

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

03 JULY 2019

DAY 126

20

PROCEEDINGS ON 3 JULY 2019

CHAIRPERSON: Good morning Ms Norman, good morning everybody.

ADV THANDI NORMAN SC: Good morning Mr Chairman. Thank you. Today we wish to present the evidence of Ms Nonkululeko Sindane. Before you Mr Chairman you should have Exhibit FF1.

CHAIRPERSON: Yes I do have.

ADV THANDI NORMAN SC: And there will be also – Exhibit FF8 as well.

CHAIRPERSON: Yes I do have.

10 **ADV THANDI NORMAN SC:** Yes thank you. May the witness be sworn in?

CHAIRPERSON: Thank you. Please administer the oath or affirmation?

REGISTRAR: Please state your full names for the record?

MS TERESSA NONKULULEKO SINDANE: Teresa Nonkululeko Sindane.

REGISTRAR: Do you have any objections to making the prescribed affirmation?

MS TERESSA NONKULULEKO SINDANE: No I do not.

20 **REGISTRAR:** Do you solemnly swear that all the information that you will give will be the truth, the whole truth and nothing but the truth.

MS TERESSA NONKULULEKO SINDANE: I do.

REGISTRAR: If so please raise your right hand and say I truly affirm?

MS TERESSA NONKULULEKO SINDANE: I truly affirm.

REGISTRAR: Thank you.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Yes thank you.

CHAIRPERSON: You may proceed.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Ms Sindane during the year 199 – ag 2013 around May 2013 you were a Director General for the Department of Justice and Constitutional Development, is that correct?

MS TERESSA NONKULULEKO SINDANE: Yes.

ADV THANDI NORMAN SC: How long did you remain in that position?

10 **MS TERESSA NONKULULEKO SINDANE:** Until March 2016.

ADV THANDI NORMAN SC: And before you became the Director General for Justice where were you employed?

MS TERESSA NONKULULEKO SINDANE: I was employed at Eskom.

ADV THANDI NORMAN SC: Right. You know the reason for your appearance here today is about the JCPS Report that you together with your colleagues compiled?

MS TERESSA NONKULULEKO SINDANE: Yes.

20 **ADV THANDI NORMAN SC:** Could you just tell the Chairperson quickly how did it come about that you had to investigate together with the other directors general?

MS TERESSA NONKULULEKO SINDANE: Okay. We were appointed by the Ministers of the JCPS cluster to undertake the investigation of what had transpired leading up to the landing of the Gupta chartered aircraft in Waterkloof Air Base. This had arisen because there was a lot of public outrage arising from that landing and there were a number

of issues that we raised as to how this happened and so it was felt that an investigation is needed. The relevant Ministers of the JCPS cluster met and then they issued an instruction to us appointing us as the responsible team to do an investigation.

ADV THANDI NORMAN SC: And how many were you who were tasked with this – with the responsibility to investigate?

MS TERESSA NONKULULEKO SINDANE: There were four of us who were appointed. It was Mr Dennis Dlomo who was the – working for SSA at the time and he was the Chairperson. It was myself and I was
10 working for the Department of Justice and Constitutional Development at the time as the DG. It was Commissioner Moyane, Tom Moyane who was at the time working for the Department of Correctional Services and then it was Doctor Swemmer, Clint Swemmer he was the Coordinator for Intelligence. He was co-opted into the committee.

ADV THANDI NORMAN SC: Yes. What was your mandate? You deal with it as terms of reference. Could you just outline what those terms were?

MS TERESSA NONKULULEKO SINDANE: Thank you. The mandate was just to determine the sequence of events as to how we ended up
20 where we did. So ultimately firstly it was to determine the sequence of events prior to, during and after the landing of the chartered commercial aircraft at the Air Force Base Waterkloof. Secondly to assess the actual events in the light of established legislation, regulations, government and departments held protocols. Thirdly to interview and interact with relevant persons to establish facts and

factor in investigations that were currently underway. And then finally to make findings and recommendations to avoid – to avert similar occurrences in the future.

ADV THANDI NORMAN SC: Yes. So naturally you would then have had to come up with a method as to how you were going to go about doing the investigations. Could you just tell the Chairperson as to the method that you adopted in conducting the investigations?

MS TERESSA NONKULULEKO SINDANE: There were two limitations that we started off with. One is that the matter was already out there
10 unfolding in the public space and that is the context. And secondly we were given just a little over a week to do this whole investigation of a whole event that even if some people were aware of it we in this task team were not aware of. So to go back and establish all of that would take time we understood even as we started. So we then sat around the table and we said by the way not all of us were present at the time. Mr Dlomo was travelling so he was not in the country so he was appointed in absentia but he was due to return either that day or the following day. So what then transpired was we sat around the table and we said now that we have been appointed and now that we are
20 facing very limited time lines how are we going to deliver on this mandate? Obviously the aviation sector is quite a complicated sector and it is not a sector that we are operating in or at least we were operating in at that point in time. And there was a need therefore to get to understand the protocols associated with that as well as obviously the protocols in defence and the protocols in DIRCO. We

then realised that the team was very thin in terms of numbers as well. It just meant that you had four people to do all of this all at once in two weeks to get this work finalised. We then agreed that we will do all the work together we will sit with people together, we will talk to them together, we will prepare documents together but initially because Mr Dlomo was not around I then – I undertook that I was going to do the writing, the inviting and of all the people that we had – we would identify obviously as the process unfolded but those that were easily identified we then started writing to them. I took – and I undertook that

10 process for two reasons. One because of limited time we needed to give people a reasonable opportunity to understand why you were calling them and a reasonable opportunity for them to make themselves available and to respond and or to send statements or whatever it is that they would ultimately conclude they wanted to do. So I took that responsibility so that was a responsibility but it was not a formalised responsibility it was a responsibility that I said will do and in addition to everything else.

ADV THANDI NORMAN SC: Yes.

MS TERESSA NONKULULEKO SINDANE: That we were going to do.

20 So part of how we were going to get this investigation to get rolling there were a few things that we were going to do. We were going to do other than letter writing we were going to do interviews of identified people. We were going to talk to everyone. We were going to read all the documents, protocols and everything that would have been in place. We will talk to committees that already were set up or some kind of

investigations that were set up in different departments arising out of this landing of this Gupta chartered aircraft at the time. Once we would have been done with that we would then sit and assess how much information we still needed after talking to everybody that we would have interviewed and if we needed more information we will interview people again and again until we were satisfied that we had the information. Obviously this within the scope of the limited time that we had.

ADV THANDI NORMAN SC: Yes. Now if I may just refer you to – you
10 have a bundle that is marked Exhibit FF1 in front of you which has your statement. I would like you to just identify the report because we are going to go to how you decided to split up the investigations into certain phases. Could you turn to page – I beg your pardon.

MS TERESSA NONKULULEKO SINDANE: Sorry.

ADV THANDI NORMAN SC: No,

MS TERESSA NONKULULEKO SINDANE: I do apologise.

ADV THANDI NORMAN SC: No.

CHAIRPERSON: Well Ms Norman did we enter this into the record, this exhibit?

20 **ADV THANDI NORMAN SC:** Oh no – not yet, no, no not yet
Chairperson we have not.

CHAIRPERSON: We should have is it not?

MS TERESSA NONKULULEKO SINDANE: Yes, yes. Could you just

CHAIRPERSON: The file

ADV THANDI NORMAN SC: FF1

CHAIRPERSON: Containing Ms Nonkululeko Sindane's statement will be marked Exhibit FF1.

ADV THANDI NORMAN SC: There is Chairperson please thank you.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Then Ms Sindane if you could just take – there is a divider that is marked 2, number 2 and once you page on you will see number 5 begins with the JCPS Cluster Report.

MS TERESSA NONKULULEKO SINDANE: Okay.

ADV THANDI NORMAN SC: Could you – and then that report goes
10 right up to page – where is the last page – up to page 34.

MS TERESSA NONKULULEKO SINDANE: Sorry you

ADV THANDI NORMAN SC: Do you identify?

MS TERESSA NONKULULEKO SINDANE: You said up to page 34?

ADV THANDI NORMAN SC: 34 yes.

MS TERESSA NONKULULEKO SINDANE: Under divider 2?

ADV THANDI NORMAN SC: Yes, yes.

MS TERESSA NONKULULEKO SINDANE: The reports I have goes up
to page 30. Oh you mean your

ADV THANDI NORMAN SC: No, no, yes, yes our...

20 **MS TERESSA NONKULULEKO SINDANE:** Not the page numbering.

ADV THANDI NORMAN SC: Yes our pagination.

MS TERESSA NONKULULEKO SINDANE: Okay I know.

ADV THANDI NORMAN SC: Is that correct?

MS TERESSA NONKULULEKO SINDANE: Ja.

ADV THANDI NORMAN SC: Okay and that is the report that came out

of the investigations.

MS TERESSA NONKULULEKO SINDANE: Yes it is

ADV THANDI NORMAN SC: Thank you. Thank you I see in paragraph 2.1 of that report you deal with the phases. You decided to split the work into – you got the pre-arrival phase. You have got the arrival phase and you deal with them. Could you just tell the Chairperson how you dealt with those phases and who you interviewed?

CHAIRPERSON: Well do you – do you not want her to identify the report first?

10 **ADV THANDI NORMAN SC:** She has just identified it.

CHAIRPERSON: Before going into it.

ADV THANDI NORMAN SC: She has...

CHAIRPERSON: I did not hear that so it must..;

ADV THANDI NORMAN SC: No, yes she has just identified.

CHAIRPERSON: Ms Sindane the document that you have been referred to which appears at page 5 at the top there under 2 what is that document?

20 **MS TERESSA NONKULULEKO SINDANE:** It is the reports that was issued by the Ministers of the JCPS Cluster after being prepared by the task team.

CHAIRPERSON: Is that the product of the work of the investigation team that you were part of?

MS TERESSA NONKULULEKO SINDANE: Yes.

CHAIRPERSON: Okay thank you. I must have missed that Ms Norman.

MS TERESSA NONKULULEKO SINDANE: Yes, yes thank you Chair.

Yes.

MS TERESSA NONKULULEKO SINDANE: Sorry.

CHAIRPERSON: Then you had referred her to particular – to a particular page?

ADV THANDI NORMAN SC: Yes paragraph 2.1.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes. At page 9. You have got the pre-arrival phase.

MS TERESSA NONKULULEKO SINDANE: Okay.

10 **ADV THANDI NORMAN SC:** Could you just briefly outline what – what you looked for in trying to get facts around that phase?

MS TERESSA NONKULULEKO SINDANE: First we had to understand how the Waterkloof Air Base works and because unless we understood that we would not be able to get to whether there was any violation or otherwise. The natural reaction would have been to go to the OR Tambo airport. So to get to the Waterkloof Air Base was the first thing that we had to understand how does it work?

ADV THANDI NORMAN SC: Yes.

20 **MS TERESSA NONKULULEKO SINDANE:** So that was the pre-arrival phase. So is – if people – if any person wants to for instance apply to come to South Africa and apply to land at Waterkloof Air Base what should they comply with? So that was the first thing. Now the Waterkloof Air Base as it was then I do not know whether it still is today but as it was then its responsibility was generally to receive for instance aircraft of – of Heads of States and Deputies – Deputy Heads

of States as well as obviously defence top brass as it were. Now to then have this aircraft landing there we had to understand how that works. Thank you so much. How that unfolded. So that was the first thing. So obviously there are certain protocols that needed to be followed. And one of those protocols was obviously to announce that request and that request is done formally through a note verbal which is done from an originating country into DIRCO in our country. DIRCO is the Department of International Relations and Cooperation. So that request goes to DIRCO and then DIRCO processes it and once DIRCO
10 has processed they either say they approve or they do not approve. So we had to understand that. Secondly we had to understand how things work at the Airforce Base itself in terms of the structures. Does anyone have to be approached and if that person is to be approached who is that person, what kind of level are they in terms of seniority and what are they approached for? What should they be doing? Then the third issue was to look at – if the people are bringing something into the country as would be normally in the travelling guest what kind of customs and excise responsibilities would be imposed on Waterkloof Airbase in particular in receiving those guests? And then what kind of
20 clearances are needed and if those clearances are needed who must apply for a clearance – who must give the clearance, under what circumstances the clearance must be given? And then we also had to understand what then becomes the role of DIRCO other than just receiving a note verbal. And once DIRCO has decided that this is an appropriate visit what does DIRCO do in terms mobilising and arranging

with other departments to do? What is necessary as per the categorisation of that visit? And then obviously then looking at what – how were these guests going to be led out of the Waterkloof Air Base as it were? So those were the key things perhaps that we had to focus on but for any visit in South Africa whether it happened privately or otherwise Home Affairs plays a very significant role. So we needed to understand what role Home Affairs was expected to play, what role did they actually play in terms of identifying and discharging its role in relation specifically to the aircraft.

- 10 **ADV THANDI NORMAN SC:** Yes. Now in dealing with those phases your pre-arrival, arrival, post-arrival and exit phase you would have to rely on information that you would have gathered. So did you interview people or did you – did some of them submit affidavits? How did you go about doing that?

MS TERESSA NONKULULEKO SINDANE: We did both. We interviewed people and indeed some gave affidavits but let me start by even before getting to interviewing people. We had to read the protocols but maybe I do not know whether I am allowed to just step back a bit because...

- 20 **CHAIRPERSON:** Ja.

ADV THANDI NORMAN SC: Yes.

MS TERESSA NONKULULEKO SINDANE: Because I think...

CHAIRPERSON: Step back and...

MS TERESSA NONKULULEKO SINDANE: It does allow for some level of context to be understood in this commission. Prior to the actual

appointment of this task team there were already a number of meetings that were happening in government in National Government let me not say in government as if all government levels. But in National Government there were a number of meetings already happening no list of which was the meeting by the government communication systems GCIS to try and respond to the flurry of the enquiry – enquiries that were arising as a result of this. Secondly there were meetings that were being initiated by NICOC within the space of NICOC and NICOC is an agency under state security to deal with what had transpired. So

10 these meetings were already happening. There were also meetings of the – and these meetings would – would feed into the JCPS Cluster which I was chairing at the time. So all of this then comes into context with how did we deal with these issues? So two meetings then that I would like to focus on. One it is the meeting of communicators because that meeting almost drove the urgency and the pressure with which this thing – this investigation had to be undertaken. And of course Ministers were also meeting to try and understand what was going on at the time. Secondly the NICOC was a meeting where a whole range of people, senior government personnel in the defence

20 space in particular SAPS, Home Affairs and all of us including myself we participated in that meeting but the convener was NICOC of that meeting. And in this meeting it was really for the first time for me to understand the nature of what had happened and those meetings happened probably either on the 1st or the 2nd of – the 1st or the 2nd of May just as we were being appointed or just before we were being

appointed. So as a result of that – of these meetings a whole lot of information started flowing and we started understanding the magnitude of the problem that had just arisen and so when we then met and we were appointed that context was – was almost like a flow from the original work that had been done in these meetings or discussions that had been done in these meetings straight into what the investigation team was ultimately going to start investigating. So that was the context that I just wanted to put before you. So then to come back to your question as to how did we do this? We identified people that we

10 were going to invite to these sessions which is the discussion sessions or the interview sessions. And those people we started off with where the first discussion about the request to host this wedding started which would have been at OR Tambo therefore ACSA. So we identified to speak with the CEO of ACSA and luckily the CEO of ACSA was quite responsive. When he knew we wanted to speak to him he responded immediately so we then had a discussion with him and that discussion was telephonic. The second person and I am not going to itemise all of the people that we identified.

CHAIRPERSON: Hm.

20 **ADV THANDI NORMAN SC:** Yes.

MS TERESSA NONKULULEKO SINDANE: But the second person that we identified we needed to speak with would have been the Minister of Transports at the time. We did not invite him almost immediately but we identified him and we knew more or less what his movements were likely to be. So when we did call him ultimately he made himself

available and we literally drove to where he was and we interviewed him and that was the end of that. And we requested for a statement, he also gave us a statement subsequently just to confirm our discussions. The other people that we identified would have been obviously the Gupta family. It would have been a whole range of other people but key to those people would have been in [indistinct] Ambassador Koloane. And why Ambassador Koloane because he is an official – was – I do not know whether he still is but he was the official responsible for this kind of work where international guests land in South Africa on
10 a state visit kind of arrangement you would have had to apply and – to him and he would have had to assess and then talk to the Department of Defence accordingly.

ADV THANDI NORMAN SC: Yes. Just to take you a bit back. You mentioned that you had to invite members of the Gupta family may I just – there is a bundle – a small bundle next to you which is marked Exhibit FF8. Just – if you can just move your handbag it is just there.

CHAIRPERSON: I think it – I think it is the lever arch file on the...

ADV THANDI NORMAN SC: The lever arch file, the small one.

CHAIRPERSON: Other side of your bag. Hm.

20 **MS TERESSA NONKULULEKO SINDANE:** Sorry ...

ADV THANDI NORMAN SC: He is not educated.

MS TERESSA NONKULULEKO SINDANE: I do not know how this works.

ADV THANDI NORMAN SC: Thank you. If you could – if you could FF8 turn to page 44 please, 44. Are you there?

MS TERESSA NONKULULEKO SINDANE: Yes.

ADV THANDI NORMAN SC: Thank you. If you turn over the page, page 45 that is – is that your signature on that page?

MS TERESSA NONKULULEKO SINDANE: Yes.

ADV THANDI NORMAN SC: That appears to be a letter that you wrote to Mr T Gupta.

MS TERESSA NONKULULEKO SINDANE: Sorry I missed that.

ADV THANDI NORMAN SC: Sorry that appears to be a letter that you wrote to Mr T Gupta.

10 **MS TERESSA NONKULULEKO SINDANE:** Yes.

ADV THANDI NORMAN SC: And you asked for certain things for him – from him. Can you just briefly state what you wanted from him which appears at page 46?

MS TERESSA NONKULULEKO SINDANE: Okay. First maybe what would help

ADV THANDI NORMAN SC: Yes.

MS TERESSA NONKULULEKO SINDANE: Is to just itemise some of the things that we had requested which are contained in the letter.

ADV THANDI NORMAN SC: Yes.

20 **MS TERESSA NONKULULEKO SINDANE:** On the first page of that letter under item 2, under paragraph 2 of the letter. Because we had requested a sworn statement or an affidavit or an attestation all documents in his possession that he may have had. A written chronology of events and of course whatever else that he could have been able to give us that would have been the theme in the main.

ADV THANDI NORMAN SC: Yes.

MS TERESSA NONKULULEKO SINDANE: But then specifically going to where you are requesting me to go for the pre-arrival phase we were requesting Mr Gupta to answer the following questions.

1. In planning the wedding which government institutions urgencies and officials did they meaning the Gupta family or did he and any other member of the family approach and for what purpose and how often did you meaning them and any other member of the family approach officials.
- 10 2. Was it intended that the services that you were requesting would be paid for and then
3. Did you request the usage of the blue light in your convey escort and then
4. Did you make an approach to the Indian High Commission to assist in facilitating landing clearances at Waterkloof Air Base for your chartered aircraft Jet Airways?

ADV THANDI NORMAN SC: So this approach was sort of a standard approach to all the persons that you were interested in you would write a letter to them, some of them and then you would give them a list of
20 questions that you wanted them to answer.

MS TERESSA NONKULULEKO SINDANE: Yes.

ADV THANDI NORMAN SC: And I see at page 47 to 48 that is a response from Mr – appears to be a response from – it does not say from T Gupta but it says the Gupta family.

MS TERESSA NONKULULEKO SINDANE: Yes. But may I just

clarify?

ADV THANDI NORMAN SC: Yes.

MS TERESSA NONKULULEKO SINDANE: Not everyone who was invited to – who was identified to come and testify would have had to be written to because of the time pressures it was agreed that we could speak to the Directors General and identify people to be invited especially those that were coming from government. So I just wanted to clarify that aspect.

ADV THANDI NORMAN SC: Yes, alright.

- 10 **MS TERESSA NONKULULEKO SINDANE:** However even those – some of them we were able to write to them. Those that we had identified early but if we had not identified them early then we would speak to the DG's to facilitate. I just wanted to clarify that.

ADV THANDI NORMAN SC: Yes. Thank you. And then – sorry you can put the file away now and you go back to – you can put FF8 away and then you can go back to the main FF1, Exhibit FF1. You mentioned that – that you had to speak to Ambassador Koloane. Did you speak to Ambassador Koloane?

MS TERESSA NONKULULEKO SINDANE: Yes we did.

- 20 **ADV THANDI NORMAN SC:** How did you invite him?

MS TERESSA NONKULULEKO SINDANE: He was invited through his Director General Ambassador Matjila at the time. We had met with Ambassador Matjila in parts in the earlier meeting I spoke about.

ADV THANDI NORMAN SC: Yes.

MS TERESSA NONKULULEKO SINDANE: But we also had met with

Ambassador Matjila in the actual session because we also had questions for him as the head of department responsible for...

ADV THANDI NORMAN SC: Yes.

MS TERESSA NONKULULEKO SINDANE: Ja.

ADV THANDI NORMAN SC: And then when you meet with Ambassador Koloane did you have standard questions set for him?

MS TERESSA NONKULULEKO SINDANE: Yes.

ADV THANDI NORMAN SC: And just tell the Chairperson about that process, how did you embark on that process?

10 **MS TERESSA NONKULULEKO SINDANE:** When we – we met with Ambassador Koloane it must have been on the – I cannot remember the exact the dates but I have it in my own notes. But he was invited and the invite went to his DG and he then – we got confirmation that he was indeed going to come and indeed he did come and met with the team where we were stationed.

ADV THANDI NORMAN SC: Okay. And was that the only time you met with him on this matter or did he – did you subsequently have another meeting with him?

20 **MS TERESSA NONKULULEKO SINDANE:** We met Ambassador Koloane twice. We met him – can you give me just a few minutes to find it?

ADV THANDI NORMAN SC: Yes.

MS TERESSA NONKULULEKO SINDANE: We met Ambassador Koloane on the 1st May which would have been prior to our appointment when we were meeting as that big meeting if you recall that I said

earlier.

ADV THANDI NORMAN SC: That you mentioned. Yes.

MS TERESSA NONKULULEKO SINDANE: And so some of the information we got him – we got it from him through that process and then we – because we were all there in that meeting, but we had not formally been appointed. The second meeting was the meeting that was most important because when we requested to meet with Ambassador Koloane it then turned out that he had been suspended or on some special leave and – and so we could not meet with him almost
10 immediately.

So we met with him only on 16 May when we were final – when we were finalising the report because he – at some point he was in Durban and then he was here.

ADV THANDI NORMAN SC: Yes. Then during this process ...

CHAIRPERSON: I am sorry. So does it – does that mean that you did not have a meeting with him between the date when you were appointed as a team and a date you submitted your report to the Ministers?

MS NONKULULEKO TERESSA SINDANE: We did.

CHAIRPERSON: You did?

20 **MS NONKULULEKO TERESSA SINDANE:** Yes.

CHAIRPERSON: Oh, okay.

MS NONKULULEKO TERESSA SINDANE: Yes. Our reports were submitted on the 17th ...

CHAIRPERSON: Oh okay.

MS NONKULULEKO TERESSA SINDANE: Of May.

CHAIRPERSON: Okay.

MS NONKULULEKO TERESSA SINDANE: We met with him on the 16th

...

CHAIRPERSON: Okay.

MS NONKULULEKO TERESSA SINDANE: Of May.

CHAIRPERSON: Thank you.

MS NONKULULEKO TERESSA SINDANE: Thank you.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Then other than
interviewing people did you have any other source of information that –
10 that you obtained either from (indistinct) or from Waterkloof Air Force
Base like recordings? Did you listen to any recordings and if so what
sort of recordings were those?

MS NONKULULEKO TERESSA SINDANE: We specifically on
recordings yes we did listen to recordings. There was a recording – I
do not know whether it is standard protocol. At this point let me say
this. That if it is information that is classified because I do not know
whether it is or it is not. I do not know what the Commission is going
to do about that if I am breaching those classification rules.

I saw in the document that you – you had already requested it
20 and release ...

CHAIRPERSON: Well Ms Norman should know what the position is.

ADV THANDI NORMAN SC: Yes. No, just to highlight what recordings
and without giving us the content.

MS NONKULULEKO TERESSA SINDANE: Okay.

ADV THANDI NORMAN SC: Thank you.

MS NONKULULEKO TERESSA SINDANE: It – it was an audio recording and I could also set the context of the audio recording. It was an audio recording of telephone conversations between Ambassador Koloane and Lieutenant Colonel Anderson ...

ADV THANDI NORMAN SC: Yes.

MS NONKULULEKO TERESSA SINDANE: And Major General Ntshisi.

ADV THANDI NORMAN SC: Yes.

MS NONKULULEKO TERESSA SINDANE: Yes.

10 **ADV THANDI NORMAN SC:** So those are the recordings you listened to?

MS NONKULULEKO TERESSA SINDANE: Yes.

ADV THANDI NORMAN SC: So then - once then you were satisfied that you had made contact or at least interviewed everyone that you thought was - was necessary to interview or speak to then you about the certain – you wrote the report?

MS NONKULULEKO TERESSA SINDANE: Yes but we – the writing of the report we – as we – as we did a section we would prepare some kind of notes on the pre arrival – some kind of notes ...

ADV THANDI NORMAN SC: Yes.

20 **MS NONKULULEKO TERESSA SINDANE:** That will guide the final writing of the report. So yes after we had interviewed everyone we then finalised the – the report because you could almost say it was stage writing even though the full writing of the report would have been on the last day but the progressive write up would have been happening in that context yes.

ADV THANDI NORMAN SC: Thank you. Did you have any officials who refused to participate in that process and if – if there were can you just mention their names?

MS NONKULULEKO TERESSA SINDANE: There were no officials who refused outright. There was an arrangement with Colonel Anderson. Actually I – I do apologise. I am not very good with military titles but – so for the record I – I do not mean to be disrespectful ...

CHAIRPERSON: *Ja.*

ADV THANDI NORMAN SC: Yes.

10 **MS NONKULULEKO TERESSA SINDANE:** Of her real title but ...

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: For the purposes of my response let me call her Colonel Anderson. So for – we had made an arrangement for Colonel Anderson to talk to us. We had been to Waterkloof Air Base on the one day to understand the layout and the set up and all of that. So – however on the day that the team went to go and speak with her it may not have been the exact following day but the day that someone was – we as the team were supposed to go and speak with her.

20 She was not available on that day but she did not refuse to speak to the team as far as I am aware.

ADV THANDI NORMAN SC: Yes and do you know whether she subsequently met with any members of the team?

MS NONKULULEKO TERESSA SINDANE: Not until the report was written.

ADV THANDI NORMAN SC: Yes, thank you. And then – so you wrote the report and I see at page 33 you had recommendations and I would like you to just take the Chairperson through those recommendations and – and your conclusion.

CHAIRPERSON: Maybe before she does that – in terms of the people who you interviewed that you regarded as quite important to – to interview for purposes of your investigation - I am sure Ambassador Koloane was one of them – would you just identify those who you regarded as important. Say we did interview so and so and
10 those who you regarded as important to interview for purposes of the – of the investigation and those whose circumstances might not have permitted you to interview them but whose evidence as important that maybe submitted affidavits.

So it is not everybody that you interviewed or that submitted an affidavit that those that you regarded as important for the investigation.

MS NONKULULEKO TERESSA SINDANE: Thank you. Those who were absolutely necessary to be – to be interviewed would have first and foremost been Ambassador Koloane. It would have been the Gupta
20 family. It would have been the Minister or Ministers who were mentioned in the request and in the conversations between Ambassador Koloane and Colonel Anderson.

CHAIRPERSON: The recorded conversation? Are you referring to the recorded ...

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: Conversation?

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: Okay.

MS NONKULULEKO TERESSA SINDANE: Yes and of course information that arose from other people we interviewed who confirmed certain discussions. So – so in the main those would have been the three – it would have been the Presidency and the Presidency for two reasons. One because there was an ongoing reference of – to number one or about number one and – and so we needed to know what was
10 the story with the reference to number one.

So the rest of the people were important for us to understand as per the first aspect of the terms of reference to understand how the aircraft landed here. So those I will not go through because they are clearly set out in the report.

CHAIRPERSON: But I do – I do think that one of those who you would have regarded as important is the one who would have had the authority to grant permission for the landing at Waterkloof?

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: Yes. Who was that? Was that Ntshisi?

20 **MS NONKULULEKO TERESSA SINDANE:** Yes. Yes, I think it is Major General Ntshisi.

CHAIRPERSON: Ntshisi?

MS NONKULULEKO TERESSA SINDANE: Ntshisi, yes.

CHAIRPERSON: Yes and you did interview him?

MS NONKULULEKO TERESSA SINDANE: Yes. We did.

CHAIRPERSON: Yes, okay. Thank you.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Could you – you mentioned the Presidency that you also had to approach the Presidency. Did you actually interview the President – former President?

MS NONKULULEKO TERESSA SINDANE: No we did not. We did speak to the Director-General in the Presidency and we did say the President's name. At least number one not his name in person but number one keeps being referred to. We would like to know whether
10 there is an opportunity to have a discussion with him and as far as the DG then said is that I think the President was not around or something along those lines.

I cannot remember the exact detail but what I do remember and – and what we do say in the report is that the DG was fully aware of what the issues were and he made himself available to respond to the issues and he then gave us a written statement to that effect.

ADV THANDI NORMAN SC: Thank you and at page 33 then you ...

CHAIRPERSON: Well - I am sorry.

ADV THANDI NORMAN SC: Oh, sorry.

20 **CHAIRPERSON:** That is – that is important. You – you wanted to interview the President because his name kept on or rather reference kept on being made to number one which you were made to understand was a reference to the President. Is that right?

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: And you did convey your request to the Director-

General in the Presidency that you would like to interview the President?

MS NONKULULEKO TERESSA SINDANE: We – we conveyed what was coming out that the President's – reference to number one was -0 was coming up and we would like to understand what that was about and the DG in the President – in the Presidency was quite clear that the President does not deal with those issues. He does not grant those – those permissions and all of those things and – and as a result he as DG in the Presidency is happy to provide information which he did.

10 **CHAIRPERSON:** Hm.

MS NONKULULEKO TERESSA SINDANE: May I also ...

CHAIRPERSON: No, no. No continue.

MS NONKULULEKO TERESSA SINDANE: I do apologise.

CHAIRPERSON: Maybe what I wanted to ask is what you will deal with just now.

MS NONKULULEKO TERESSA SINDANE: Thank you.

CHAIRPERSON: Yes continue.

MS NONKULULEKO TERESSA SINDANE: Thank you so much. May I also add and perhaps be very categorical about this because it is – it is
20 – unless I clarify it – it leaves people wondering.

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: With all the people we spoke to starting with Minister Ben Martins, Ambassador Koloane who were the two people allegedly who could have spoken to the President. Both of them had said to us the President did not instruct them, give them

any insinuation that he wanted them to facilitate this and therefore to insist on having to interview the President.

Unless anyone of the two in particular perhaps I could add even the Minister of Defence at the time did not link the President to the landing of the aircraft. Where the landing - where number one comes through it is in this telephonic conversations between Ambassador Koloane and - and I am going to say between Ambassador Koloane. I would hope it is him but in the telephonic conversation ...

10 **CHAIRPERSON:** Yes.

MS NONKULULEKO TERESSA SINDANE: Between Ambassador Koloane and - and Colonel - Lieutenant Colonel Anderson.

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: As well Lieutenant Colonel Anderson and Major General Ntshisi, yes.

CHAIRPERSON: I guess the - the point you - the last point you were adding was that although you may have wished to interview the President the fact that Ambassador Koloane and Minister Ben Martins at the time all insisted that the President had not given them any
20 instructions persuaded you not to insist?

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: That - that is the point you want to make?

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: Okay.

MS NONKULULEKO TERESSA SINDANE: That is the point I am

making, thank you.

CHAIRPERSON: Okay; but in terms of what the Director-General in the Presidency said - (coughing) – are – are you okay?

MS NONKULULEKO TERESSA SINDANE: (Coughing) – I will be. I do apologise.

CHAIRPERSON: Okay, okay. Okay, you must just tell – tell me if you want – you must tell me if you want us to adjourn ...

MS NONKULULEKO TERESSA SINDANE: No.

CHAIRPERSON: For a few minutes. Okay.

10 **MS NONKULULEKO TERESSA SINDANE:** I will be fine. Thank you.

CHAIRPERSON: Okay, alright. Just repeat what the DG in the Presidency said. You did say it. I just want to understand it again.

MS NONKULULEKO TERESSA SINDANE: Thank you. The DG in the Presidency said – let me – let me step back a bit.

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: When we approached the DG in the Presidency we said one of the things that keeps coming up is number one. We take it because it is generally understood that number one is the President. So we would like to know whether the President
20 has any responsibilities around the landing of the aircraft because I do not want this thing to be under – to be misunderstood as if we were saying – we were asking whether the President authorised the landing of the aircraft.

Our question was whether the President has any responsibilities in law or otherwise to authorise the landing of the

aircraft whether it is the Gupta aircraft or any other aircraft in the Waterkloof Air Base. So – so that was the context of our question, thank you.

CHAIRPERSON: Well that distinction may be significant because you were not asking whether at a factual level the President had said anything to anybody or instructed anybody authorised anybody with or without powers to do so to do anything. You were asking simply whether in terms of legislation or prescripts there is responsibility on the President with regard to the authorisation of the landing of the
10 aircraft.

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: *Ja.* That is – that is an important distinction.

MS NONKULULEKO TERESSA SINDANE: Absolutely.

CHAIRPERSON: Thank you.

MS NONKULULEKO TERESSA SINDANE: Absolutely.

ADV THANDI NORMAN SC: Thank you and you say the DG submitted a statement. Did he submit an affidavit or just a statement?

MS NONKULULEKO TERESSA SINDANE: This is the part where my memory fails with me whether it was a – an affidavit or a statement but
20 he did submit a document in writing. I have – it is – it was in 2013 so I cannot recall everything but I am sure that information is available in state security and – and we can check that.

ADV THANDI NORMAN SC: Thank you.

MS NONKULULEKO TERESSA SINDANE:

CHAIRPERSON: So just to clarify the point we have just dealt with.

So you did not ask the DG to establish whether the President had had any discussions with the people mentioned in – well with anybody who may have referred to number on in the conversation or whatever? That you did not ask?

MS NONKULULEKO TERESSA SINDANE: No. We ...

CHAIRPERSON: About the (intervenes)?

MS NONKULULEKO TERESSA SINDANE: We did not ask that question ...

CHAIRPERSON: Yes.

10 **MS NONKULULEKO TERESSA SINDANE:** And let me – let me go further and – and give the reasons why we did not ask that question.

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: We did not ask that question because we ought to have been led ...

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: To the President directly ...

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: By someone.

CHAIRPERSON: Hm.

20 **MS NONKULULEKO TERESSA SINDANE:** Not by people who are talking about ...

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: But people who - we ought to have been led by as I indicated previously if Ambassador Koloane had said I was instructed by the President that would have led us ...

CHAIRPERSON: Then you would have, yes.

MS NONKULULEKO TERESSA SINDANE: To the President.

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: If Minister Martins had said I was instructed by the President ...

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: That would have led us ...

CHAIRPERSON: Then you would have, yes.

MS NONKULULEKO TERESSA SINDANE: To the President.

10 **CHAIRPERSON:** Yes.

MS NONKULULEKO TERESSA SINDANE: So our view was what – what is the basis of us going to ask ...

CHAIRPERSON: Yes, yes

MS NONKULULEKO TERESSA SINDANE: The President on the basis of people who are just talking ...

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: Between themselves.

CHAIRPERSON: Hm, hm.

MS NONKULULEKO TERESSA SINDANE: Telephonically saying ...

20 **CHAIRPERSON:** Hm.

MS NONKULULEKO TERESSA SINDANE: The President – number one knows, number one instructed, number one has no problem. That is not – I mean it is like listening to gossip somewhere and then going and asking someone who has been gossiped about.

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: So that was the context of ...

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: Of the approach we took to say ...

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: Let us look at officially what could the President do to sanction or authorise the landing. If he has those powers perhaps we would have then spoken to him and said in
10 discharging your powers Mr President ...

CHAIRPERSON: Hm.

MS NONKULULEKO TERESSA SINDANE: How did you do it but we did not get to that level of inquiry because it – the point of the discussion ended before we got to that level of inquiry.

CHAIRPERSON: Were you at any stage during the investigation aware of any contradictory statements with regard to anyone of the people who may have referred to number one in some other document or statement without disclosing what that source is or are you not aware of anything like that? Were there was one version and there was
20 another and by the same person.

I am not able to speak more freely because you – you – *ja* because some of the things I do not know if they – what there status is.

MS NONKULULEKO TERESSA SINDANE: Okay. I am going to ...

CHAIRPERSON: It is – it is difficult.

MS NONKULULEKO TERESSA SINDANE: I am going to assume that I

understand the question and therefore be able to ...

CHAIRPERSON: *Ja.*

MS NONKULULEKO TERESSA SINDANE: To answer.

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: So forgive me if I do not (intervenes).

CHAIRPERSON: *Ja*, no, no I understand that it might not be clear, *ja*.

MS NONKULULEKO TERESSA SINDANE: Yes. I would request that ...

CHAIRPERSON: *Ja.*

10 **MS NONKULULEKO TERESSA SINDANE:** It be asked again.

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: But on – on the ...

CHAIRPERSON: Or maybe – or maybe this might help. Any of the important witnesses – important people who you identified as important in your investigation were – were there any of those who may be made conflicting statements? Not all in writing maybe. One in writing and maybe another not really in writing?

MS NONKULULEKO TERESSA SINDANE: Okay. I - conflicting maybe would be taking it too far.

20 **CHAIRPERSON:** Maybe inconsistent rather than conflicting?

MS NONKULULEKO TERESSA SINDANE: Yes maybe a variation.

CHAIRPERSON: Or not completely, *ja* variation yes.

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: Variation of facts yes.

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: There were definitely a variation of facts ...

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: From time to time and I – I will wish to articulate those variations.

CHAIRPERSON: I think we – I think we understand each other.

MS NONKULULEKO TERESSA SINDANE: Alright.

CHAIRPERSON: *Ja*, okay. Yes.

10 **MS NONKULULEKO TERESSA SINDANE:** Thank you very much. I would wish to – to try and articulate those variations of what would otherwise be statement of facts. This wording part – I do not know whether wording is a party but anyway – this wording part originally in February when the first encounter with South Africa happened it was a wedding.

Where the variation of facts start from this thing being a wedding to this thing being a delegation to this thing being likely to be attended – not likely - will be attended by four Heads of State and then later by Senior Ministers and Government and then later it is – it is a
20 delegation as opposed to a wedding. So – so this thing was very woolly in – in its real nature.

So – so if – if that is the question yes indeed. We did encounter that and – and that was encountered whether through formal discussions with Ambassador Koloane or through listening to the recordings or through talking to other people we interviewed at the

Waterkloof Air Base or – but in particular through listening to those recordings absolutely yes.

CHAIRPERSON: Okay. No thank you.

MS NONKULULEKO TERESSA SINDANE: Thank you.

CHAIRPERSON: I think we understood each other.

MS NONKULULEKO TERESSA SINDANE: Okay.

CHAIRPERSON: Thank you. You may proceed.

ADV THANDI NORMAN SC: Thank - thank you Mr Chairman. Maybe because you have just mentioned something which just alerted me to what you mentioned in consultation are you aware that there were
10 Ministers who were invited to the wedding?

MS NONKULULEKO TERESSA SINDANE: Yes I am aware.

ADV THANDI NORMAN SC: Yes and (intervenes).

MS NONKULULEKO TERESSA SINDANE: You mean South African Ministers?

ADV THANDI NORMAN SC: South African Ministers.

MS NONKULULEKO TERESSA SINDANE: Yes.

ADV THANDI NORMAN SC: Yes.

MS NONKULULEKO TERESSA SINDANE: Yes I am aware.

20 **ADV THANDI NORMAN SC**: Could you just tell the Chairperson as to whether you know that there was any decision because Mr Ben Martins mentioned that it was decided that the Ministers were discouraged actually to – from attending the wedding. Are you aware of that meeting and how it happened that there was such a meeting and a decision taken in that regard?

MS NONKULULEKO TERESSA SINDANE: It would have been either on 1 May – excuse me – or on the – actually I think it was on 1 May. If I am mistaken about that I – I apologise but the 1st or 2 May. The meeting that I referred to earlier when I started the NICOC Meeting ...

ADV THANDI NORMAN SC: Yes.

MS NONKULULEKO TERESSA SINDANE: Where all of us attended. This meeting was a NICOC Meeting but was attended by all JCPS Cluster Departments and for the purposes of this session let me just – I am not going to itemise all the JCPS Cluster Departments ...

10 **CHAIRPERSON:** Yes.

MS NONKULULEKO TERESSA SINDANE: But I am going to itemise a few that are directly relevant. In the JCPS Cluster – I will come back to the question ...

ADV THANDI NORMAN SC: Yes.

MS NONKULULEKO TERESSA SINDANE: If you do not mind.

ADV THANDI NORMAN SC: No.

20 **MS NONKULULEKO TERESSA SINDANE:** In the JCPS Cluster is the Department of Justice. It is the Department of State Security. It is the Department of Defence, Police, Home Affairs, DIRCO and then – oh and SARS – specifically SARS and then there are many others that play a supportive role. So the Ministers of the JCPS Cluster would – would talk regularly on issues of security and therefore the DGs will talk regularly but the core line function is that of – of state security which is – which is delivered under NICOC.

Now in terms of that NICOC would have convened this

meeting as their line function as responsible for state security and – but in inviting this meeting they then extended it to members of the JCPS Clusters – Cluster which is why I was there present in that meeting. In the meeting many things were discussed. In fact if you do not mind I want to just try and get to it. So now I must go to your own referencing for the purposes of your document.

CHAIRPERSON: If you tell her what you are looking for she might assist you.

MS NONKULULEKO TERESSA SINDANE: I am almost there.

10 **ADV THANDI NORMAN SC:** Yes.

MS NONKULULEKO TERESSA SINDANE: DCJ. On page 17 – no on page 21 of your reference.

ADV THANDI NORMAN SC: Oh, okay. That is EXHIBIT 1 – FF1.

MS NONKULULEKO TERESSA SINDANE: Yes.

ADV THANDI NORMAN SC: Yes.

MS NONKULULEKO TERESSA SINDANE: Is it 21? Just bear with me.

ADV THANDI NORMAN SC: Okay.

MS NONKULULEKO TERESSA SINDANE: Almost there. Okay. It is on NS20.

20 **ADV THANDI NORMAN SC:** Alright, page 20.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes, thank you.

MS NONKULULEKO TERESSA SINDANE: Okay. So on NS20 these were the decisions that were taken by the – by that meeting that broad meeting. It was – it was quite a big meeting. That the

Directors-General should advise their Ministers against attending this wedding in Sun City. It was almost common cause that most Ministers – I – I would not say all of them but most Ministers and in particular most Senior Ministers had been invited to this wedding.

So we – the conclusions of that meeting was to encourage Ministers not to attend the wedding especially given the environment that had just unfolded.

ADV THANDI NORMAN SC: Okay.

MS NONKULULEKO TERESSA SINDANE: Yes.

10 **ADV THANDI NORMAN SC:** Thank you.

MS NONKULULEKO TERESSA SINDANE: There were many other decisions that were taken at that meeting and I do not know whether you would wish me to deal with all of them or you wanted just that one.

ADV THANDI NORMAN SC: No I wanted just that one because it is relevant to – to what we are dealing with. Could you then turn to the page where having gathered now all the facts and the information, having drafted the report then you reached a point where you said now we can make recommendations and could you just take us through those and that would be on ...?

20 **CHAIRPERSON:** Do you not want her to deal with the findings they made before the recommendations?

ADV THANDI NORMAN SC: Oh, beg your pardon. Yes at page 28 – page 28 the findings. Could you just deal with those? Thank you. Paragraph 4.

MS NONKULULEKO TERESSA SINDANE: Okay.

CHAIRPERSON: You – you ...

ADV THANDI NORMAN SC: You could just summarise.

CHAIRPERSON: You do not need to read all of this or to mention all of them because the report is there ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: We are able to read it but you can highlight those findings that you believe are important among the findings that you made.

MS NONKULULEKO TERESSA SINDANE: Okay. Thank you. The
10 findings that we made were as follows: of course the airports company was correct in not yielding to the request of the Gupta family.

That if and when the Gupta realised that going through a relationship issue in other words going and talking to the Minister and saying number one knows it and those kinds of things did not work they then opted to use a formal process which would have required a note verbal and all of that and we found that there was no formal note verbal and it is confirmed and it was confirmed at the time by the people who would have otherwise have dealt with the note verbal if they had received it. That there was no note verbal that was received. So that was the first
20 finding that we made.

CHAIRPERSON: Again, again just on the note verbal. I think you did say and other witnesses said I think yesterday that was a requirement that had to be received. It had to be received by Waterkloof from Derco or Department of Defence from Derco?

MS NONKULULEKO SINDANE: No. A note verbal would have been

initiated by a requesting country.

CHAIRPERSON: Oh yes to Derco?

MS NONKULULEKO SINDANE: In this particular case it would have been India.

CHAIRPERSON: Yes.

MS NONKULULEKO SINDANE: Requesting South Africa to allow the delegation landing.

CHAIRPERSON: Yes.

MS NONKULULEKO SINDANE: Generally a note verbal would not be
10 for private matters.

CHAIRPERSON: Yes.

MS NONKULULEKO SINDANE: It would be for public.

CHAIRPERSON: State.

MS NONKULULEKO SINDANE: Or official if I may call it that official trips or arrangements.

CHAIRPERSON: Yes.

MS NONKULULEKO SINDANE: And therefore if that, if this was regarded as a formal official State visit, it would have required a note verbal.

20 **CHAIRPERSON**: Oh that would come from the foreign government, India in this case.

MS NONKULULEKO SINDANE: Into Derco.

CHAIRPERSON: And it would be directed to Derco?

MS NONKULULEKO SINDANE: Yes.

CHAIRPERSON: Okay, okay. Thank you.

MS NONKULULEKO SINDANE: Alright, yes.

CHAIRPERSON: So that was not there? That was one of your findings?

MS NONKULULEKO SINDANE: Yes, definitely it wasn't there and it even the India High Commission confirmed that it was not done. They said it was an oversight.

CHAIRPERSON: Did you? No, you were still going to deal with other findings that you regard as important. Did you get to understand about how long before the arrival of an aircraft that will be caring Head of State or Deputy Head of State, would note verbal be sent? Did you get
10 an idea what the practice is? I would have imagined that it should come quite well in advance normally.

MS NONKULULEKO SINDANE: I am not responding from this investigation necessarily.

CHAIRPERSON: Yes.

MS NONKULULEKO SINDANE: But when a country is invited or a request is being made to the country for something to happen, is given quite in advance.

CHAIRPERSON: Yes.

MS NONKULULEKO SINDANE: And so, and these are not the timelines
20 from the protocols. I cannot recall what the timelines were.

CHAIRPERSON: Yes.

MS NONKULULEKO SINDANE: But I would imagine it would be a period longer than three months.

CHAIRPERSON: Yes, yes. Yes, and I would imagine that somebody at Derco who normally deals with that if he was made to understand or

she was made to understand that there was a State visit, that must be the first thing he or she would be looking for before doing anything else.

MS NONKULULEKO SINDANE: Absolutely.

CHAIRPERSON: Yes, thank you.

MS NONKULULEKO SINDANE: Absolutely.

ADV THANDI NORMAN SC: Thank you.

MS NONKULULEKO SINDANE: So that would have been the first issue that we found. The second, we went through the approval processes as
10 I had indicated the protocols and all of that. In no area in the relevant protocols defined space for Ministers to approve or sanction the landing of an aircraft. It's purely a formal process that is undertaken by officials to allow for the landing of the aircraft because they would have looked at what is required for the aircraft; I mean what is required for a delegation and then they will give the necessary approval and that responsibility fell under the portfolio whose owner was at that time Ambassador Ramfolo, sorry Ambassador Kholoane.

CHAIRPERSON: Yes.

MS NONKULULEKO SINDANE: The third issue was obviously, the
20 correct clearances only in so far as the military base we found clearances but I don't want these clearances to be confused with the foreign operator's permits because the foreign operator's permit was not there but the foreign operators permit would have applied if this aircraft would have landed at OR Tambo. In the Waterkloof airbase what was relevant would have been the approvals that Major General Ntshisi

would have had to sign off and then the aircraft would be able to land. Obviously he wouldn't do that out of context. He would receive information from Derco. He would use that information to then approve the landing and from our investigations and our discussions with Major General Ntshisi what we discovered was that he was quite a prudent person. He asked several questions that were relevant as to why is the wording party. We are not allowed to make the wording party land here and this is an official business and I mean this is an area where only official business of government and official delegations of government
10 would land and many other things that he said. So we found him to be very robust in how ultimately discharges use responsibility but I guess with the persuasion from, I don't know whether I would say he seniors or otherwise he ultimately granted the necessary clearances.

CHAIRPERSON: Okay.

MS NONKULULEKO SINDANE: We also found that not only was the aircraft that landed was given permission to land but there were other supporting aircraft, the fixed wings and helicopters that were also allowed to land at the airbase. And which would ordinarily not be normal but it was done.

20 **ADV THANDI NORMAN SC**: Excuse me Mr Chairman, I see the time is quarter past.

CHAIRPERSON: Yes, I was also looking but maybe let her finish the important; mentioning the important findings and then we will take the tea break.

ADV THANDI NORMAN SC: As Chair pleases. Thank you.

CHAIRPERSON: Yes, continue.

ADV THANDI NORMAN SC: Yes, thank you.

MS NONKULULEKO SINDANE: I am not going to cover all of them.

Then in that case but.

CHAIRPERSON: Yes, only those that you think are important to articulate. Otherwise we have got the report.

MS NONKULULEKO SINDANE: Okay.

CHAIRPERSON: Those that you think are important to articulate.

MS NONKULULEKO SINDANE: Alright.

10 **CHAIRPERSON**: Still free to articulate them.

MS NONKULULEKO SINDANE: Okay. Perhaps the other finding that you will not see in the reports it's because at the time it was felt that it would be sensitive because it would impact on diplomatic relations and that would have been the role that was played by the High Commission, the Indian High Commission. I wish not to speak at length because I'm not advised on how I deal with those issues here.

CHAIRPERSON: Okay, hm.

MS NONKULULEKO SINDANE: Only, the only thing I would like to say is that we did find that some of the actions of the High Commission
20 were consistent with the willingness of how this trip or wording party was defined from time to time depending on the circumstances. Thank you.

CHAIRPERSON: I will put this question and you can indicate whether you feel comfortable to respond to it. Did the picture that emerged from your investigation suggests that either the High Commissioner or

somebody or some people within that office may have facilitated the, or may have done things not in the way that was expected of them in regard to the process for that ended up in the landing of this aircraft at Waterkloof? You can indicate if the question is one that you would rather deal with after getting advised

MS NONKULULEKO SINDANE: Okay. To the extent that this was a wording, pure wording. The diplomatic pleasantries that were being requested were not consistent.

CHAIRPERSON: Hm.

10 **MS NONKULULEKO SINDANE:** With what would ordinarily be requested.

CHAIRPERSON: Okay.

MS NONKULULEKO SINDANE: If I may leave it at that.

CHAIRPERSON: Okay, no thank you. Thank you.

ADV THANDI NORMAN SC: Thank you. Maybe you might want to highlight what you found in paragraph 4.8 at page 29.

20 **MS NONKULULEKO SINDANE:** We found that Ambassador Kholoane and Lieutenant Colonel Anderson in facilitating this landing ignored the whole range of things that they knew needed to exist before this landing was permissible. We found that. And we also found that they were aware maybe not so much Anderson as much as Ambassador Kholoane and I will clarify briefly. The fact that this was so hooley being a delegation and, and, and is one classical example that tells us that there was something amiss in this whole process. Secondly, in the recordings that we had access to the conversations between the two

and the conversations between Anderson and Ntshisi clearly indicate what ought to have happened in terms of what kind of landing; what kind of permission would have had to be given. No, no retract. Would permission have been given if this was just a pure wording? The answer is no and Ntshisi makes it very clear that the answer is no. And therefore, and they knew it. Which is why they would then gravitate from VVIP; there are Ministers, there are Presidents and all of those things. So there was serious knowledge of what was going on. What I certainly personally can't say with sufficient confidence because I
10 didn't speak to Colonel Anderson, would be whether this relationship of common knowledge was equal between the two parties. That I can't say.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Is the position that the team or yourself were quite clear that for example in the case of Ambassador Kholoane he knew exactly what the nature, true nature of this trip was but misrepresented to other people what it was. Was that either one of the findings you made or if you didn't make was that a view you came to quite clearly?

MS NONKULULEKO SINDANE: Absolutely.

20 **CHAIRPERSON**: Okay, thank you.

ADV THANDI NORMAN SC: Thank you. You might also want to refer to paragraph 4.13 at page 30.

MS NONKULULEKO SINDANE: Sorry four point?

ADV THANDI NORMAN SC: 4.13, four point 13 at page 30.

MS NONKULULEKO SINDANE: Yes.

ADV THANDI NORMAN SC: Yes.

MS NONKULULEKO SINDANE: Yes.

ADV THANDI NORMAN SC: Yes, could you just tell the chairperson; summarize what you found there in that paragraph.

MS NONKULULEKO SINDANE: So what we found was that obviously the Chief of State protocol was working very closely with Colonel Anderson, Lieutenant Colonel Anderson in facilitating this. And in calling Major General or Sergeant General; Sergeant Major Ntshisi to get the necessary approvals done basically. So what we found was the
10 really did more than what they were required to do to ensure that this landing happened. Almost going so far as ignoring the rules that and the protocols that are put there for this thing to happen.

ADV THANDI NORMAN SC: Yes. And you also found in 4.15 that there was somewhat abuse of higher office.

MS NONKULULEKO SINDANE: Yes, there was as I indicated earlier that there were references to the presi – well number one let me not say the president. Number one, number one, number one. And we say this was abuse because at least not so much for Anderson but at least for Ambassador Kholoane. We interviewed him and he denied having
20 been instructed but, by number one.

CHAIRPERSON: Was Colonel Anderson male or was female?

MS NONKULULEKO SINDANE: Female.

CHAIRPERSON: Oh okay.

MS NONKULULEKO SINDANE: Female.

CHAIRPERSON: Oh you say, you interviewed Ambassador Kholoane?

MS NONKULULEKO SINDANE: Yes.

CHAIRPERSON: And he denied?

MS NONKULULEKO SINDANE: Having been instructed.

CHAIRPERSON: By?

MS NONKULULEKO SINDANE: By the president.

CHAIRPERSON: Hm.

MS NONKULULEKO SINDANE: Yes.

CHAIRPERSON: Hm.

MS NONKULULEKO SINDANE: Sorry I lost the question.

10 **ADV THANDI NORMAN SC:** You were dealing with the abuse of higher office.

CHAIRPERSON: Yes, yes.

MS NONKULULEKO SINDANE: So, yes thank you very much. So what we found was that this reference to number one knows the Minister is okay with it meaning the Minister of Defence is okay with it, the Minister of Transport has been instructed by number one, excuse me. When we interviewed the Minister of Transport and through his own statement he clearly said number one did not instruct. When we interviewed unfortunately, Minister Mapisa Nqakula at that time was not
20 available but her advisor Mr Rama – oh I can't remember what his name was.

ADV THANDI NORMAN SC: Ramakgoba

MS NONKULULEKO SINDANE: Yes. He was very forthcoming with information and participated fully and give us all the information and we were satisfied that Minister Mapisa Nqakula who was the Minister of

Defence at that time did not authorize this landing; did not want anything to do with it and as a result this assertion that they were okay with it was not true. So they were using the power of the office of the Minister to say the Minister is okay so that this thing can happen so that the junior officials can make it happen. The Minister of transport has been instructed by the President so that the junior officials can kind of get a picture that there was activity high up the letter and therefore they needed to do something. And so we felt that was abusing the position almost the positions of power of these people that I have
10 identified. At least specifically in relation to the three; Minister Mapisa Nqakula. Minister Ben Martins and the President. Thank you.

CHAIRPERSON: And your understanding was that the statements that number one or the President knew this or had given instructions and that Minister Mapisa Nqakula had authorized this, you concluded; did you conclude that they were made by somebody who knew that that was not the case?

MS NONKULULEKO SINDANE: Absolutely.

CHAIRPERSON: Yes, okay.

MS NONKULULEKO SINDANE: Yes.

20 **ADV THANDI NORMAN SC**: Thank you, chair. And then you make, we made a finding, sorry again at paragraph 4.22. I would like to make reference to that please. That is at page 32.

MS NONKULULEKO SINDANE: You said four?

ADV THANDI NORMAN SC: 4.22.

MS NONKULULEKO SINDANE: Hm.

ADV THANDI NORMAN SC: Yes, could you just highlight that because it is relevant for our purposes?

MS NONKULULEKO SINDANE: Okay. I had indicated earlier that there are a number of paragraphs that had been there other than the main commercial aircraft and none of these aircrafts were funded by SAND and SABS as far as we could find in the information that we were given but they were definitely there at the Waterkloof airbase.

ADV THANDI NORMAN SC: Yes. And you say that they were funded by the Gupta family?

10 **MS NONKULULEKO SINDANE:** Yes.

ADV THANDI NORMAN SC: In that funding?

MS NONKULULEKO SINDANE: Yes.

ADV THANDI NORMAN SC: And then you also deal with the BMWs that were used in the convoy.

MS NONKULULEKO SINDANE: Yes.

ADV THANDI NORMAN SC: Yes, what do you say about them there?

MS NONKULULEKO SINDANE: They were, all the vehicles other than of course the police vehicles that would have gone through the normal joints operation, all the vehicles were funded; were privately funded by
20 the Gupta family.

ADV THANDI NORMAN SC: Okay.

MS NONKULULEKO SINDANE: Right.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: I see also in page 33 paragraph 4.24 that you made this funding, that it was commendable notwithstanding the manipulation

by a few public servants in the affected government departments and structures raised concerns without fear, favour or prejudice. Some of them repeatedly as to what was transpiring. However, their concerns were neither addressed nor acted upon by those in positions of authority over them bent on manipulating the system. You confirm that is one of your findings?

MS NONKULULEKO SINDANE: Yes, and it is in the context that I had indicated where in particular Ntshisi, again I can't remember the title.

CHAIRPERSON: Yes, Ntshisi, ja.

10 **MS NONKULULEKO SINDANE:** Yes, had said we are not allowed to do this. The rules do not allow us to do this and the responses and this is true the recorded conversation, the audio conversation that he was told he doesn't matter the reason. If Derco approves we can do it. Now a Department of Defence as far as I understand having worked for government has its own protocols and the Department of Derco has its own protocols. So you have to first stick with it your own protocols.

CHAIRPERSON: Yes.

MS NONKULULEKO SINDANE: Before you can take instructions from an external department even if the working relationship is tight. First
20 you are guided by your own protocols first and foremost.

CHAIRPERSON: Yes, thank you. Then if those are the important findings but I don't know if you have any then we can take a break and then when we come back then she can deal with recommendations and any other matters that she might consider important.

ADV THANDI NORMAN SC: Thank you Mr Chairman.

CHAIRPERSON: But on findings is there anything you still?

ADV THANDI NORMAN SC: No, no I think she has highlighted most, all of those that are quite critical.

CHAIRPERSON: Ms Sindane, on findings done in terms of the important ones you wanted to, you would like to highlight? If there is any that you haven't, you can just you can mention it or we can start with it when we come back from tea.

MS NONKULULEKO SINDANE: Yes, I think I'm done.

CHAIRPERSON: Okay. We will take the tea adjournment and we will
10 resume at 11:45. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let's proceed.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Ms Sindane could you then deal with the recommendations at page 33.

MS NONKULULEKO TERESSA SINDANE: Thank you very much. The first recommendation was that ...(intervention)

CHAIRPERSON: I'm sorry before you start on the recommendations; it is quite clear from what you have said and from the report that
20 whatever process or procedure was applied to try and legitimise the landing of this aircraft, those processes were not applicable to it and it should never have been authorised, is that correct?

MS NONKULULEKO TERESSA SINDANE: Yes that was our finding.

CHAIRPERSON: Yes because it did not meet the requirements for an aircraft to qualify to land at Waterkloof.

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: Okay, yes you can then deal with the recommendations

ADV THANDI NORMAN SC: Thank you.

MS NONKULULEKO TERESSA SINDANE: Okay because there were many investigations that were happening concurrently, we recommended that those investigations be finalised soonest and that action be taken against any and all of the people who may have contravened with the legislation, internal protocols and all of that in
10 relation to this landing and if there were any matters of a criminal nature that those also be dealt with. On the issue of the Waterkloof air base, it being a national key point, I mean it had been in the media a lot at that point where people were thinking that the Waterkloof is a national key point at that time, it was not. I think it is still not a national key point but it's a strategic defence installation and because of that, we recommended that it stay as such because it plays a very specific role for the Defence Department but it also plays a very specific role for the heads of state and we recommended that it be kept as such and then this might sound like a very light recommendation, 5.3 and may I
20 spend just a minute or two on it. We recommended here that the public service must do something to deal with this issue of name dropping because it is dangerous for government and for the country we were in this embarrassing situation precisely because people use people's names, titles to achieve objectives that would otherwise not be possible to achieve if it is not because of the – not because of the name that is

being used. In this particular case we were specific, we were referring to the use of the name of Minister Ben Martins as being okay with this, the use of the name of the Minister of Defence being okay with this, the use of number one knowing about this because – and this I need to explain. In the public sector and in particular government, people use Minister's names, DG's names a lot and a lot of damage happens and if this is not attended to, it may sound, for an ordinary person who is not in government may not understand the implications but for – there were people who did something wrong because they genuinely believed that

10 either number one was okay with this either the Ministers were okay with this and they acted, genuinely believing that to be true. Now this does not end here in this investigation it may come up in other investigations because these things happened all the time in government and that is why we were recommending – and we felt if it's not addressed it will continue and ultimately we will be embarrassed as a country and so that was the third...(intervention).

CHAIRPERSON: Well let's talk about that just a little bit. When I read that recommendation I wasn't sure whether labelling this conduct as what happened here seemed to have happened here in terms of the

20 evidence that was presented to you was name dropping in the – was name dropping in the sense at least in which I understand name dropping, you know. The impression I get when I read your report, and I think that also comes through in your evidence is that certain people who knew what the true facts were deliberately misrepresented facts. Now I'm not sure that that's name dropping, maybe it is, my

understanding of name dropping is something along these lines but I can't say it's the only case of name dropping is that if I talk to you, maybe I need something, I just find a way of making sure that you know that I know so and so and maybe we are close, that I know, if you know – I know that person and we are close that might change your view as to my request or the way you will look at me is going to be different from the way you were looking at me before you knew of my relationship with so and so. Now maybe it does fall within but as I understand here, somebody, from your evidence, I think it's - you have

10 made it quite clear that on the – your investigations revealed that Ambassador Koloane at least on his version, that he told you, he had said, as I understand, he had said that number one knew about this, he had said that number one had instructed Minister Ben Martins, he had said Minister Mapisa-Nqakula authorised or something to that effect but what emerged is that he knew, at least what he told to you was that, that was not the case. So if he accepted that he had made those statements and then he then said to you, I actually wasn't telling the truth in saying that number one knew about it and that number one had instructed Minister Ben Martins and whatever else, then it would seem

20 to have been a deliberate misrepresentation of facts which under the public service ought to and can be dealt with in terms of discipline in a serious way. So I'm just mentioning this, I don't know whether you would say, it's still name dropping or – maybe what you were sensing when you say people might think it's a minor recommendation, maybe it reflects what, the impression I also got that it's name dropping but I am

saying it's misrepresentation of facts knowing that you are misrepresenting them and using the names of people in high authority in that situation where you know you shouldn't be doing that. That was my impression, so I don't know if you have got any comments but as I say it may be that it is name dropping, yes.

MS NONKULULEKO TERESSA SINDANE: Okay thank you very much, I think the Chairs reading is correct but I think I would like to add the reading – your interpretation absolutely honourable Judge, Deputy Chief Justice, is quite correct what first there must be facts to be
10 misrepresented, in this particular case the facts are not borne out by any of the evidence we found, in other words there were no facts whether the number one knew about this or at least sanctioned it or instructed anybody, there were no facts neither were there facts that Minister of Defence was okay with this, neither were facts whether the then Minister of Transport had been instructed. So you can't even misrepresent that because there were no facts as a starting point but I agree...(intervention).

CHAIRPERSON: Well look at it this way from the point of view from Ambassador Koloane, from what he told you and from what emerged
20 from the evidence, he did not know and was not aware of any fact that number one had instructed Minister Ben Martins in regard to this issue and he did not know that Minister Mapisa-Nqakula had authorised this landing, at least from what emerged in your investigation. Nevertheless, he misrepresented his knowledge, he represented that he knew that these facts existed, you understand?

MS NONKULULEKO TERESSA SINDANE: I agree.

CHAIRPERSON: Ja okay.

MS NONKULULEKO TERESSA SINDANE: I agree let me therefore go back to name dropping I think the summation as presented from the Chair is a correct one in terms of name dropping but we were saying something probably we were poorer for words, but this is what we meant.

CHAIRPERSON: But also you had to do all of this in a very short time.

MS NONKULULEKO TERESSA SINDANE: Yes.

10 **CHAIRPERSON:** And I take it you were still having your other normal responsibilities as DG's of various departments.

MS NONKULULEKO TERESSA SINDANE: Yes, so – yes I agree but I just want to clarify this, because it is true that certain officials at a particular level will act in a particular way if you say either the Minister is aware or the Minister desires this or that and this is what we are saying. Perhaps it may not be an accurate formulation that we chose at the time but this is what we were communicating, we were communicating then and we are communicating through these reports as a public document, that if this is not addressed, where people can
20 just use people's names, because sometimes they use your name and you end up in trouble because – let me use a particular example. If someone, and I was a DG at the time, went to another and said the DG said appoint somebody, a junior official, if there was an interview process would think that I want that person appointed and so sometimes you can be in trouble for things you had nothing to do with

and that is very common and that's the point we were making. That if it is not addressed, it puts people in trouble, it makes innocent people act wrongly simply because they believe authority wants this – these things to be done and that's the context of that recommendation we were making, thank you.

CHAIRPERSON: I understand that but you – I take it that you may have wanted something specific because it's not as if, people who do that can't be dealt with in terms of what exists because if you are DG and some director goes to somebody at the Department and says, the
10 DG said this is what must be done, when you didn't say that, that's a false statement and if that person knows that you didn't say that, it's dishonesty, there are ways of dealing with that.

MS NONKULULEKO TERESSA SINDANE: Agreed.

CHAIRPERSON: So I take it that you might have wanted something specific to name dropping but not because this kind of conduct cannot be dealt with within the existing framework.

MS NONKULULEKO TERESSA SINDANE: I agree.

CHAIRPERSON: Okay thank you.

ADV THANDI NORMAN SC: Thank you, and maybe is that – just
20 following up on the Chair's last question, is that the reason why you recommended, in addition, if we just deal with that page 34 as to how you wanted this whole issue of name dropping – how you wanted it to be dealt with. The sentence begins with, "in addition".

MS NONKULULEKO TERESSA SINDANE: Yes we wanted it to be specified because we felt that – misconduct is a very broad category of

offences and you want to narrow some of those offences to something specific because if you narrow it to something specific then people will – people’s attention will be brought to – specifically to this to say, if I do this, it in itself is now an offence or under public service rather than putting it under a generic category of misconduct which already exists and of course perhaps we said this because what we saw, we felt it could never have happened had senior names not have been used, maybe it could have, I don’t know but we thought at the time, it could never have happened if senior names had not been used.

10 **ADV THANDI NORMAN SC:** Thank you, thank you Chair and then you have your conclusions in chapter six, can you just summarise what you concluded?

MS NONKULULEKO TERESSA SINDANE: Our conclusion was as guidance has been given from the Chair, was that in this particular transaction or in this particular – I don’t know if it was a transaction but in this particular event, I withdraw transaction in this particular event there was lack of professionalism in how people dealt with their responsibilities and what we were encouraging people to do is to deal with these issues and report them where, for instance, if things like
20 these happen. So – because otherwise if people have to endure undue influence they are not able to do their work objectively so that was the point that we were trying to make in that statement and we then concluded, perhaps that some the behaviours that were displayed during this whole process could almost be unethical, could almost be lack of professional – ascribed to lack of professionalism or if not, then

I would even argue it was outright reckless in how this was undertaken but we also noted that sometimes the public, when the public is outraged by something and as having been a senior official in government for many, many years, sometimes we're like, oh my God, but the reality of the matter is that unless or public is enraged enough, nothing happens and it was good in a bad way that the public was so enraged about this thing and because of that action was taken and I am not – please let me be understood correctly, I am not talking about action, disciplinary everywhere because I would not know whether

10 that was taken or not, our interaction with this work ended when we said here's the report, it's now yours, you do what you have to do and we moved out of it, it's no longer our report as it is as it sits here and then also we – and this – and I read in the media, subsequent to this report that people were making very light of the fact that there are indeed good hardworking honest and dedicated officials in government and in this particular case we picked that up so clearly, it was so unequivocal that there were people who were asking the right questions but I think, either because of the rush of the moment and I don't want to assume, because this we did not find, we did not find anything that

20 was of a direct personal benefit to any of the two people, we did not find that and we are not making any assumptions express or otherwise that they did get any direct benefit, we are not making that finding but we are saying how the other officials dealt with this is, in our view, very acceptable in the fact that they raised questions, they kept on raising questions and how the people who were making this landing to happen

were doing it. They were either pressured by things we don't know because they never told us but that pressure may have been too much for them but unless they share or unless they shared at the time with the task team what the pressure was and the source of the pressure was, we do not understand how, and we couldn't understand it then how they could have formulated, there's a wedding, there's a delegation, there are heads of states, there are Ministers and then it turns out there's no Ministers, there are no heads of state it's some MC's, how did that happen. What was the source of the pressure and unless, they

10 themselves told us that this was the pressure point and that is why we probably in a willing kind of way formulated to end up the way that it did.

ADV THANDI NORMAN SC: Thank you, you've mentioned the public outrage but did this incident on its own, rattle government at all, you were there you would have seen and maybe have experienced it as a senior official at the time?

MS NONKULULEKO TERESSA SINDANE: Absolutely government was rattled to a point that I hadn't seen in my experience in government until that point. Other things that are big would be major disasters and

20 all of that, I'm not comparing this to that, absolutely by any means, but government was so rattle by this thing, I had never been in meetings where there were so many senior officials of government in one meeting or the other for like, hours on end discussing one thing. So I think government was very rattled. Did we learn something out of this? I probably would say, we could have learnt something if action was

taken, I don't know what action was taken as I sit here and therefore I don't know whether we learnt enough to prevent this thing from recurring into the future.

ADV THANDI NORMAN SC: Yes thank you and then when you concluded in your report who did you hand it to?

MS NONKULULEKO TERESSA SINDANE: To the principles that had appointed us who would be the JCPS cluster Ministers.

ADV THANDI NORMAN SC: Yes is it correct that it was published on the website?

10 **MS NONKULULEKO TERESSA SINDANE:** It was published on the same day and I think a hard copy was also delivered to the Public Protector's office.

ADV THANDI NORMAN SC: Yes and from the time you had written this report, were you ever made aware of any person bringing applications to it, set aside or reviewed or any action against it?

MS NONKULULEKO TERESSA SINDANE: I was not aware of any application setting the report aside, I was, however, aware that – I really want to cite it correctly this time, Lieutenant Colonel Anderson had raised issues, now I don't know whether she went to Court
20 necessarily because I don't know how she raised those issues, I do know that she went to the Public Protector at that time.

ADV THANDI NORMAN SC: Yes thank you, and you're satisfied, you're happy with the report and you stand by your findings and recommendations in it?

MS NONKULULEKO TERESSA SINDANE: Absolutely.

ADV THANDI NORMAN SC: Yes thank you.

CHAIRPERSON: You didn't interview Colonel Anderson or did you?

MS NONKULULEKO TERESSA SINDANE: No.

CHAIRPERSON: Why not?

MS NONKULULEKO TERESSA SINDANE: We – there was an arrangement, maybe to explain this, we went to the air base on, say day 1 or whatever the day was, we went on the air base just to see, almost like an *in loco* just to see what was going on, the layout and all of that and once we had done that we identified people that we wanted
10 to speak to, they were organised for us to speak to them. I think subsequent to that we went again and we discussed with a whole range of officials at the air base and then we – there was a follow-up meeting to meet with Lieutenant Colonel Anderson and I wasn't going to be there on that day but I was advised by the three members of the team who went there to interview her, that she was not available.

CHAIRPERSON: Until you finished the investigation?

MS NONKULULEKO TERESSA SINDANE: Yes.

CHAIRPERSON: Okay, former Minister Ramatlhodi gave evidence earlier this year here and in his evidence he touched on the issue of
20 the landing of the aircraft at Waterkloof, I don't want to put words into his mouth, but my understanding of his feeling about this incident was something along the lines that it shocked him and he referred to what it said to people like him who had even gone out of the country to fight for freedom and my understanding was that he was expressing the sentiment that this brought shame to some of us to have a private, you

know, a commercial plane landing at such a strategical important base in our country and he seemed really to find the whole incident quite shocking and I put my own words, like something that we maybe as a country should see as something that brought national shame, you know, I'm just using my own words based on what I understood him to be saying. Having conducted this investigation, and heard from different people how it came about, are you able to describe what your own feeling was about this incident once you had gathered all the information that you had gathered, how would you describe it?

10 **MS NONKULULEKO TERESSA SINDANE:** That's a big question.

CHAIRPERSON: I just want to have an understanding of how bad you or your committee thought it was, you might not be able to speak for others in the committee but for yourself, once the picture emerged through the investigation, how you saw it.

MS NONKULULEKO TERESSA SINDANE: Okay I will speak for myself, not for the committee.

CHAIRPERSON: Yes, yes.

MS NONKULULEKO TERESSA SINDANE: As the senior civil servant at that time and a South African, I was extremely embarrassed and the
20 embarrassment is not that something like that happened, the embarrassment was how could a wedding of people who are not from the country take place – a wedding party land in a strategic installation, what went wrong, where were we, including myself. Of course I would never – technically I would never have known anything about it at a technical level but that was the question I was left with, what went

wrong, where was I – I mean I'm a convener of the JCPS cluster, how could we not have seen this coming, why was this so difficult to spot. So one, it was embarrassing but two, it was also disappointing it was extremely disappointing because you would imagine that such a strategic installation is not so easily accessible. Where I think, perhaps my biggest shock, but I know this because a lot of people were shocked by this, but my biggest shock was why are we even in this wedding never mind everything else, why is this wedding such a national important event in our calendar. So for me those were the

10 questions, I accept that their relations, cabinet members are entitled to have relations with whomsoever they choose but when it gets to this point where national assets are abused to that level, it's a shock and it's particularly a shock because people get fired for the smallest things and for something this big, I mean it just – I'm disappointed today as I was disappointed when this thing happened and I even wonder because obviously we were just oblivious going on about our responsibilities, if the media had not picked this thing up it would have gone on and nobody would have been the wiser and so that's what shocks me and shocked me at that point but still makes me very disappointed even as I

20 sit here that sometimes – I'm no fan of the media and I – not that I hate the media, ja but that's that but the long and the short of it, if no-one had picked this up it could easily have gone on yes.

CHAIRPERSON: You mentioned something along the lines that people get fired for small things, I thought you didn't finish that sentence, I though there was a point you wanted to make, do you want to make that

point?

MS NONKULULEKO TERESSA SINDANE: The point I'm trying to get to is, ja, that's the point, I lack the words to say the point but here is perhaps what I'm trying to get to. At a personal level I have disciplined employees for the simplest things and fired them and without being excited about having fired them I reflected and said, it was a good decision, they may not feel the same way by the way but ...(intervention).

10 **CHAIRPERSON:** Sorry what was a good decision, you mean the employees?

MS NONKULULEKO TERESSA SINDANE: That an employee was fired.

CHAIRPERSON: Okay.

MS NONKULULEKO TERESSA SINDANE: So I would say...(intervention).

CHAIRPERSON: Oh you mean when you have made a decision to fire an employee for whatever reason the employee might not feel the same way you feel but you might look at principles, you might look at a number of factors and say, it was a good decision?

20 **MS NONKULULEKO TERESSA SINDANE:** Yes.

CHAIRPERSON: Yes.

MS NONKULULEKO TERESSA SINDANE: So – but on this thing that brought the country to a standstill I know of no-one who was acted against, or acted upon as a result of this and that's all I wish to say.

CHAIRPERSON: And acted upon, you mean fired as you have just

been making examples of being fired.

MS NONKULULEKO TERESSA SINDANE: Yes or more.

CHAIRPERSON: I thought that was the point you wanted to make I'm glad that I saw the point, are you done?

ADV THANDI NORMAN SC: Yes just one question Ms Sindane at our consultation you raised something, you reacted – you mentioned that the author of the book, “The President’s Keepers” , Mr Jacques Paul I think it is page 268, I beg your pardon Mr Chairman, had indicated that because of how this report was done, you were actually rewarded and
10 you had a comment to make to that, can you just tell the Chairperson what your understanding was about what the author was saying about you and then give your comment to that.

MS NONKULULEKO TERESSA SINDANE: Okay.

ADV THANDI NORMAN SC: Thank you.

MS NONKULULEKO TERESSA SINDANE: “The President’s Keepers”, when it was – it probably was on the same day that it was released that I started getting calls, SMS’s and those kinds of things, WhatsApp messages, someone even sent me a book because of how the thing was mentioned, the investigation was mentioned but if you go back to the
20 book, the title of the book says it’s “The President’s Keepers”, whatever the right formulation is. So what offended me about that which is still offending me as I sit here is that you use the information as though you have either verified with me or that kind of thing when you write a statement like the statement he wrote about us being rewarded for having done this. Now here is the deal Mr Chair, Mr Glomo is now an

Ambassador in a country I don't know, Clint, Dr Clint Swemmer is in the UN somewhere and who else, Commissioner Moyane, until recently he had moved on to SARS from being a Commissioner in correctional services. So perhaps one could say maybe that's what he meant and of course I went to the private sector a few years after that, after, either some of the promotions or all of the promotions. I joined a company which had no business in being drawn into this thing of "President's Keepers", so I felt it – that statement had an impact on the business and the company that I work for which incidentally I'm also a small
10 shareholder in and I felt it was not right for him to have done that, though I understood that the media normally can say things and kind of get away with them. So I understood that but I am still feeling very aggrieved and I want to put it on record and thanks for the question because I want to put it on record. I am not a "President's Keeper", I did not defend the President, there may have been errors in the process but I did not defend the President when I compiled the reports I participated in the process there was no link that was given by, in particular one person, but maybe two, one Minister Ben Martins was the Minister of Transport at the time, denied categorically having been
20 instructed by the President. Two the Ambassador Koloane denied having been instructed by the President, I and my team could not have gone to the President and say, eish Mr President we heard some skinner somewhere there and we think we must now come and talk to you. What we decided to do, which was procedural, was to go to the Presidency and say, under which protocols can the President, if any,

authorise the landing of the aircraft because if we had received that, we possibly could have had a direct link to the President in terms of saying, Mr President this is the protocol, this is what you did. In the absence of that and in the absence of the link from the people we interviewed there was no way, as I sit here today, reflecting on something that happened in 2013 there was no way that a right thinking person would have said, okay there were people who were talking and we are now talking to you about this and so I am not the “President’s Keeper”, I resent the connotation associated with that even though
10 some of the information came from our website, the tone that it was put in our website and the tone that it is used in that book, in my view, is intended or was intended or continues to be intended as the book continues to be read to diminish the role we played, I played in this investigation and perhaps me as an individual, thank you.

ADV THANDI NORMAN SC: Thank you Ms Sindane, just for record purposes, those remarks about you are at page 153 of the book, thank you, thank you that is all Mr Chair.

CHAIRPERSON: Thank you very much Ms Sindane for having come to give evidence to the Commission, thank you very much. Should the
20 need arise for you to be asked to come back, the Commission will be in touch with you, there may or may not be somebody who might want to apply for leave to cross-examine you, we don’t know at this stage so – but in that event you will be contacted, but thank you very much for coming forward.

MS NONKULULEKO TERESSA SINDANE: Thank you so much, I

appreciate the opportunity.

CHAIRPERSON: You are excused, thank you.

MS NONKULULEKO TERESSA SINDANE: Thank you.

ADV THANDI NORMAN SC: Thank you Mr Chairman the next witness will be Major Thabo Ntshisi he will be led by my learned friend Ms Rasivhetshele thank you.

CHAIRPERSON: Okay, I'm going to adjourn for five minutes, we adjourn.

INQUIRY ADJOURNS

10 **INQUIRY RESUMES**

ADV MPHONGASIVHETSHELE: Good day Chair.

CHAIRPERSON: Yes. Are you ready?

ADV MPHONGASIVHETSHELE: Indeed so Chair.

CHAIRPERSON: Yes.

ADV MPHONGASIVHETSHELE: Chair I will be leading the evidence of Major Thabo Ntshisi who at the time of the landing of the chartered commercial aircraft at the Air Force Base Waterkloof on the 30 April 2013 was a Warrant Officer stationed at the Air Force Command Post. The Air Force Command Post as relayed to me by Major Ntshisi is the
20 heart of the Air Force and a critical channel wherein the necessary authorisation is given in order for an aircraft to land at the base. The second witness is Mr William Matjila employed at the Department of International Relations and Corporation and for all intents and purposes I will be mentioning it as DIRCO. Mr Matjila at the time of the landing acted in the capacity...

CHAIRPERSON: But we – are we not having Mr Ntshisi's evidence at the moment?

ADV MPHO RASIVHETSHELE: Yes indeed so Sir this is just a relay just to bring to the Chair's attention concerning Mr Matjila's affidavit which is a confirmatory affidavit. Just to give a background – a short background to the circumstances leading to...

CHAIRPERSON: No let us deal with – let us hear Mr Ntshisi's evidence at the moment.

ADV MPHO RASIVHETSHELE: As the Chair pleases.

10 **CHAIRPERSON**: Ja. I see two people there.

ADV MPHO RASIVHETSHELE: Yes.

CHAIRPERSON: What is going on?

ADV MPHO RASIVHETSHELE: Chair Mr – Major Ntshisi I beg your pardon has requested an interpreter to accommodate him in Isi-Zulu his home language and for all intents and purposes I am not certain – I am not certainly sure my mistake that I have not received the interpreter's name apologies for that. That he will relay the evidence to Mr Ntshisi who will then reply in Isi-Zulu.

CHAIRPERSON: Is the interpreter a sworn translator? I – yes.

20 **MR STANLEY DUMISANI NESE (INTERPRETER)**: Yes Chairperson.

CHAIRPERSON: You are?

MR STANLEY DUMISANI NESE (INTERPRETER): Yes I am a sworn interpreter.

CHAIRPERSON: Okay just Ms Norman have you checked all of those things, those formalities?

ADV THANDI NORMAN: Yes.

CHAIRPERSON: Hm.

ADV THANDI NORMAN: Yes – Yes Chair we did check with Mr Moloko or who is within the secretariat.

CHAIRPERSON: Yes but has anybody got that as a matter of fact that what I am being told is true?

ADV THANDI NORMAN: Yes I would have no reason to – in fact I know the interpreter.

CHAIRPERSON: You know him?

10 **ADV THANDI NORMAN:** I – yes I have dealt with him before and Mr Moloko did also check all of those credentials yes.

CHAIRPERSON: Ja with the paperwork and everything that was up that is what I am talking about.

ADV THANDI NORMAN: Yes. I do not have paperwork Mr Chairman but...

CHAIRPERSON: But can somebody check that?

ADV THANDI NORMAN: Yes we could ask that that be obtained yes.

CHAIRPERSON: Yes. Let us start with that. Please stand Mr Interpreter. What are your full names?

20 **MR STANLEY DUMISANI NESE (INTERPRETER):** My full names are Stanley Dumisani Nese

CHAIRPERSON: Nese.

MR STANLEY DUMISANI NESE (INTERPRETER): Yes.

CHAIRPERSON: You say you are a sworn interpreter?

MR STANLEY DUMISANI NESE (INTERPRETER): I am a sworn

interpreter.

CHAIRPERSON: And you can make arrangements to produce the necessary documentation?

MR STANLEY DUMISANI NESE (INTERPRETER): The necessary documentations I think are with Mr Moloko.

CHAIRPERSON: Oh you provided them.

MR STANLEY DUMISANI NESE (INTERPRETER): Yes.

CHAIRPERSON: Oh okay. No then that is fine. Then I am happy. Okay thank you. And of course I take it that you interpret from Isi-Zulu

10 to English and vice versa?

MR STANLEY DUMISANI NESE (INTERPRETER): That is correct.

CHAIRPERSON: Thank you. Okay then let us go – let us proceed.

ADV MPHONG RASIVHETSHELE: Thank you Chair. Chair if I may refer you to the following exhibits that – that will be used with Major Ntshisi's evidence.

CHAIRPERSON: Yes.

ADV MPHONG RASIVHETSHELE: The following exhibit in consecutive order is Exhibit FF4 that would be the chief SANDAF board. On the spine it is written case number 01/2013.

20 **CHAIRPERSON**: Yes.

ADV MPHONG RASIVHETSHELE: The next exhibit is FF5 it is on the spine it is written email reference bundle.

CHAIRPERSON: Yes.

ADV MPHONG RASIVHETSHELE: And then Exhibit FF6 which comprises of both affidavits of Major Ntshisi and Mr Matjila which is labelled

Exhibit FF6.1 and Mr Matjila Exhibit FF6.3.

CHAIRPERSON: Well let us deal with Mr Ntshisi only now.

ADV MPHONGASIVHETSHELE: Indeed so Chair.

CHAIRPERSON: Ja is Mr Matjila not going to give evidence later?

ADV MPHONGASIVHETSHELE: Yes indeed Chair however Mr Matjila's affidavit is actually a confirmatory affidavit.

CHAIRPERSON: Yes but are you – will he not be called?

ADV MPHONGASIVHETSHELE: Our view as the team Chair is that Mr Matjila's affidavit is a confirmatory affidavit to Ms Sindane's annexure
10 which would be the JS – the JS Report about the landing, the cluster report and we felt that there was nothing contentious about – he agrees with everything according to – that he has mentioned.

CHAIRPERSON: Well I just said last week that I decide whether a witness will be called or not be called.

ADV MPHONGASIVHETSHELE: Of course, of course based on...

CHAIRPERSON: Nobody has come to me and says –

ADV MPHONGASIVHETSHELE: The Chair's approval.

CHAIRPERSON: And said there is this witness this is the nature of his or her evidence we propose not to call him and hear what I have to say.

20 **ADV MPHONGASIVHETSHELE**: Indeed so Chair that was just our recommendation based on your approval?

CHAIRPERSON: That is the process to be followed.

ADV MPHONGASIVHETSHELE: Indeed so Chair.

CHAIRPERSON: Okay.

ADV MPHONGASIVHETSHELE: Thank you Chair.

CHAIRPERSON: I think for now let us focus on Mr Ntshisi's evidence and whatever else in relation to another witness can be dealt with later.

ADV MPHONGASIVHETSHELE: Thank you Chair.

CHAIRPERSON: Okay.

ADV MPHONGASIVHETSHELE: And finally Chair Exhibit FF8 that would be on the spine it is written ...

CHAIRPERSON: Yes I have got it.

ADV MPHONGASIVHETSHELE: Additional information bundle.

CHAIRPERSON: Yes. What are the contents of Exhibit FF4? Is it the
10 report of the Board of Inquiry?

ADV MPHONGASIVHETSHELE: Yes indeed so. It is – it predominantly deals with the Board of Inquiry. It has got statements also a transcript and also other annexures based on the Board of Inquiries investigations as well.

CHAIRPERSON: The lever arch file which contains documents relating to the Board of Inquiry of the SANDAF with a sworn statement of an affidavit by Mr Mgwebi will be marked Exhibit FF4 and the lever arch file containing emails – written emails reference bundle will be marked Exhibit FF5. I think we had entered Exhibit 8 – FF8 Ms Norman?

20 **ADV THANDI NORMAN**: Yes we did Chair.

CHAIRPERSON: We did ja. And we entered Exhibit FF6 yesterday when we were – and I heard the evidence of Mr Martins. Ja I think that takes care of everything.

ADV MPHONGASIVHETSHELE: Thank you Chair. If the Chair is satisfied may the witness please be sworn in?

CHAIRPERSON: Will you administer the oath to the witness or affirmation? If there is going to be a need for the interpretation of the oath the interpreter will interpret but Mr Ntshisi will indicate if he does not need interpretation for that part. Oh he says he does not. Okay.

REGISTRAR: Please state your full names for the record?

MAJOR THABO NTSHISI [through interpreter]: Ikamalane Thabo Ntshisi.

REGISTRAR: Do you have any objections to making the prescribed affirmation?

10 **MAJOR THABO NTSHISI [through interpreter]:** No.

REGISTRAR: Do you solemnly affirm that all the evidence that you will give will be the truth, the whole truth and nothing but the truth, if so please raise your right hand and say, I truly affirm.

MAJOR THABO NTSHISI [through interpreter]: I truly affirm.

REGISTRAR: Thank you.

CHAIRPERSON: Thank you very much. You may proceed.

ADV MPHONGASIVHETSHELE: Thank you Chair. Major Ntshisi in front of you you have a presentation file with Exhibit FF6 in front of you, is that correct?

20 **MAJOR THABO NTSHISI [through interpreter]:** That is correct.

ADV MPHONGASIVHETSHELE: Major Ntshisi can you please just turn to page 1 can you identify that document?

MAJOR THABO NTSHISI [through interpreter]: Yes.

ADV MPHONGASIVHETSHELE: And what is that document?

MAJOR THABO NTSHISI [through interpreter]: That is Exhibit FF6

Your Worship.

ADV MPHO RASIVHETSHELE: Major Ntshisi I am talking about the document in front of you, your statement, is that your statement?

CHAIRPERSON: Have you told him where to find it, what page?

ADV MPHO RASIVHETSHELE: Yes on page 1 – ja I did indeed so
Chair. Major Ntshisi...

CHAIRPERSON: I think look at – when she mentions pages look at the top right hand corner.

MAJOR THABO NTSHISI [through interpreter]: Yes I can see that

10 Your Worship.

ADV MPHO RASIVHETSHELE: And can you page – turn to page 2 of that document?

MAJOR THABO NTSHISI [through interpreter]: I have already opened the page.

ADV MPHO RASIVHETSHELE: Is that your signature at the bottom?

MAJOR THABO NTSHISI [through interpreter]: That is true.

CHAIRPERSON: I think we should say there is a signature that is much lower and his is higher than that on the page. Is it your signature that appears immediately above the words TGC Operation Officer at Road

20 AOT?

MAJOR THABO NTSHISI [through interpreter]: That is true Your
Worship I am the one that signed.

CHAIRPERSON: Thank you.

ADV MPHO RASIVHETSHELE: Thank you Chair. Major Ntshisi are you satisfied with the contents of your affidavit and you attest that it is the

contents within is true and correct?

MAJOR THABO NTSHISI [through interpreter]: Yes I am satisfied with it.

CHAIRPERSON: Well except for one thing this does not appear to be an affidavit. It appears to be just a statement I said except for one thing that is that I see there is a SAPS stamp or there are two at page 2 that you do not say in that statement that you state under oath and that does not appear to be any certification by a commissioner of oaths that you took an oath before him or her before making the statement,
10 am I correct?

MAJOR THABO NTSHISI [through interpreter]: Yes that is true.

CHAIRPERSON: Thank you.

ADV MPHONG RASIVHETSHELE: Thank you Chair. Major Ntshisi can you just give us a history about your career at the Air Force in the military?

CHAIRPERSON: I am sorry before he does so. That might be a long history do you want to relate to what position he held at the time otherwise he could give you a history of over twenty years.

ADV MPHONG RASIVHETSHELE: Indeed so Chair. Let me just rephrase
20 that question. Major Ntshisi from 2013 can you just give us a history of your career from the commencement of 2013 onwards?

MAJOR THABO NTSHISI [through interpreter]: During 2013 Your Worship I was employed at the Common Post. The place which was called Flight Centre. My rank at that stage Your Worship I was Sergeant Major Ntshisi.

CHAIRPERSON: And what is your present position?

MAJOR THABO NTSHISI [through interpreter]: At this stage Your Worship I am working at number 46 Brigade. 46 Brigade is an army unit Your Worship. But we also have an Air Force office there Your Worship. My rank now Your Worship I am Major Ntshisi Your Worship.

CHAIRPERSON: In 2013 you were – were you based at Waterkloof?

MAJOR THABO NTSHISI [through interpreter]: 2013 I was at the Common Post Your Worship but at the headquarters Your Worship of the Air Force Your Worship.

10 **CHAIRPERSON**: Okay thank you. Proceed.

ADV MPH O RASIVHETSHELE: Thank you Chair I have just received word from the technical team that if Major Ntshisi could just pull the microphone closer to him they are having difficulty.

CHAIRPERSON: Okay thank you.

ADV MPH O RASIVHETSHELE: Thank you. Major Ntshisi taking it back to the landing of the aircraft in questions and in terms of your statement – in terms of paragraph 2 can you please explain to the Chair the processes that was followed in your position where you were stationed at the Air Command Post?

20 **MAJOR THABO NTSHISI [through interpreter]**: In paragraph 2 Your Worship the request came in two forms. Whoever is making a request can send it to us at the Common Post or Your Worship the request can be sent to DIRCO and thereafter to us at the Common Post.

ADV MPH O RASIVHETSHELE: Major Ntshisi and in this instance a request – was there a request given in terms of procedurally in terms of

the plane landing at the base?

MAJOR THABO NTSHISI [through interpreter]: According to the processes that we are in today Your Worship their request Your Worship came all the way from India Your Worship coming down to us Your Worship.

CHAIRPERSON: The request you refer to was what request?

MAJOR THABO NTSHISI [through interpreter]: The request Your Worship that there was a flight that is coming Your Worship which is going to land at Waterkloof Your Worship.

10 **CHAIRPERSON:** Maybe to step back a little bit in the position which you held in 2013 what were your functions – you do not need to tell us all of them but those that might be relevant to what we are talking about today?

MAJOR THABO NTSHISI [through interpreter]: Your Worship at the army Your Worship the rank Your Worship is what is important. At the time when the request was sent Your Worship as I say I was a Sergeant Major I was working with the other two Your Worship who were under my command. When the request arrived Your Worship it will depend from the person who saw the request first Your Worship as there were
20 three of us. With this Your Worship the request was actually seen by myself Your Worship and I then dealt with the request.

CHAIRPERSON: And he request as you said was a request for permission authorisation to be granted for the landing of an aircraft?

MAJOR THABO NTSHISI [through interpreter]: Yes Your Worship.

CHAIRPERSON: Okay. Yes continue.

ADV MPHONG RASIVHETSHELE: Thank you Chair.

CHAIRPERSON: Well I am sorry he had not finished he had said the one who saw – who sees the request is the one who acts. I think he was still continuing just finish that part of the evidence. In this case you saw it and what happened?

MAJOR THABO NTSHISI [through interpreter]: The request Your Worship after it arrived as it was from the Indian Embassy it is the duties Your Worship of the person who received the request Your Worship to organise it. As I am the one who received it Your Worship I
10 was the one who was supposed to process it Your Worship by sending it to the government departments Your Worship. The government departments Your Worship mentioned at paragraph 3.

CHAIRPERSON: Yes. Yes continue if you have not finished.

MAJOR THABO NTSHISI [through interpreter]: The departments I am talking about Your Worship some of them that are important is DIRCO. After I received this request Your Worship we send the request to all these important departments Your Worship which are mentioned here.

CHAIRPERSON: And maybe you can just mentioned those departments, mentioned in paragraph 3.

20 **MAJOR THABO NTSHISI [through interpreter]:** ATNS – ATNS which is Traffic Navigation System. CAA Civil Aviation Authority. Then the DOT which is the Department of Transport. And then the DFR Defence Foreign Relations. And then the SSO which is the Senior Staff Officer. And then DHA the Department of Home Affairs. And then the CJ Ops Chief Joint Operations Your Worship.

CHAIRPERSON: Thank you. Yes you may proceed.

ADV MPHO RASIVHETSHELE: Thank you Chair. The request Major Ntshisi the request that you are talking about Chair I would just like to refer the Chair to Exhibit FF8 on the additional bundle. Page 27.

MAJOR THABO NTSHISI [through interpreter]: Page?

ADV MPHO RASIVHETSHELE: And it continues Chair to page 28 and 29.

CHAIRPERSON: Have you got the right file? It should be written Exhibit FF8 on the spine. FF8.

10 **MAJOR THABO NTSHISI [through interpreter]**: FF8 Your Worship yes.

CHAIRPERSON: Okay page 27. 27 is – is there 027? You will see on the right hand top corner it will be written WKAEDI INFO 027 but when she refers to pages she will not mention all these letters and she will not mention the 0 before 27. She will just say 27. So if that has not been explained you can be confused. Okay you have found it.

MAJOR THABO NTSHISI [through interpreter]: Yes Your Worship.

CHAIRPERSON: Thank you.

20 **ADV MPHO RASIVHETSHELE**: Thank you Chair. Major Ntshisi can you just identify that document?

MAJOR THABO NTSHISI [through interpreter]: Over flight and landing clearance Your Worship.

ADV MPHO RASIVHETSHELE: And is this the document that was received by the Command Post?

MAJOR THABO NTSHISI [through interpreter]: Yes.

ADV MPHO RASIVHETSHELE: And after receiving this document what steps did you take in terms of this document?

MAJOR THABO NTSHISI [through interpreter]: As I have already testified before after receiving such a request you send it to different departments Your Worship. But the highest department is DIRCO Your Worship.

CHAIRPERSON: Yes I think you may want to just complete the process that you explained and I see in paragraph 4 it says: once the process has been completed then you say what happens then you can deal with
10 the question of whether that is what you did with this request?

MAJOR THABO NTSHISI [through interpreter]: After you shall have sent this request Your Worship to the specific departments Your Worship it is then your duty Your Worship to make a follow up as to what they are doing about that Your Worship. As they are still busy checking on it Your Worship you will wait for that period. After you shall have waited Your Worship and they will then send you a feedback as to what is actually happening about it.

CHAIRPERSON: Who would – who would come back to you? Is it DIRCO or is it all of the departments to which you would have sent it?

20 **MAJOR THABO NTSHISI [through interpreter]:** DIRCO Your Worship.

CHAIRPERSON: Okay yes and what are the possible responses that could come from DIRCO in any particular case when you have sent them this kind of request?

MAJOR THABO NTSHISI [through interpreter]: The answer might be that continue with the request.

CHAIRPERSON: And if they say continue with the request what does that mean? Is it that they are happy with it you should do what you need to do?

MAJOR THABO NTSHISI [through interpreter]: After they sent us the email that we must continue with the request Your Worship I mean Chairperson we as we are at the Command Post. If they say we must proceed Your Worship they call it in an English word which note verbal.

CHAIRPERSON: Yes.

MAJOR THABO NTSHISI [through interpreter]: As the Command Post
10 if you did not receive information which says continue with the request you do not have the powers to can – continue with such a request.

CHAIRPERSON: So am I correct that you can expect either to receive the note verbal in which case you continue and give consideration to the request for clearance or you do not receive anything from DIRCO in which case you do not give further consideration to the request?

MAJOR THABO NTSHISI (through interpreter): That is correct Chairperson. You only continue if you get a message from DIRCO which says you can continue but if you do not get such information you do not have any powers to continue.

20 **CHAIRPERSON:** If you do not get the note verbal but somebody tells you telephonically that you may proceed. Do you have power to proceed and consider the request?

MAJOR THABO NTSHISI (through interpreter): Chairperson before I can answer that question the person with whom we were working hand in hand at that specific point was Mr William Matjila your worship which

means your worship sometimes we could receive a message will say you can continue with such a request. If I am answering your question Chairperson it does not happen that you can continue your worship only after receiving a telephonic confirmation your worship.

CHAIRPERSON: And – and a note verbal is a specific document?

INTERPRETER: Pardon Chairperson.

CHAIRPERSON: Is a note verbal a specific document that gives you this go ahead?

MAJOR THABO NTSHISI (through interpreter): Yes your worship it
10 must be a document your worship with all the particulars your worship of the request which will say you can continue your worship.

CHAIRPERSON: And am I correct in understanding that it is not just any document in writing. It has to be a note verbal before you can proceed that you are given by DIRCO?

MAJOR THABO NTSHISI (through interpreter): That is true.

CHAIRPERSON: Thank you. Continue. I think we will take the lunch break at quarter past.

ADV MPHONG RASIVHETSHELE: Indeed so Chair.

CHAIRPERSON: *Ja.*

20 **ADV MPHONG RASIVHETSHELE:** Chair since we are on the note verbal topic if Chair can please turn to page 87 of Bundle FF8?

CHAIRPERSON: 87?

ADV MPHONG RASIVHETSHELE: 87.

CHAIRPERSON: Yes.

ADV MPHONG RASIVHETSHELE: Major Ntshisi are you there?

MAJOR THABO NTSHISI (through interpreter): Yes I am there.

ADV MPHO RASIVHETSHELE: Major Ntshisi can you identify this document?

MAJOR THABO NTSHISI (through interpreter): This is the note verbal from DIRCO your worship.

ADV MPHO RASIVHETSHELE: Just to be ...

CHAIRPERSON: I think it is a note verbal not any particular one relating to this incident. Is that correct?

INTERPRETER: Come again Chairperson.

10 **CHAIRPERSON:** It is – is it a note verbal and not the note verbal relating to this incident?

MAJOR THABO NTSHISI (through interpreter): No it is not this one your worship. This is just your worship a copy which shows that ...

CHAIRPERSON: *Ja.* Yes. No, I understand that. It is – it is an example of a note verbal. Okay.

ADV MPHO RASIVHETSHELE: Indeed so Chair. This was a document received from DIRCO just for an example what a note verbal would look like.

CHAIRPERSON: What – how it looked like - looks like, *ja.* Thank you.

20 **ADV MPHO RASIVHETSHELE:** And the note verbal - just to add Chair would usually as relayed by DIRCO – would usually have the emblem of the country.

CHAIRPERSON: The requesting country?

ADV MPHO RASIVHETSHELE: The requesting country ...

CHAIRPERSON: *Ja.*

ADV MPHO RASIVHETSHELE: And if you look at the bottom of the page Chair you will then see a stamp from the embassy of the republic of that – this particular country on that note verbal.

CHAIRPERSON: *Ja*, thank you.

ADV MPHO RASIVHETSHELE: Chair I would just also just like to refer to another exhibit file. It would be on page 1-9-8 of ...

CHAIRPERSON: Which exhibit?

ADV MPHO RASIVHETSHELE: EXHIBIT FF4.

CHAIRPERSON: What page on that one?

10 **ADV MPHO RASIVHETSHELE:** 1-9-8 Chair.

CHAIRPERSON: Hm?

ADV MPHO RASIVHETSHELE: 1-9-8.

CHAIRPERSON: Okay. Yes.

ADV MPHO RASIVHETSHELE: Major Ntshisi are you on page 1-9-8?

MAJOR THABO NTSHISI (through interpreter): Yes.

ADV MPHO RASIVHETSHELE: The lower half of that document can you identify this – it – it particularly relates to an email. Can you identify from who it is from to whom?

MAJOR THABO NTSHISI (through interpreter): Yes. Yes I can.

20 **ADV MPHO RASIVHETSHELE:** Can you please relay that – can you just talk who it comes from?

MAJOR THABO NTSHISI (through interpreter): Usually as I have already stated your worship this email was from Mr Matjila.

ADV MPHO RASIVHETSHELE: To whom?

MAJOR THABO NTSHISI (through interpreter): To us at Command

Post where I was working at that point in time.

ADV MPHO RASIVHETSHELE: And can you see the – can you just read out the subject line of that email?

CHAIRPERSON: Well you should just read – read that yourself ...

ADV MPHO RASIVHETSHELE: Okay.

CHAIRPERSON: Because there is interpretation.

ADV MPHO RASIVHETSHELE: As the Chair pleases.

CHAIRPERSON: Hm.

ADV MPHO RASIVHETSHELE: Subject line: A request for flight
10 clearances Indian delegation.

MAJOR THABO NTSHISI (through interpreter): I can see what is being written here your worship but twice your worship – the first one your worship it is – what is written here state visit that indicates that Mr Koloane approved and the second one it says:

“Dear colleagues, please see the message below
your urgent assistance and information.”

CHAIRPERSON: I think it is fine. He read it in English. So it is fine,
ja.

INTERPRETER: Thank you Chairperson.

20 **CHAIRPERSON:** *Ja*. I see the – the one email that says:

“Please see message below for your urgent
assistance and information.”

The one that I am struggling to see is the one he mentioned earlier about Mr Koloane. Oh, is it the top email just above the – where it is regards Les Lombard. Is it the sentence above that that you read or

that you are referring to?

MAJOR THABO NTSHISI (through interpreter): Yes your worship that is what I was referring to.

CHAIRPERSON: Okay, thank you. You said you can talk about these two issues?

MAJOR THABO NTSHISI (through interpreter): When I ...

CHAIRPERSON: 1-9-9.

MAJOR THABO NTSHISI (through interpreter): Turn the page to page 1-9-9 the first one that I read in page 1-9-8 ...

10 **CHAIRPERSON:** Yes.

MAJOR THABO NTSHISI (through interpreter): It does not exactly specify as what is said in page 1-9-9 your worship.

CHAIRPERSON: Okay. No that is alright. Maybe this is the right time for us to take the lunch adjournment and then we will come back and continue.

ADV MPHO RASIVHETSHELE: Thank you Chair.

CHAIRPERSON: We are going to take the lunch adjournment and we will resume at quarter past two. We adjourn.

REGISTRAR: All rise.

20 **HEARING ADJOURNS**

HEARING RESUMES

CHAIRPERSON: Let us proceed.

ADV MPHO RASIVHETSHELE: Thank you Chair.

CHAIRPERSON: Some of the – most of the facts are around Mr Ntshisi's evidence is not controversial. So we can move pretty fast

like what letter he wrote. We can move fast on those things.

ADV MPHONG RASIVHETSHELE: Indeed so Chair.

CHAIRPERSON: Okay.

ADV MPHONG RASIVHETSHELE: As the Chair pleases.

CHAIRPERSON: Hm.

ADV MPHONG RASIVHETSHELE: Chair just to touch base we were on – Major Ntshisi was talking to the email on page 199 ...

CHAIRPERSON: Yes.

ADV MPHONG RASIVHETSHELE: And he was talking to that email.

10 Major Ntshisi can you please turn to page 199 to the previous email.

MAJOR THABO NTSHISI (through interpreter): Yes.

ADV MPHONG RASIVHETSHELE: You brought it to the Chair's attention about that particular email. Is there anything you want to talk to that email about?

CHAIRPERSON: Yes go ahead.

MAJOR THABO NTSHISI (through interpreter): What I wanted to explain is that the request that came from DIRCO - that is now from Mr Matjila - that is the email that explains whether we can continue with that request. That is the email your worship that caused the
20 Command Post - that is the email or the email that caused that we must agree to the email to continue opening the number your worship to give access to the flight to come in your worship.

If I can explain about the number that I am referring to. In English language your worship it is called a clearance number. After you got the mandate that you can continue your worship that is when

you open up the number so that you can continue forth your worship ...

CHAIRPERSON: Does that mean you ...?

MAJOR THABO NTSHISI (through interpreter): With the request.

CHAIRPERSON: Does that mean you allocate a clearance number to the particular request?

MAJOR THABO NTSHISI (through interpreter): That is so your worship.

CHAIRPERSON: Okay. Continue and what follows after that?

MAJOR THABO NTSHISI (through interpreter): After you shall have
10 received all the information or the particulars your worship as the person who – who was actually busy with this request. I must then go and explain to my commander as to from when up where what and what did I do. Then I will do that. Explain to him.

CHAIRPERSON: Who – who was your supervisor or commander at the time?

MAJOR THABO NTSHISI (through interpreter): Lieutenant Colonel Van Zyl your worship.

CHAIRPERSON: Yes, okay continue.

ADV MPHO RASIVHETSHELE: Major Ntshisi I would just like to take
20 you to Bundle/EXHIBIT FF4 page 1-9-3. Are you there Major Ntshisi?

MAJOR THABO NTSHISI (through interpreter): Yes.

CHAIRPERSON: Maybe – I am sorry. Before we move to that – the – the email that came from Mr Matjila what page was it again?

ADV MPHO RASIVHETSHELE: One ...

CHAIRPERSON: Do you remember it?

ADV MPHOSHO RASIVHETSHELE: 1-9-9.

CHAIRPERSON: 1-9-9. Major Ntshisi I just want to go to the letter that you say gave you clearance or gave you a go ahead that was from Matjila. Is it the one at page 1-9-9?

MAJOR THABO NTSHISI (through interpreter): Your worship/Chairperson if you can start at 1-9-8 and then to page 1-9-9. You will see that Mr Matjila emailed us your worship the place where we were working – the Command Post. When we come to page 1-9-9 it is where he is now sending us the message that is coming from
10 Ambassador Koloane your worship.

CHAIRPERSON: Yes. Now I have heard evidence that not every aircraft can just land at Waterkloof and that only certain aircrafts in terms of who they are – their passengers are may be allowed to – to land. Are you able to tell me under what circumstances or what aircrafts may be allowed to land or what business or passengers they should carry before they can be allowed to land generally speaking at Waterkloof?

MAJOR THABO NTSHISI (through interpreter): According to my knowledge only three people given permission or allowed to land at the
20 air base your worship. The first one is the President. The Deputy President your worship and any other person that shall have been sent by the President to do Government duties.

CHAIRPERSON: Yes and of course and military aircraft?

MAJOR THABO NTSHISI (through interpreter): They are also allowed.

CHAIRPERSON: Yes and I heard evidence that if an aircraft is carrying Ministers that also can be allowed. Does that accord with your understanding? Ministers not – not Prime Ministers, Ministers. I think your interpretation was Prime Ministers.

INTERPRETER: No I said Ministers.

CHAIRPERSON: Or Premiers.

INTERPRETER: Ministers.

CHAIRPERSON: (IsiZulu). Okay. Ministers would that be allowed?

MAJOR THABO NTSHISI (through interpreter): No it is not allowed
10 your worship.

CHAIRPERSON: Okay. Now in the letter that came from Mr Matjila was there any indication - in the letter that gave you a go ahead – was there any indication that this was an aircraft that would fall within circumstances where it should be permitted to land at Waterkloof?

MAJOR THABO NTSHISI (through interpreter): It was not clear your
worship.

CHAIRPERSON: Yes. In order for it to be clear would the letter from
or the communication from Mr Matjila have had to mention that the
plane would be carrying the President or Deputy President? Is that
20 what you were looking for?

MAJOR THABO NTSHISI (through interpreter): Yes.

CHAIRPERSON: No, no. I will repeat the question. In order for the
letter from Mr Matjila to convey to you that this was an aircraft that
would be permitted to land did you expect it to tell you that the aircraft
would be carrying the President or Deputy President? Is that what you

were looking for?

MAJOR THABO NTSHISI (through interpreter): Before I can answer that question Chairperson when they send the report your worship there would be actually a reason or a – *ja* – a reason your worship as to why the request itself and the reason your worship was not clearly understood what the reason actually was your worship.

CHAIRPERSON: When you say when they send the request they would state the reason are you talking about the request that would come from another country?

10 **MAJOR THABO NTSHISI (through interpreter):** That is correct.

CHAIRPERSON: So when you say in this case the letter did not – from the letter the reason was not clear. Are you referring to the letter - that request that came from India?

MAJOR THABO NTSHISI (through interpreter): Quite correct.

CHAIRPERSON: And what about the letter from Mr Matjila did you expect it to give you information that would satisfy you that this was an aircraft that should be permitted?

MAJOR THABO NTSHISI (through interpreter): Yes that is so.

20 **CHAIRPERSON:** Would it be possible that if the letter from Mr Matjila did not satisfy you that this would be an aircraft that should be permitted would it be possible that you would not proceed to process the request or is the position that once you got a letter from Mr Matjila you just had to proceed and process the request?

MAJOR THABO NTSHISI (through interpreter): I could not have proceeded your worship if I did not get such a letter your worship.

CHAIRPERSON: Yes but my question is whether it was up to you to examine the contents of the letter from Mr Matjila and make a decision whether you – it is fine you can go ahead and process the request and approve if you were the one to approve or whether as long as Mr Matjila said in his letter go ahead and approve then you were bound to go ahead and approve?

MAJOR THABO NTSHISI (through interpreter): I would not have any powers your worship or the might of continuing your worship if that was the case.

10 **CHAIRPERSON:** So if you were not satisfied with the contents of the letter from Mr Matjila you would not proceed you would not process the request. Is that correct?

MAJOR THABO NTSHISI (through interpreter): Correct.

CHAIRPERSON: Yes and did the letter from Mr Matjila in this particular case satisfy you that this was a case where you should process the request and if you were the person to approve the request to also approve it?

20 **MAJOR THABO NTSHISI (through interpreter):** I do not know Chairperson if I can start a little bit behind and explain coming further to this letter.

CHAIRPERSON: Yes you may do so because it is an important part of your evidence.

MAJOR THABO NTSHISI (through interpreter): As I have already stated that many a times at DIRCO I am working hand in hand with Mr Matjila. When I asked the request by the Indian people as to how

far it is so that we can continue with it and then I explained to him the reason why I am calling him always your worship telling him that the people from India your worship they want to know how far their request has gone your worship.

When I spoke to Mr Matjila that is when he then informed me that this issue is no more in his hands your worship. That is where Ambassador Koloane's name then surfaced your worship. The email your worship that gave us the go ahead to continue your worship/Chairperson was actually written by Mr Matjila – the email was
10 written by Mr Matjila which is the email that was from Mr Koloane that we must continue.

CHAIRPERSON: Yes.

MAJOR THABO NTSHISI (through interpreter): If there was not such an email or letter we should not have continued with the request but instead your worship it does not look like the one that we normally get. The note verbal that is coming from DIRCO to Command Post does not look like this one. That is why I say this is an email that is coming from DIRCO but the note verbal does not look like this one your worship.

CHAIRPERSON: Yes. I understood you earlier on to say the only
20 document that gives you a go ahead for – to allow a commercial aircraft to land at Waterkloof is a note verbal. Is that correct?

MAJOR THABO NTSHISI (through interpreter): Yes that is true.

CHAIRPERSON: And this letter that you say gave you a go ahead from Mr Matjila was not a note verbal. Is that correct?

MAJOR THABO NTSHISI (through interpreter): It was not a note

verbal which we normally had to do with your worship.

CHAIRPERSON: Yes. Did it look like a note verbal even if it is not the one you normally work with?

MAJOR THABO NTSHISI (through interpreter): This one says go ahead with the request your worship because it comes from the highest rank your worship.

CHAIRPERSON: Yes. It is just an email?

MAJOR THABO NTSHISI (through interpreter): Yes.

CHAIRPERSON: One would have expected that you would not process
10 it because it was not a note verbal. Why – why did you nevertheless process it?

MAJOR THABO NTSHISI (through interpreter): I do not know if I can go back a bit until I come to this email your worship.

CHAIRPERSON: Yes. No that is fine. It is important, *ja*.

MAJOR THABO NTSHISI (through interpreter): The reason why we continued your worship as far as this email is concerned I had already spoken to two people your worship whom I was not used to talk to.

CHAIRPERSON: Yes.

MAJOR THABO NTSHISI (through interpreter): The first one was
20 Colonel Anderson. The second one was Mr Koloane. As I have already stated that this letter said the request from the Indian flight to go and land at the air base is allowed. That is why it gave us the might your worship/Mr Chair to continue with the request.

CHAIRPERSON: Did you find out why you were not being furnished with a note verbal as is – as was normal?

MAJOR THABO NTSHISI (through interpreter): Your worship in talks with Mr Matjila he told me that this issue was no more in his hands.

CHAIRPERSON: Huh-uh. Does that mean you did ask him why – why am I not getting a note verbal as is normal or is the position that you did not ask that question?

MAJOR THABO NTSHISI (through interpreter): We came to that talk your worship and that is when he then explained to me that that issue is no more in his own hands and that those – that issue is now in the hands of Mr Koloane.

10 **CHAIRPERSON:** Yes, okay and I assume that thereafter you had some discussion with Mr Koloane to see whether he was the one who was going to give you an explanation as to why you were not being given a note verbal in this particular case as you – as it used to be normal?

MAJOR THABO NTSHISI (through interpreter): Yes I did ask him.

CHAIRPERSON: And what did he say?

MAJOR THABO NTSHISI: (IsiZulu).

CHAIRPERSON: Yes. Yes no that is fine.

MAJOR THABO NTSHISI (through interpreter): We have a statute seeing that it is now quite long since 2013. I cannot be able to require
20 the exact word that he uttered through his mouth your worship.

CHAIRPERSON: Yes.

MAJOR THABO NTSHISI (through interpreter): The document that is in front of me is EXHIBIT FF6.

CHAIRPERSON: Yes.

MAJOR THABO NTSHISI (through interpreter): There is where I

agree with the report as to what were we talking about with Mr Koloane.

CHAIRPERSON: Yes.

MAJOR THABO NTSHISI: Paragraph 8.

CHAIRPERSON: On what page?

MAJOR THABO NTSHISI (through Interpreter): Page 2 paragraph eight.

CHAIRPERSON: Yes.

MAJOR THABO NTSHISI (through Interpreter): Those are the talks between myself and Mr Kholoane.

10 **CHAIRPERSON**: Yes.

MAJOR THABO NTSHISI (through Interpreter): Those talks, Your Worship, were taken from the cluster report which is on page 8 paragraph 2.17.

CHAIRPERSON: I am sorry. I will let you continue just now. I just want to satisfy myself on this aspect. I'm going to the report of the JCPS cluster. Is that where you are referring us to? Yes?

MAJOR THABO NTSHISI (through Interpreter): Can we make some corrections? Page 8 from the report, Your Worship, which is paragraph 2.1.18, Your Worship.

20 **CHAIRPERSON**: At page 8 at the bottom of the, oh page 8 of the report which is page 12 of the paginated Exhibit FF1.

ADV MPHOS RASIVHETSHELE: Indeed so.

CHAIRPERSON: And paragraph 2.1.18. There is a report says.

The Chief of State protocol then called Sergeant Major Ntshisi and stated and is quoted, "I believe you have spoken to Colonel

Anderson?” Ntshisi confirmed this and stated that he would go ahead with the clearance immediately. Ntshisi asked whether he should fax the clearance to Mr Matjila; Mr William Matjila directorate State visit Derco. The Chief of State protocol asked where Ntshisi was at the time and was unable to understand the explanation given. He then requested Ntshisi to email a copy of the clearance to his private email address and to his official email address.

Is that what you are referring to?

MAJOR THABO NTSHISI (through Interpreter): Yes, that was the
10 talks between me and Mr Kholoane, Your Worship.

CHAIRPERSON: That doesn't reflect that two of you talked about why you were not being furnished with a note verbal. Maybe it is somewhere else. Do you know where it is somewhere?

MAJOR THABO NTSHISI (through Interpreter): If we go back again Chairperson on the same report.

CHAIRPERSON: Yes.

MAJOR THABO NTSHISI (through Interpreter): Page 8.

CHAIRPERSON: Yes.

MAJOR THABO NTSHISI (through Interpreter): Paragraph 2.117

20 **CHAIRPERSON:** Yes.

MAJOR THABO NTSHISI (through Interpreter): That was the talks between myself and Colonel Anderson which continues until the talks between myself and Colonel Kholoane.

CHAIRPERSON: Yes, ja. Paragraph 2.1.17 at page 12 of Exhibit FF1 which is the report of the JCPS cluster says, Lieutenant Colonel

Anderson returns Sergeant Major Ntshisi's call. Anderson stated that she had just spoken to the Chief of State protocol who had informed her that Ntshisi had rejected the request. She questioned him as to how he could have refused such a request from the Chief of State protocol. Ntshisi clarified that he had requested written confirmation. Anderson then stated that "in confidentiality I must be very careful now. Our number one knows about this. It is political. Allow them. I will phone the Ambassador back to find out who is the senior Minister." Ntshisi asked Anderson to confirm that the base could only receive flights
10 carrying Heads of State and Ministers. Anderson responded that, "it depends on the visit type and that it would be acceptable for a private visit if Derco approves it is not a problem. Yes, my dear they can." So you say that is what you were told when you kept on asking why you were not being furnished with a note verbal? Is that correct?

MAJOR THABO NTSHISI (through Interpreter): Yes, that is true.

CHAIRPERSON: Okay, thank you. You may proceed.

ADV MPHONGASHELE: Thank you, Chair. If I just may assist? There is a document on Exhibit FF1 on page 123. This is a memorandum and I see on page 124 that it has been deposed to, there
20 is a stamp at the bottom by the Department of Defence. From paragraph 3 of that statement of on that memorandum 123 that would – this from paragraph 3 onwards until paragraph 7.

MAJOR THABO NTSHISI (through Interpreter): Yes, I'm there.

ADV MPHONGASHELE: And the contents of this would be the reason as to why you never – questioning why you never received a

normal nonverbal.

MAJOR THABO NTSHISI (through Interpreter): Can you repeat?

ADV MPHONG RASIVHETSHELE: Major Ntshisi, let me just rephrase. If we, let's just go to paragraph 4 that would be on page 124. Chair, with your permission, may I read this into the record?

CHAIRPERSON: Yes.

ADV MPHONG RASIVHETSHELE: Lieutenant Colonel Anderson returned my call.

CHAIRPERSON: Well, you must first just say that this is a
10 memorandum that appears to have been written by Mr Ntshisi and was addressed to CJOPS. Do you confirm Mr Ntshisi that that's the – that memorandum was written by you?

MAJOR THABO NTSHISI (through Interpreter): Yes, I confirm that.

CHAIRPERSON: Yes. It is dated 31 May 2013 and it is at page 123 of Exhibit FF4. Then you can read the relevant part.

ADV MPHONG RASIVHETSHELE: Yes.

CHAIRPERSON: That you want to read.

ADV MPHONG RASIVHETSHELE: Paragraph 4 on page 124 of this
20 memorandum. It states that, Lieutenant Colonel Anderson returned my call. She believed I rejected the request. I mentioned to her that asked for a written confirmation from Derco for landing clearance at (FAWK), that I assume in front would be the Air Force space and Waterkloof.

MAJOR THABO NTSHISI (through Interpreter): Yes.

ADV MPHONG RASIVHETSHELE: Is that correct, yes?

MAJOR THABO NTSHISI (through Interpreter): Yes, that is correct.

ADV MPHO RASIVHETSHELE: I asked Lieutenant Colonel Anderson, who should be received by the Air Force in terms of VIP because of my knowledge only Head of State and deputies. Lieutenant Colonel Anderson responded that it depends on the visit type also because Ministers may arrive at the Air Force if it's not too busy and the availability of parking for the flight I should allow them. The number one (President) knows about the flight.

Was this the contents of your conversation?

MAJOR THABO NTSHISI (through Interpreter): Yes, that is true.

- 10 **CHAIRPERSON:** Ja, there is – there is also a sentence that's quite in point at page 123 towards the end of paragraph three where you wrote, the Ambassador telephoned air command post to inquire as to progress with the clearance request from Indian High Commission. I spoke to him and explained the nature of (FAWK) being used for the port of entry and I indicated to him that (FAWK) can only allow Head of State, I think that's Waterkloof, Head of State and their deputies. The Ambassador responded that there would be 4 to 5 Ministers on board. I requested a note verbal from him. The Ambassador responded by saying the challenge was that this could not be put in writing and the President
- 20 authorized the landing of that flight. I should call Lieutenant Colonel Anderson to confirm that.

Is that what you were told by Ambassador Kholoane?

MAJOR THABO NTSHISI (through Interpreter): Yes, that is true.

CHAIRPERSON: Okay. Is your evidence – were you say it was after you have been told all of these things that you decided to process the

request?

MAJOR THABO NTSHISI (through Interpreter): After all these talks, Your Worship, that is when we had to make a decision that we proceed.

CHAIRPERSON: Okay.

MAJOR THABO NTSHISI (through Interpreter): With the request.

CHAIRPERSON: Thank you.

ADV MPHONGASIVHETSHELE: Major Ntshisi, you have spoken about you know the nonverbal not being the normal nonverbal that you would receive. Is that correct?

10 **INTERPRETER:** Can you repeat?

ADV MPHONGASIVHETSHELE: He has spoken about the nonverbal being it was not the normal that they would receive.

MAJOR THABO NTSHISI (through Interpreter): Yes.

ADV MPHONGASIVHETSHELE: And am I correct in saying that a normal nonverbal would indicate, identify either the Head of State, the deputy or whatever ministry, the passengers the flight would be caring. Is that correct?

MAJOR THABO NTSHISI (through Interpreter): Yes, in nonverbal, Your Worship, will have quite some number of particulars, Your
20 Worship, according to the request for the flight that will be coming in and then it will further explain extensively about the people or the crew that will be in the flight; also explain extensively about their positions and their respective duties they are doing and as to where it is from and where it is going to land.

ADV MPHONGASIVHETSHELE: And the normal note verbal would be

the previous example that we have noted on page 87; example from Derco. That would be Exhibit FF8.

MAJOR THABO NTSHISI (through Interpreter): Page?

ADV MPHONG RASIVHETSHELE: Page 87, of which file?

CHAIRPERSON: Do you need him to go back to it because he did confirm it?

ADV MPHONG RASIVHETSHELE: No, Chair, not to go back; just to explain that what he has just said that would be the normal, how in normal note verbal would look in contents.

10 **CHAIRPERSON:** Yes, I'm saying he did say that before. Do you want him to repeat it?

ADV MPHONG RASIVHETSHELE: No, Chair.

CHAIRPERSON: Remember when you showed it my recollection is that he looked at it or did he not look at it and confirmed exactly that what he had received did not, was not a note verbal as they know it.

ADV MPHONG RASIVHETSHELE: Indeed so, Chair. Major Ntshisi, so in this instance, from the look of it and what you would normally know this nonverbal that's sent by email this confirmation email to go ahead was irregular?

20 **MAJOR THABO NTSHISI (through Interpreter):** Look the one I received, Your Worship, was not the normal one which had all the particulars, Your Worship, which in normal nonverbal would carry, Your Worship.

ADV MPHONG RASIVHETSHELE: Major Ntshisi, if I could take you to Exhibit FF4 on pages 193.

INTERPRETER: Page 9?

ADV MPHONG RASIVHETSHELE: 193.

MAJOR THABO NTSHISI (through Interpreter): Yes, I'm there.

ADV MPHONG RASIVHETSHELE: Can you identify that document?

MAJOR THABO NTSHISI (through Interpreter): It's a cover page for the defence intelligence.

ADV MPHONG RASIVHETSHELE: Major Ntshisi, are you on the correct page? 193 of Exhibit FF4.

MAJOR THABO NTSHISI (through Interpreter): Pardon, I was on the
10 wrong page.

ADV MPHONG RASIVHETSHELE: Major Ntshisi, can you identify that document?

MAJOR THABO NTSHISI (through Interpreter): The document in front of me is RSA05, which is an external clearance.

ADV MPHONG RASIVHETSHELE: Can you talk about when would this document be issued and can you talk to the contents of this document?

MAJOR THABO NTSHISI (through Interpreter): This document explains where is it from and to which people is it going to and as to who the author of it is and who the person that is making a request is
20 and the reason for such a request.

ADV MPHONG RASIVHETSHELE: Okay. Major Ntshisi so, on the top page on the left-hand side in queries go to, it is written there, Warrant Officer T Ntshisi. The requester is the Indian delegation, the contact person is Captain Khathi and the address the India Embassy and at the bottom of the page we have an authority off-sign, Lieutenant Colonel SJ

Van Zyl.

MAJOR THABO NTSHISI (through Interpreter): That is so.

ADV MPHONG RASIVHETSHELE: And would it be correct that Colonel Van Zyl would have to sign these documents for the clearance to be valid?

MAJOR THABO NTSHISI (through Interpreter): That is true.

ADV MPHONG RASIVHETSHELE: And knowing the non-normality of the note verbal that you had received and you had questioned it and so forth, did you bring this to Lieutenant Colonel Van Zyl's attention before
10 he authorized this clearance?

MAJOR THABO NTSHISI (through Interpreter): As I have already explained, when it came to the finality that Colonel Van Zyl must sign you shall have already told him about the problems and the reasons why you came to such a decision that you have to continue, Your Worship.

CHAIRPERSON: You would have briefed him fully about the process up to that point. Is that what you mean?

MAJOR THABO NTSHISI (through Interpreter): Yes, you tell him about the onset of the request or the beginning, Your Worship, until to
20 the finality of it where he must finally sign and give a go-ahead, Your Worship.

ADV MPHONG RASIVHETSHELE: Major Ntshisi, can you just short in just a short sentence just relay the conversation that you had with Colonel Van Zyl?

MAJOR THABO NTSHISI (through Interpreter): Even though I cannot

remember the exact words seeing that it happened quite long ago.

CHAIRPERSON: Maybe before he answers. What he has said is that the norm is that but the time he would ask Van Zyl to sign he would have briefed him from beginning, from the beginning of the process up to the point. Do you want him to mention the whole process?

ADV MPHO RASIVHETSHELE: No, Chair. This was just you know shortly on how did he state, tell, relay to Colonel Van Zyl that you know the nonverbal was irregular and also in terms of the conversation he had with Lieutenant Colonel Anderson and Ambassador Kholoane.

10 **CHAIRPERSON**: I think maybe it would be better if you put a specific question out of that whole process what you would like him to deal with if you want to ask him whether he told Van Zyl, Mr Van Zyl that there was something irregular about this. Put the question if you want to, him to, if you want to ask him whether he told Van Zyl, Mr Van Zyl that there was no note verbal.

ADV MPHO RASIVHETSHELE: As the Chair pleases.

CHAIRPERSON: And instead there was just a letter. Just direct that otherwise.

ADV MPHO RASIVHETSHELE: Indeed so.

20 **CHAIRPERSON**: He would start all over again and then tell the whole process. So he has told us to process and he has told us that he would have informed Mr Van Zyl of the process from beginning to the point. So he would have briefed him.

ADV MPHO RASIVHETSHELE: Yes, indeed so, Chair. Thank you Chair. Major Ntshisi, did you inform Colonel Van Zyl about the note verbal not

be normal and it coming through as an email instead and not having the correct contents of a normal nonverbal?

MAJOR THABO NTSHISI (through Interpreter): It was very important that I tell him about that and the reason being he was still new in the position he was holding at that time, Your Worship, and as a new person, Your Worship, he was relying on us, Your Worship, to give him the knowledge, Your Worship, about what we know is normally happening in the process, Your Worship. After informing him that, Your Worship, that is when he came to the decision that he can sign, Your
10 Worship.

ADV MPHONG RASIVHETSHELE: Major Ntshisi, there was another request that came in say for the main Airbus that landed. There was a request for helicopters to land at the airbase. Is that correct?

MAJOR THABO NTSHISI (through Interpreter): There were such requests, Your Worship, and such requests, Your Worship, were; that request, Your Worship, was in line with the requests of the Airbus, Your Worship, which was going to land at Waterkloof. And because the reason for that, Your Worship, the airplane that was going to land at Waterkloof, Your Worship, was carried 217 people or crew, Your
20 Worship. And because of that, Your Worship, the other request for the light aircrafts, Your Worship, where the light aircraft which were going to carry people from Waterkloof to where they were going to, Your Worship.

ADV MPHONG RASIVHETSHELE: Chair, that request can be found on page 10. It can be found on page 106 and 107 of Exhibit FF5, is that

the request Major Ntshisi?

MAJOR THABO NTSHISI (through interpreter): That is correct.

ADV MPHONG RASIVHETSHELE: And the subsequent clearance is in Exhibit FF4 on page 194, is that correct?

MAJOR THABO NTSHISI (through interpreter): Page?

ADV MPHONG RASIVHETSHELE: 194.

MAJOR THABO NTSHISI (through interpreter): That is correct.

ADV MPHONG RASIVHETSHELE: And in terms of the Airbus and the light aircraft was the same processes followed, in terms of the two requests?
10

MAJOR THABO NTSHISI (through interpreter): Yes that is true.

CHAIRPERSON: Let's go back to when you took the letter from Mr Majila to is it Lieutenant Colonel van Zyl?

MAJOR THABO NTSHISI (through interpreter): Yes.

CHAIRPERSON: Was Lieutenant Colonel van Zyl the person who was supposed to approve the authorisation – the clearance?

MAJOR THABO NTSHISI (through interpreter): That is true.

CHAIRPERSON: Were you supposed to make a recommendation to him as to whether you thought he should provide the authorisation or not?

MAJOR THABO NTSHISI (through interpreter): According to my explanation and knowledge that I have, the knowledge Your Worship of the request, when you tell your supervisor or commander Your Worship where it started to where that is now going to be his thinking or decision as to what he is going to do.
20

CHAIRPERSON: So you were not required to indicate whether you

thought he should approve it or not approve, you're simply supposed to brief him fully about the process and place (indistinct) documentation before him and he would have to make a decision himself?

MAJOR THABO NTSHISI (through interpreter): That is true Your Worship.

CHAIRPERSON: If you were, yourself, not satisfied that every – that it should be approved were you still obliged to take everything to him for him to make a decision or if you were not satisfied that everything was in order you could have not processed this whole request up to him?

10 **MAJOR THABO NTSHISI (through interpreter):** Chairperson when you are in the army there is a department where you report to, you cannot ask or think what is supposed to be done Your Worship if a person is your senior.

CHAIRPERSON: Did you say that you can't tell your senior what he should do?

MAJOR THABO NTSHISI (through interpreter): Totally you cannot tell your senior what to do.

CHAIRPERSON: Thank you.

20 **ADV MPHO RASIVHETSHELE:** Thank you Chair, I would like to refer to the SANAF Board file which is Exhibit FF4, starting at page 324, just for clarity purposes this is the transcript of the Board of inquiry into Lieutenant Colonel Anderson that was held in Pretoria, the front page of this transcript can be found on page 284...(intervention)

CHAIRPERSON: I'm sorry was it 284?

MAJOR THABO NTSHISI (through interpreter): 284, it's just the

cover page for the transcript, the identification of the document.

CHAIRPERSON: Okay you want us to go to 324.

ADV MPHO RASIVHETSHELE: Yes 324 Chair please.

CHAIRPERSON: We are there.

ADV MPHO RASIVHETSHELE: Major Ntshsi, are you there?

MAJOR THABO NTSHISI (through interpreter): Yes.

ADV MPHO RASIVHETSHELE: In – just to deter in just a repetition in evidence I’m just going to pick it up from the fifth line on that document where it starts with “WO Ntshisi”.

10 **MAJOR THABO NTSHISI (through interpreter):** Where it starts with?

ADV MPHO RASIVHETSHELE: It starts with “WO Ntshisi”, the first line of page 324. Chair if I may read that in the record or should I just give a synopsis of the contents of ...

CHAIRPERSON: Well that looks like evidence that he has already given isn’t it?

ADV MPHO RASIVHETSHELE: That is just a slight introduction to the core of what we’re trying to get at so we can...(intervention).

CHAIRPERSON: But I don’t want us to waste time repeating evidence that has been said.

20 **ADV MPHO RASIVHETSHELE:** Yes, if we could just page to 325 of that document.

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHELE: If we go to line – if we go to lines 8 of that document.

CHAIRPERSON: That’s page 325?

ADV MPHO RASIVHETSHELE: 325 line 8.

CHAIRPERSON: Ja.

ADV MPHO RASIVHETSHELE: Warrant Officer Ntshisi states,

“I have spoke to Mr Koloane he indicated to me that the sensitivity of the flight is not supposed to be on a note of verbale because it’s a high security risk, then we skip a line there on line 12, Warrant Officer Ntshisi states, we need to go ahead with that clearance although I was not happy with the response that is why I even – the second time I spoke to
10 Lieutenant Colonel Anderson, she also confirmed that I must go ahead because the President authorised the flight”.

CHAIRPERSON: Major Ntshisi did you say at that Board of inquiry that you had spoken to Mr Koloane and he had indicated that the sensitivity of the flight was not supposed to be on the note verbale because it was a high security risk, did you say that?

MAJOR THABO NTSHISI (through interpreter): No I never said that.

CHAIRPERSON: So you did not say at the Board of inquiry that Mr Koloane – you had spoken to Mr Koloane and that he had indicated to you that the sensitivity of the flight was not supposed to be on the note
20 verbale and that this was because it was a high security risk, you did not say that at the Board of inquiry?

MAJOR THABO NTSHISI (through interpreter): No.

ADV MPHO RASIVHETSHELE: On that same page on 325, that would be line 28 on that page, at the bottom of the page...(intervention).

CHAIRPERSON: Well maybe let’s do the other one that you had

mentioned. On that page Major Ntshisi it's also reflected that you told that Board of inquiry that, and I read,

“We need to go ahead with that clearance although I was not happy with that response that is why I even, the second time, spoke to Lieutenant Colonel Anderson, she also confirmed that I must go ahead because the President authorised that flight”, I'm sorry did the interpreter interpret?

INTERPRETER: I'm sorry I didn't get that.

CHAIRPERSON: Okay I'm going to repeat, ja let him read as I repeat.

10 Did you say this at the Board of inquiry Major Ntshisi as reflected at page 325 somewhere in the middle of the page,

“We need to go ahead with that clearance although I was not happy with that response that is why I even, the second time, spoke to Lieutenant Colonel Anderson, she also confirmed that I must go ahead because the President authorised that flight”.

MAJOR THABO NTSHISI (through interpreter): What is written here, I don't agree with Your Worship because it is against what I've said in my statement and it is also against the report which is on the cluster report Your Worship.

20 **ADV MPHO RASIVHETSHELE:** Major Ntshisi are you stating that you never uttered these words irrespective of it being contrary to the statement and the cluster report?

MAJOR THABO NTSHISI (through interpreter): The words that are written here, I am against Your Worship.

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHELE: So Major Ntshisi are you stating that the transcription done here is incorrect?

MAJOR THABO NTSHISI (through interpreter): Yes whatever is written here I disagree with.

ADV MPHO RASIVHETSHELE: On that same page on 325 at the bottom of that page, would start at line 28 where it's stated,

“for that time it was amazed if he (she) asked me why you rejected what you call the request from the Chief, so but because she says to me, she indicated that it's the President
10 authorisation and that is why we go ahead with it”.

CHAIRPERSON: On what page were you reading just now?

ADV MPHO RASIVHETSHELE: Chair that is on line 28 on page 325, that same page that we were on.

CHAIRPERSON: Okay, well let me ask this, Major Ntshisi I thought your evidence earlier on was to the effect that Ambassador Koloane had said, and I may be mistaken, when you were insisting on the note verbale, had said that this was a unique case and that when you asked for written confirmation he said what you asked for could not be put in writing, was that something else?

20 **MAJOR THABO NTSHISI (through interpreter):** Chairperson as I've already stated Your Worship the wording Your Worship on this transcripts are not my wordings Your Worship. It looks like as if there is someone who printed this wording Your Worship as if they are coming from me, which I disagree with.

CHAIRPERSON: Do those words or those parts of that page to which

you are referred, do they make points that are true but is the wording – it's the words that are used that you don't agree with but you agree with the points but you may have used different words to make the same point?

MAJOR THABO NTSHISI (through interpreter): The wording appearing here Your Worship I, they don't mean what I said to them as I was talking to them telephonically.

CHAIRPERSON: Okay thank you, continue.

ADV MPHONG RASIVHETSHELE: Chair we are going to move on to
10 Exhibit FF8.

CHAIRPERSON: What will need to be investigated later is the issue of that transcript so that – for later on, maybe on another day when there can be clarity as to the accuracy of the transcript.

ADV MPHONG RASIVHETSHELE: We've made a note of it, thank you Chair.

CHAIRPERSON: So that in the end we know whether – what the position is, ja okay.

ADV MPHONG RASIVHETSHELE: Thank you Chair. As I said we'll be moving to Exhibit FF8, Chair I'm not particularly sure, I assume that it's
20 been done, there is a folder in FF8 with a divider with the number 4 on it and it should be the same as well with Major Ntshisi, that will be on paginated page 161.

CHAIRPERSON: 161, yes, let's see if he has got it, I think he has got it, yes.

ADV MPHONG RASIVHETSHELE: Now this is a book written by author

Pieter-Louis Myburgh, “The Republic of Guptas”, a story of state capture wherein Major Ntshisi has been mentioned in this book and we have noted and highlighted certain extracts that, if the Chair allows, to read in that record and have Major Ntshisi comment on those allegations by Mr Myburgh.

CHAIRPERSON: Well this was done with the earlier witness but what is the point, is there something written there by this author that concerns him that he wants to refute?

ADV MPHONG RASIVHETSHELE: Yes well basically Chair, this book
10 highlights that Major Ntshisi might have benefited from the landing of this aircraft by receiving a promotion in a sense.

CHAIRPERSON: Just ask him that question.

ADV MPHONG RASIVHETSHELE: Major Ntshisi, I’m not particularly certain that you’ve read the contents of this book but Mr Myburgh, in his book, relays that you benefited in, from being Warrant Officer to a Major within – it was a huge acceleration without going through the proper processes and your colleagues were surprised that you had gotten a promotion out of nowhere, what do you have to say to this?

INTERPRETER: From which rank to which rank?

20 **ADV MPHONG RASIVHETSHELE:** From Warrant Officer to where he was to the position of today which is Major.

CHAIRPERSON: You can just respond to what they say is alleged in the book about you, I’m sorry Mr Interpreter I see I took over, okay alright, yes.

MAJOR THABO NTSHISI (through interpreter): The author, Your

Worship of this book is not telling the truth that is why I was asking the Chairperson if, can I explain my feelings about this Your Worship.

CHAIRPERSON: Well that author is not giving evidence before the Commission as far as I know and I don't know if he has substantiated those allegations.

ADV MPHO RASIVHETSHELE: Chair we had a conversation with Mr Myburgh yesterday late afternoon about presenting this book and perhaps also handing it up as also as an Exhibit, he was more than happy in doing that...(intervention).

10 **CHAIRPERSON:** Ja but is he coming to give evidence to substantiate the allegations?

ADV MPHO RASIVHETSHELE: No he is not coming to give evidence but he was more than happy to...(intervention).

CHAIRPERSON: Ja if he is not going to come and substantiate the allegations I think it's enough if the witness refutes that allegation and I see the witness hasn't been given a chance to look at the book so if at a later stage they witness has looked at the book and there appears that there is something more, then we can look at that but I think at this stage let's try and finish with this witness. I think what was important
20 with this witness was really he's role with regard to the clearance and maybe one or two things, a lot of things are not in dispute.

ADV MPHO RASIVHETSHELE: Indeed so Chair. Just for purposes of Major Ntshisi, where he is mentioned in these allegations is on page 148 of the book and 150 and 151, I'm just talking about the context not the paginated bundle. So I'm talking about the book actual page

number not the bundle Major Ntshisi so you can refer to the book.

INTERPRETER: Page what?

ADV MPHO RASIVHETSHELE: Page 148, 150 and 151. Apologies Chair, just a correction Mr Myburgh had actually agreed to us referring to the book and not us handing them up as Exhibits, be that as it may due to the fact that the witness has not read the book in any event, he cannot refute it substantially.

CHAIRPERSON: Yes let's get on, are there any other questions about the real issues that this witness is here about?

10 **ADV MPHO RASIVHETSHELE:** No Chair, we have covered the issue of the request, the processes that the witness has relayed and from us there aren't any further evidence to be led for Major Ntshisi.

CHAIRPERSON: Major Ntshisi as you sit there, do you accept that the landing of this aircraft at Waterkloof should not have been authorised?

MAJOR THABO NTSHISI (through interpreter): Yes.

CHAIRPERSON: You appear to have opposed the authorisation of the landing of this aircraft up to a certain point, is that correct?

MAJOR THABO NTSHISI (through interpreter): That is correct.

CHAIRPERSON: Am I correct to say that from a certain point you
20 appear to have been prepared to go along with the authorisation?

MAJOR THABO NTSHISI (through interpreter): That is correct.

CHAIRPERSON: Do you want to confirm to me again why it is that you changed your mind about – and decided no longer to oppose the authorisation?

MAJOR THABO NTSHISI [through interpreter]: The reason for that

Your Worship is the email I got from DIRCO which was written by Mr Matjila – which was sent to me by Mr Koloane.

CHAIRPERSON: We did discuss that I just wanted confirmation. So it was that email from Mr Matjila that made you change your mind and what else?

MAJOR THABO NTSHISI [through interpreter]: Only the email Your Worship.

CHAIRPERSON: Were there any conversations you had with anybody that also persuaded you or it was only that email?

10 **MAJOR THABO NTSHISI [through interpreter]**: The talks were only between me and Colonel Anderson, Mr Koloane and then that was now the email.

CHAIRPERSON: Yes but what I am asking is whether you are saying it is only what was written in that email that persuaded you to change your mind or are saying it was what was in the email plus the conversations that you had with other people?

MAJOR THABO NTSHISI [through interpreter]: It was only the email Your Worship no one else influenced me to change my mind.

20 **CHAIRPERSON**: You said earlier on if I understood evidence correctly that if you were not satisfied that the requirements that a particular aircraft should be authorised to land after looking at whatever DIRCO sent to you, you would be entitled to – you would be entitled to or not to process the request. Was my understanding of your evidence correct?

MAJOR THABO NTSHISI [through interpreter]: Yes that is correct.

CHAIRPERSON: So why did you not refuse to process this request because 1. You have told us that this letter or email from Mr Matjila was not a note verbal and 2. It did not have its contents were – did not cover some matters that would be covered in a note verbal. Why did you process it nevertheless?

MAJOR THABO NTSHISI [through interpreter]: The reason for that is that I had already have had some talks with Mr Koloane and he already written to me Your Worship – I mean Chairperson that I must go on with processing the request.

10 **CHAIRPERSON**: But were you permitted – did you have power to process the request just because Mr Koloane said process it even if you were not satisfied that it met the requirements?

MAJOR THABO NTSHISI [through interpreter]: I did not have those powers Your Worship that is the reason why when I finished processing the request that I took it to Colonel Van Zyl.

CHAIRPERSON: Are you saying you did not have the power to refuse or are you saying you did not have the power to authorise or to process the request in those circumstances?

20 **MAJOR THABO NTSHISI [through interpreter]**: Chairperson if you were on the position I was at at that point in time and after you shall have spoken to someone senior than you by giving the clearance number to the requests of that flight. In other words I say a specific flight with such and such a number has got the right or permission to get into South Africa. By giving it a number Your Worship I do not say myself per se that it is allowed to enter Your Worship. That is why

when it come to that you have to take it to the person who is senior than you.

CHAIRPERSON: So is the position that whatever you thought of the request and whatever you thought of the email from Mr Matjila you were obliged to take the request to Colonel Van Zyl?

MAJOR THABO NTSHISI [through interpreter]: That is true Your Worship that is why when you finalise the request you must take it to the person that is in charge.

CHAIRPERSON: It is very important that I understand this part
10 because it relates to the last stages before the authorisation. My understanding of what you said earlier on was that if you were not satisfied that this request was in order you were not obliged to process it forward. Did I understand your evidence correctly in that regard?

MAJOR THABO NTSHISI [through interpreter]: Yes that is so. That is why it eventually came to the talks between myself and Mr Koloane. The reason for that I was not satisfied from the onset.

CHAIRPERSON: Yes I am trying to understand what made you change your mind and earlier on we talked about the contents of the letter – of the email from Mr Matjila. And I even asked you whether you were also
20 influenced by conversations you may have had with other people other than the contents of the email and you said you were influenced as I understood you only by the contents of the email. Did I understand you correctly so far?

MAJOR THABO NTSHISI [through interpreter]: Yes.

CHAIRPERSON: Yes okay. So then I come back to the question why

did you not say I am not processing this request forward because I am not satisfied that it is in order?

MAJOR THABO NTSHISI [through interpreter]: I could not have refused Chairperson if there was already an email that I must continue with processing of the report.

CHAIRPERSON: Once you received the email from Mr Matjila are you saying it was not open to you to satisfy yourself whether the request was in order and all you had to do is take it forward even if you did not think it was in order?

10 **MAJOR THABO NTSHISI [through interpreter]:** Chairperson as I have already stated if you are in that position and there was also a person senior than you who informs you to continue with the processing of that flight permission there was nothing I could do. I did not have the powers of refusing to do that.

CHAIRPERSON: Who was the person who was senior to you who had said you must go ahead with the request and process it?

MAJOR THABO NTSHISI [through interpreter]: If I say a senior person Your Worship I do not mean someone who was the army itself Your Worship it is someone we were working hand in hand with Your
20 Worship who was from DIRCO Your Worship who is Mr Koloane.

CHAIRPERSON: I would have thought that the person that you may have been obliged to obey if he gave you any instructions along those line would have been somebody within the SANDF or within – who was your senior at work not somebody from another department.

MAJOR THABO NTSHISI [through interpreter]: That is the truth

Chairperson. Yes Sir seeing that we were working hand in hand with DIRCO Chairperson I was in the lowest rank in such a way that I was not going to be capable to fight against the orders that are coming from people from the higher ranks Your Worship.

CHAIRPERSON: Were you not supposed in that situation to take the request rather to somebody higher and say here is this request I think it is not in order but the people at DIRCO say we must process it, what do you say? I do not agree, what do you say? Is that not what you were supposed to do in that situation?

10 **MAJOR THABO NTSHISI [through interpreter]:** That is why Chairperson when I explained that after I came across the particulars that were in the email that is when I went to Colonel Van Zyl and I explained to Colonel Van Zyl everything that happened or the whole process until where we were with the request.

CHAIRPERSON: Well part of what you say suggest to me that what you are saying is that you were not persuaded that this request was in order but because you were being told or instructed by somebody senior from senior to you but from DIRCO you were bound to take it to somebody senior to you at SANDF and yet earlier on I thought you said
20 you were opposed to this request earlier but later on you were persuaded that it should be – it should go ahead. Is – which is the position? Is it that you never changed your mind that it was not in order throughout you thought it was not in order but it was it was for Van Zyl to make a decision or is the position that although initially you thought it was not in order after some time you thought it was in order

and you took it to Colonel Van Zyl. Which one is the real position?

MAJOR THABO NTSHISI [through interpreter]: From the beginning Chairperson I had some suspicions I was not satisfied with the request. That is why I explained what was the reason for us to at last continue with this request. The people that I have already explained that I have spoken to as I have already mentioned the main reason as I have already stated I was never forced by anyone. The document that I received which was an email which said continue was the main reason why I continued.

10 **CHAIRPERSON:** So am I to understand – am I to understand your evidence to mean that nobody put any undue pressure on you to process the request up to Colonel Van Zyl?

MAJOR THABO NTSHISI [through interpreter]: As I have already stated from the people I spoke to Colonel Anderson and Mr Koloane – until to the point where we were talking about the request Your Worship and according to what we were discussing with them Your Worship those talks Your Worship are in the cluster report and then the email. That is why it then came that after the whole report was compiled that it must also land to Colonel Van Zyl.

20 **CHAIRPERSON:** So at the time that the authorisation was granted would it be correct to say at that stage you were in support of the authorisation being granted or would that be incorrect?

MAJOR THABO NTSHISI [through interpreter]: That is – Chairperson as I have already stated that after the report has reached Colonel Van Zyl I was not going to have any powers to disagree with him how to go

about signing it Your Worship.

CHAIRPERSON: Just to conclude from my side but you did say that as you sit there your view is that the authorisation should not have been granted?

MAJOR THABO NTSHISI [through interpreter]: As I am seated here Your Worship the flight was not supposed to land at Waterkloof.

CHAIRPERSON: And is that because it did not – it did not have a head of state or deputy head of state as one or some of the passengers?

MAJOR THABO NTSHISI [through interpreter]: Yes that is true.

10 **CHAIRPERSON**: Thank you.

ADV MPHO RASIVHETSHELE: Thank you Chair.

CHAIRPERSON: Is there anything?

ADV MPHO RASIVHETSHELE: There is nothing left with evidence from our side for Major Ntshisi.

CHAIRPERSON: Okay. Thank you very much Major Ntshisi is there anything that we may have left out that is important that you wanted to say?

MAJOR THABO NTSHISI [through interpreter]: At this moment no Chairperson.

20 **CHAIRPERSON**: Thank you very much for coming to give evidence. If you somebody applies for leave to cross-examine you and they are granted that leave we will ask you to come back.

MAJOR THABO NTSHISI [through interpreter]: Thank you Chairperson.

CHAIRPERSON: I see some communication between counsel for

Ambassador Koleane.

ADV MPHO RASIVHETSHELE: Yes.

CHAIRPERSON: I do not know if there is anything I need to know?

ADV MPHO RASIVHETSHELE: I am not particularly sure what the legal representatives of Ambassador Koleane wants to put on record but...

CHAIRPERSON: Ja maybe ...

ADV MPHO RASIVHETSHELE: But Advocate..

CHAIRPERSON: Maybe he could come forward. Ja.

10 **COUNSEL**: Thank you Chairperson.

CHAIRPERSON: Yes.

COUNSEL: I will not detain the commission for very long.

CHAIRPERSON: Yes.

COUNSEL: We just wanted to place our position on record.

CHAIRPERSON: Yes

COUNSEL: We did not receive a Rule 3.3 Notice in respect of this witness.

CHAIRPERSON: Yes.

20 **COUNSEL**: So we obviously reserve our rights we will consider in due course whether we want to exercise those rights.

CHAIRPERSON: Okay. No that is fine.

COUNSEL: Thank you.

CHAIRPERSON: That is fine thank you. Thank you very much you are excused Major Ntshisi. And thank you very much Mr Interpreter.

INTERPRETER: Thank you Chairperson. May I also...

CHAIRPERSON: Ja you are excused. Thank you.

ADV MPHO RASIVHETSHELE: Thank you Chair. I have noted the time it being twenty past four.

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHELE: However we do have a second witness.

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHELE: Mr William Matjila.

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHELE: He has a confirmatory affidavit which is
10 quite short but however a confirmatory affidavit to the report but
however there are annexures that he would wish to talk to. I do not
believe that his evidence will be long. I estimate no more than thirty
minutes and that would be to my best an exaggeration.

CHAIRPERSON: Well you may be like me I am very poor with regard to
estimating how long anything is going to take. So well maybe we
should – I should listen to his evidence tomorrow morning. How many
witnesses have you got for tomorrow?

ADV MPHO RASIVHETSHELE: Chair we have two more witnesses for
tomorrow that would be Lieutenant General Msimang and General
20 Mgwebi.

CHAIRPERSON: Yes. So Mr Matjila would be a third witness?

ADV MPHO RASIVHETSHELE: Yes Mr Matjila would be a third witness.
I assume.

CHAIRPERSON: How long would the others be more or less,
understanding that you don't have confidence in your own estimation?

ADV MPHOS RASIVHETSHELE: I have been told by Ms Norman SC probably an hour each.

CHAIRPERSON: Ja, I think let's start with Mr Matjila tomorrow, is he available tomorrow?

ADV MPHOS RASIVHETSHELE: Let me just relay this. He is indeed ready.

CHAIRPERSON: Yes, let me hear his evidence tomorrow at ten.

ADV MPHOS RASIVHETSHELE: As the Chair pleases.

CHAIRPERSON: Yes. We will adjourn for the day and tomorrow we
10 start at ten. We adjourn.

INQUIRY ADJOURNS TO 4 JULY 2019