to --

16 MR. REES: Yes.

17 PRESIDING JUDGE SMITH: -- take a break, she would have an
18 opportunity to review --

19 MR. REES: Yes.

20 PRESIDING JUDGE SMITH: -- and come back and testify.

21 MR. REES: Indeed.

22 PRESIDING JUDGE SMITH: And that's okay.

23 MR. REES: Yes.

24 PRESIDING JUDGE SMITH: All right.

25 MR. REES: Thank you.

1 MS. BOLICI: Your Honour, I'm just asking whether it's in the
2 counsel's prerogative to ask the witness to check records that she
3 does not have at the moment, information that is not in the framework
4 of her knowledge at the moment. It's being tasked --

5 PRESIDING JUDGE SMITH: [Microphone not activated] It is, because
6 I join that.

7 THE INTERPRETER: Microphone, please.

8 PRESIDING JUDGE SMITH: It is acceptable because I joined in
9 that and I instructed her to do that.

10 MS. BOLICI: That's fine.

11 PRESIDING JUDGE SMITH: We need to have an answer.

12 MR. REES: Thank you, Your Honour.

13 Q. And do you know who on the ground was responsible from
14 7 September, as an investigator, to commence the investigation into
15 what occurred on that day?

16 A. Excuse me, on which day?

17 Q. 7 September, being the first day, wasn't it, that the SPO became
18 aware, it alleges, at least, of documentation arriving at the KLA WVA
19 that was the topic of a press conference held publicly on that day.

20 A. I do not have knowledge whether there was an investigator on the
21 ground at that day.

22 Q. Again, can you check the records overnight for us so that you
23 could assist in the morning on that point?

24 MS. BOLICI: Your Honour, there is objection to all this line of
25 questionings. The investigator can't be tasked by the Defence

1 counsel to go and check records that she does not have in her
2 possession at the moment.

3 PRESIDING JUDGE SMITH: [Microphone not activated].

4 MR. REES:

5 Q. So could you check those records so you can assist us on that
6 tomorrow morning?

7 A. Your Honours, if I may say, I don't believe that there are
8 records which I can check whether an investigator was on the ground
9 at the time. What I would do is that I would speak to the staff who
10 were on the ground and ask them whether an investigator was there.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 THE INTERPRETER: Microphone, please.

13 PRESIDING JUDGE SMITH: If that's all that you have to check,
14 then that's perfectly acceptable.

15 THE WITNESS: Just also for the purpose of completion. What I
16 can think about what one could check is, because we have travel
17 records, so I could see from travel records whether an investigator
18 was at the location at the time.

19 PRESIDING JUDGE SMITH: Mr. Rees is asking you to see if you can
20 check. If you can check, that's fine. If you can't check, that's
21 your answer.

22 THE WITNESS: Okay, thank you.

23 MR. REES: Indeed.

24 MS. BOLICI: But, Your Honour --

25 PRESIDING JUDGE SMITH: Yes, Ms. Bolici.

1 MS. BOLICI: Yes. The witness has been instructed not to speak
2 with staff within the SPO about this case, so this would be an
3 exception to that ruling.

4 PRESIDING JUDGE SMITH: You're correct.

5 MR. REES: Indeed.

6 Q. And, obviously, if you make efforts of my request overnight and
7 tomorrow your answer is, "We have no record that assists us in
8 identifying who was the first investigator asked to look into this,"
9 then please tell us that tomorrow.

10 A. Yes.

11 Q. Do you use memos or actions, e-mails, where instructions are
12 sent to investigators as to: Here is a task. Please, can you look
13 into this?

14 A. We have different forms of receiving instructions, how to
15 progress our work. It's verbal, e-mails, written, memos.

16 Q. So you can assist us in reviewing those records so that tomorrow
17 you can tell us who was the first investigator asked to look into
18 this and when; yes?

19 A. As I've mentioned, I will do my best to see whether I can find
20 out.

21 Q. Thank you. And you have been asked some general questions by
22 the Prosecution about systems in place within the SPO, and I will ask
23 some questions also. So, again, when you look at those records
24 overnight, because I will be asking you some questions about how the
25 investigation progressed, please can you do your best to get a

Witness: Zdenka Pumper (Resumed) (Open Session)
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1 general overview of that investigation from the records? Please, can
2 you assist with that?

3 A. I will try.

4 Q. Thank you.

5 MS. BOLICI: Your Honour, it's not clear which kind of task.

6 PRESIDING JUDGE SMITH: [Microphone not activated].

7 THE INTERPRETER: Microphone, please.

8 [Trial Panel confers]

9 PRESIDING JUDGE SMITH: [Microphone not activated].

10 MS. BOLICI: [Microphone not activated]. The request from
11 counsel is extremely broad and is, in fact, a task to conduct an
12 investigation into the investigation which the witness is supposed to
13 conduct overnight in order to provide an answer to the counsel, and
14 it appears to be a way to circumvent previous non-disclosure orders
15 or pending non-disclosure matters in relation to the investigations
16 in this case.

17 PRESIDING JUDGE SMITH: We won't be going into the internal work
18 product of this office. But if she can assist us by finding out who
19 -- the general process of investigation, I have no problem with that
20 and will allow it. But we're not going to go into great detail on
21 internal work product, and I believe that is what's worrying the
22 Prosecutor, and I don't blame him.

23 MR. REES: Clearly, I can't predict the answers of the witness,
24 but I do understand the point that Your Honour has made.

25 Q. And at this stage, I have only asked for, I thought I made it

1 clear, you to acquaint yourself, Ms. Pumper, with a general overview
2 of the investigation so that I can ask some questions about, for
3 example, the chronology of the investigation and steps taken. Okay?
4 So I would be grateful if you can assist with that overnight. Do
5 your best.

6 A. Yes, I will.

7 Q. Thank you.

8 A. I have to get my mind around this task.

9 PRESIDING JUDGE SMITH: I think we can -- I think let's move on
10 to something new. She said she would try and that's good enough.

11 THE WITNESS: Thank you.

12 MR. REES:

13 Q. And your role started on 25 September, and has your role since
14 included the investigation into the background of the disclosures in
15 September 2020?

16 A. Would you please explain a little bit more what you mean on the
17 "background of disclosures"?

18 Q. Well, I'll be specific.

19 A. Thank you.

20 Q. Has your role in the investigation included the investigation
21 into the process by which what has become known, helpfully as
22 shorthand, as the batches came to be delivered to the KLA War
23 Veterans Association?

24 MS. BOLICI: Objection, Your Honour. The matter is pending
25 before the Trial Chamber about the relevance and materiality of any

1 information concerning the process through which the batches arrived
2 to the KLA War Veterans Association. The matter is not solved. And
3 this is an attempt to elicit information which is currently not
4 subject to disclosure.

5 PRESIDING JUDGE SMITH: We will be addressing that soon.

6 THE INTERPRETER: Microphone, please.

7 PRESIDING JUDGE SMITH: We will be addressing those issues soon.
8 I will sustain the objection at this point, and you can move on to a
9 different line of questioning. You can bring that up at a later
10 date.

11 MR. REES: I follow it, Your Honour. And I'm grateful for
12 Your Honour, effectively, deferring that question for the time being.
13 Although, we did note that at the beginning of yesterday's
14 proceedings Your Honour did expressly say that the Panel would permit
15 the question of whether any current or former member of the SPO or
16 any private party acting under the instructions or control of the SPO
17 delivered or provided the material in question to the War Veterans
18 Association.

19 So we have prepared accordingly --

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MR. REES: -- on that basis.

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 THE INTERPRETER: Microphone, please.

24 PRESIDING JUDGE SMITH: I thought it was on, I'm sorry.

25 You will be able to answer those in time. It's also at this

1 point beyond the scope of the direct examination as well. I am not
2 restricting you in the future, but I'm telling you right now we're
3 going to have to take -- we have to take some other actions before
4 you can ask those questions.

5 MR. REES: Well, at the moment I'm not entirely following
6 Your Honour, but perhaps I will reflect on that overnight and see if
7 I can discern where we're going tomorrow. Okay.

8 Can I just raise one thing about that question? I was simply --
9 I wasn't asking for any detail. I was only asking for the witness to
10 confirm if she had been involved in that investigation because that
11 will -- may affect where we go with this witness, as it were,
12 Your Honour.

13 [Trial Panel confers]

14 PRESIDING JUDGE SMITH: You may ask the question.

15 MR. REES:

16 Q. So I am being specific, Ms. Pumper, and I'd welcome, at this
17 stage, at least, a specific reply. Were your investigation
18 responsibilities that began in relation to this case on 25 September
19 onwards, did they include investigation into the process by which the
20 batches came to be delivered to the KLA WVA?

21 A. When we conducted the search at the War Veterans Association,
22 clearly --

23 PRESIDING JUDGE SMITH: Just a second. That called for a "yes"
24 or "no" answer.

25 THE WITNESS: Yes.

1 MR. REES:

2 Q. Thank you.

3 MR. REES: Then I will move on and we will reflect overnight
4 and, if necessary, we will revert tomorrow, Your Honour.

5 Q. You told us that you joined the SITF in January 2016 and then
6 subsequently moved directly to the Specialist Prosecutor's Office.
7 Did you work for EULEX before then?

8 A. Yes, I did.

9 Q. For how long did you work for EULEX?

10 A. I joined EULEX in mid-2009, so it was five years. Five years,
11 yeah. Five years.

12 Q. And so for a significant period of time you have been based in
13 Prishtine; is that right?

14 A. That's correct.

15 Q. And you have come to meet many people likewise based in
16 Prishtine over that period of time?

17 A. Can I just clarify, is that EULEX staff members?

18 Q. EULEX staff members?

19 A. I was a EULEX staff member.

20 Q. SITF members of staff?

21 A. No, I have not.

22 Q. SPO members of staff based in Prishtine?

23 A. During my time in EULEX?

24 Q. Yes -- no. Since you began working for EULEX in 2009.

25 A. Well, while I was working for EULEX, I have not met anybody from

1 the SITF, neither from the SPO. It's only when I joined the SITF.

2 That is when I met them.

3 Q. Okay. And other members of the community in Prishtine during
4 your time there? You've met many people?

5 A. You mean Kosovars or internationals?

6 Q. Kosovans?

7 A. Yes, I did meet many.

8 Q. Internationals?

9 A. Yes, I did meet many.

10 Q. And at your time with, for example, the SITF and the SPO, you
11 have worked closely with other officers of those organisations? You
12 worked closely with other officers?

13 A. Of the SPO, SITF, and EULEX?

14 Q. Well, I asked you about the SITF and the SPO, but --

15 A. I --

16 Q. -- you can say about EULEX as well --

17 A. Yes.

18 Q. -- you worked closely with other officials?

19 A. While I worked with the SITF and the SPO, I worked closely with
20 their staff, of course.

21 Q. And during your time with the SITF and the SPO, have you met
22 with Serbian officials?

23 A. I think I have met maybe on three or four occasions with Serbian
24 officials.

25 Q. Have you had correspondence with Serbian officials?

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1 A. I don't recall.

2 Q. Have you developed any close relationship with any Serb
3 official?

4 A. No, I have not.

5 Q. Of your colleagues at the SITF and the SPO, you are aware of
6 them, of colleagues corresponding with Serbian officials?

7 A. Yes, I am aware.

8 Q. And meeting with Serbian officials?

9 A. Yes, I am aware.

10 Q. And any colleagues of yours at the SITF and SPO building close
11 relationships with Serbian officials?

12 A. Would you please explain to me what you mean under "close
13 relationship"?

14 Q. A close working relationship.

15 A. I am not privy to that.

16 Q. A professional relationship?

17 A. What I would understand, yeah, professional relationships are
18 contacts with different entities. Yes.

19 Q. Any colleagues of yours working regularly with a Serbian
20 official or officials?

21 A. Not that I'm aware of.

22 Q. Any personal relationships that you're aware of?

23 A. Not that I'm aware of.

24 Q. Let me ask you about confidentiality. Do you agree that
25 documents, information should only be classified as confidential

1 where it's necessary to do so?

2 MS. BOLICI: Your Honour, the counsel is asking for the
3 witness's opinion, and I don't think the witness is here to provide
4 opinion on classification of documents.

5 PRESIDING JUDGE SMITH: Sustained.

6 MR. REES: Well, can I address the Trial Panel first as to why I
7 asked the question?

8 PRESIDING JUDGE SMITH: Go ahead.

9 MR. REES: Thank you.

10 PRESIDING JUDGE SMITH: Shortly. Briefly.

11 MR. REES: This witness has, of course, claimed that she has
12 seen documents that she has described as confidential. I would like
13 to explore with this witness her understanding of confidentiality.
14 It is, of course, a matter for the Trial Panel ultimately to make a
15 determination, but this witness has expressed a view on many, many
16 documents, most of which the -- the vast majority of which neither
17 you or I or anyone else in this courtroom, at least on this side,
18 have seen. That is why I wish to explore this witness's
19 understanding of what is confidential.

20 [Trial Panel confers]

21 PRESIDING JUDGE SMITH: This witness did not testify as to
22 meaning of confidential. She testified as to identification of
23 documents bearing indicia of confidentiality. She never testified
24 about what that meant, how it got there, so you're going to have to
25 rephrase your question.

1 You can certainly ask questions about how she arrived at her
2 conclusion that those items were confidential, but not to go into
3 detail with her on the issue of definitions.

4 MR. REES:

5 Q. Ms. Pumper, when you were conducting your reviews, did you
6 regard it as of any significance to consider whether -- the necessity
7 of the application of any indicia of confidentiality to the document?

8 MS. BOLICI: Your Honour, there is an objection to this question
9 too. It's beyond the scope of the examination-in-chief. The witness
10 testified about factual circumstances concerning documents she
11 reviewed, not about her opinion about the necessity of the
12 classification of a certain document as confidential, and this still
13 goes into the request for the witness to provide an opinion.

14 PRESIDING JUDGE SMITH: Sustained. I understand what you --
15 you're going to have to come up with a different line of questioning
16 if you want to continue as to the confidentiality, but it's never
17 going to get to an opinion of what it means or whether it was
18 necessary because that wasn't her job. She never talked about that
19 in her direct; therefore, it is beyond the scope of the direct
20 examination.

21 MR. REES: I follow. And it's certainly not the intention of my
22 cross-examination in any way to elevate this witness's answer to the
23 question I asked into some sort of expert testimony on the law.
24 Absolutely not. And I make that clear.

25 But this witness has been tasked, in the absence of

1 non-disclosure of many, many pages of material, to conduct a review
2 to identify what is put forward by the SPO as being the relevant
3 factors for you to consider from those documents without looking at
4 the documents themselves.

5 And, therefore, I wish to ask some questions to establish her
6 understanding. It carries no weight other than assisting in
7 identifying what factors she applied to conducting her review.
8 That's simply the task.

9 PRESIDING JUDGE SMITH: But that's not what you were asking her
10 with your question. You were asking her what the meaning was, and
11 that's not part of her duties, and I won't allow that question.

12 So the objection is sustained. You've made your record. Move
13 on.

14 MR. REES:

15 Q. Did you regard the necessity of the classification of any
16 document as confidential as a relevant factor when you conducted your
17 review?

18 MS. BOLICI: Your Honour, this is the same question put with
19 other words, so there is a continuous objection.

20 PRESIDING JUDGE SMITH: Sustained.

21 MR. REES:

22 Q. The designation of a document as confidential is not to be used,
23 is it, to prevent embarrassment to a person?

24 MS. BOLICI: Objection.

25 PRESIDING JUDGE SMITH: You might need to ask her first if she

1 knows what the intention is, because you're assuming that she knows
2 that.

3 MR. REES:

4 Q. If you were aware that a person had designated a document as
5 confidential to avoid embarrassment, would you regard that as a
6 material factor in your review?

7 MS. BOLICI: Your Honour, there is an objection. The question
8 is entirely hypothetical and is going to the same point that has been
9 overruled by the Trial Panel for several times now.

10 With this occasion, I also would like to note that we did not
11 yet receive the presentation queue of the Defence.

12 PRESIDING JUDGE SMITH: That question is amounting to the same
13 thing. It's asking for an opinion of hers that she's not qualified
14 to answer --

15 MR. REES: Well --

16 PRESIDING JUDGE SMITH: -- under the present circumstances and
17 given the direct examination that she's undergone.

18 MR. REES: Well, in the circumstances, Your Honour, I have
19 attempted to make a start. I would wish to reflect on the
20 observations that have been made thus far, and we may save time if
21 I'm allowed to do that.

22 We can perfect the presentation queue overnight, and we'd be
23 ready to begin first thing at 9.30 in the morning with a clean start.

24 PRESIDING JUDGE SMITH: And we'll deal with that question that
25 you started out with that I deferred on and we thought we'd both

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1 think about overnight.

2 MR. REES: Yes.

3 PRESIDING JUDGE SMITH: All right. Please escort the witness
4 out, Madam Usher.

5 MS. BOLICI: Your Honour, in relation to the presentation queue,
6 should there be any problem to releasing it to Legal Workflow, we
7 would request that counsel forward it via e-mail in the meanwhile and
8 then follow with any Legal Workflow queue as soon as available.

9 [The witness stands down]

10 PRESIDING JUDGE SMITH: Is that all right with you? Okay.

11 All right. We are adjourned. Tomorrow morning, 9.30.

12 --- Whereupon the hearing adjourned at 3.41 p.m.

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