

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER
158 CIVIC BOULEVARD, BRAAMFONTEIN

27 JANUARY 2021

DAY 332



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Recording & Transcriptions

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DATE OF HEARING:

27 JANUARY 2021

TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 27 JANUARY 2021

CHAIRPERSON: Good morning Mr Pretorius, good morning everybody.

ADV PRETORIUS SC: Good morning Chair. Chair in relation to the next witness there is first an application to be brought and in relation to the next witness certain logistical arrangements need to be made about the venue from which she will testify which is a secret location or an undisclosed location rather. So until those arrangements
10 have been finalised which should be very shortly may we take a short adjournment?

We also have Advocate Moerane who is on line who wishes to just make a brief statement in relation to yesterday's evidence and his client Mr Jafta.

CHAIRPERSON: Yes. Good morning Mr Moerane.

ADV MOERANE: Good morning Chair.

CHAIRPERSON: Yes. You wish to say something about the proceedings yesterday?

ADV MOERANE: Yes Chair. Chair will recall that at the
20 end of Mr Jafta's evidence you called upon me to indicate whether or not I had any re-examination.

CHAIRPERSON: Yes.

ADV MOERANE: I responded to that but apparently nobody could hear me.

CHAIRPERSON: Ja we certainly did not hear you.

ADV MOERANE: And ...

CHAIRPERSON: And we assume you ...

ADV MOERANE: Yes, yes.

CHAIRPERSON: We – I assumed you might have left.

ADV MOERANE: But – no, no, no I was not going to leave until and unless I was excused. Chair

CHAIRPERSON: Yes.

ADV MOERANE: But the long and the short of it is that I – I did not have any re-examination for Mr Jafta.

10 **CHAIRPERSON:** No, no thank you very much. Thank you.

ADV MOERANE: And secondly.

CHAIRPERSON: Yes.

ADV MOERANE: If any such technical glitch occurs in the future Mr Ndebele is there ably to represent him.

CHAIRPERSON: Okay, no, no that is fine. Well I am – although I said you might have left it was not – I did not think that you would leave without permission. I actually thought there might have been...

ADV MOERANE: Yes.

20 **CHAIRPERSON:** Just technical.

ADV MOERANE: No thank you Chair.

CHAIRPERSON: Yes. Yes. So – but thank you for making yourself available just to set the record straight and of course you have confirmed that you did not intend to re-examine Mr Jafta.

ADV MOERANE: That is correct Chair.

CHAIRPERSON: Yes. Thank you very much. And for purposes of today do you wish to be excused or are you going to be with us?

ADV MOERANE: No, no, no I will be here. I am actually briefed to represent the State Security Agency.

CHAIRPERSON: Oh okay.

ADV MOERANE: Not the particular witness but the Agency.

10 **CHAIRPERSON:** Oh okay.

ADV MOERANE: Itself.

CHAIRPERSON: Okay no. So you are with us for the whole week?

ADV MOERANE: For the whole week.

CHAIRPERSON: Ja.

ADV MOERANE: That is correct.

CHAIRPERSON: Ja okay no that is alright. Okay we are going to adjourn and then for a brief period and then resume but I see Counsel there is Counsel who wants to
20 say something.

UNKNOWN COUNSEL: That is correct Chair.

CHAIRPERSON: Yes.

UNKNOWN COUNSEL: And this is in relation to what was presented yesterday Chair yesterday's evidence.

CHAIRPERSON: Sorry.

UNKNOWN COUNSEL: It is in relation to yesterday's evidence that is why I felt perhaps it is appropriate for me to with your permission to ...

CHAIRPERSON: Yes.

UNKNOWN COUNSEL: To place the following on record.

CHAIRPERSON: Yes.

UNKNOWN COUNSEL: Chair we – yesterday we instructed our clients to place the following on record. In the morning we are short by the Chairperson and the
10 evidence leader Pretorius but none of our clients would be implicated by Mr Jafta's evidence.

With that in mind and the need to mitigate the costs to our client we are inclined and we had indicated to the Chairperson that we are inclined to leave the hearing but thankfully our client's instructed us to stay for the duration of Mr Jafta's evidence.

Regard being had to Mr Jafta's written statement we understood why the Chairperson believed that none of our clients would be implicated by – in his testimony.

20 The assurance notwithstanding Mr Jafta testified that a sum of R125 million and assets to the value of R9 billion were unaccounted for in the financial year 2017/2018 and he attributed this to projects allegedly carried out of the office of the Accounting General – sorry Accounting Officer.

It is common cause that SSA's budget per annum is nothing close to R9 billion for them to lose that much in a year. This obvious and we submit deliberate falsehoods will be rebutted in due course.

Understandably the Chairperson was shocked saying and I quote:

“How could a government department not be able to account for R9 billion?”

And remarked that:

10 “I have a suspicion that no heads rolled”

And that this money may have gone to people's pockets implying possible theft. Mr Jafta agreed thereto.

Naturally we expect the Chairperson at the conclusion of the evidence related to SSA to conclude where wrongs have been identified but heads must roll. And we have no objection thereto.

The Chairperson even concluded that this money had disappeared and asked if any action was taken against the Accounting Officer. This implies that even the
20 Chairperson it was clear that the Accounting Officer was at that stage implicated in wrongdoing and requiring that action be taken against him.

It is his 00:06:36 Chairman who is the Accounting Officer during the financial 2017/2018 was and to that extent a certain publication yesterday already wrote that

SSA lost R125 million without trace during Arthur Frasers' watch 00:06:51 to State Capture Inquiry.

This reckless falsehood that our client pocketed R9 billion out of taxpayers' money renders him and his family vulnerable and makes him an enemy of the people of South Africa and therefore initially target in the eyes of many.

Even if it was to be accepted that was – it was not anticipated that by the commission or Advocate Pretorius that our client would be implicated by Mr Jafta.

10 It is our submission that Advocate Pretorius could have advised the witness against un-procedurally implicating our client. And this being almost three years since our client had left SSA. This was the first time that he heard that about such a huge amount of money being accounted for under his watch. Yet Mr Jafta who as a diligent Accounting Officer had a duty to raise this – these worrying findings with Mr Fraser; knew where Mr Fraser was and did nothing about it.

20 For the record we have since established that SSA is aware that no assets to the value of R9 billion are unaccounted for.

Similarly we have been advised that R125 million was unaccounted for during 2017/2018 financial year owing to SSA under Mr Jafta's leadership not providing the Auditor General with the supporting documents they had

and continued to have in their possession while they SSA conducted what is now clearly a malicious investigation against Mr Fraser.

Evidence in this regard will be led in due course. It would have been prudent we submit Chairperson upon the evidence leader being a neutral person interested in uncovering the truth to have at least asked Mr Jafta if his predecessor was informed thereof.

This was certainly not done. The blatant omission
10 00:09:00 perceptions of biased on the part of the
commission or its evidence leaders. Especially in the view
of the fact that the right to cross-examination of witnesses
is not automatic. The [?] notwithstanding the commission
without fail failed to save – to serve a Rule 3.3 Notice on
our client. Taking into account that yesterday we were only
provided with a copy of Mr Jafta's statement which was
obviously silent on the offending allegations.

We request that in addition to the statement being
provided we have been provided with that we request that
20 we be provided with copies of all documents forming the
basis of this serious allegation against our client.

And we place on record that our client remains
committed to the principles of accountability, transparency,
good corporate governance and in view of the above he
recommits himself as he has always done to assist in the

commission uncover the truth.

CHAIRPERSON: No thank you Counsel. It is a legitimate for you and your client to raise the matter. Mr Pretorius do you want to say something now?

ADV PRETORIUS SC: Well...

CHAIRPERSON: Or later?

ADV PRETORIUS SC: If we had been afforded the courtesy in advance of what my learned friend was going to say including the serious accusations he makes one would
10 have thought that it is proper that we be given notice of what he has to say. We will look at it and we will respond in due course.

But Mr Fraser's rights are protected by the fact that he can make any application he wishes to you in a formal sense and should he be in a position where he needs more time or more consideration before he brings an application to cross-examine which he may do to give his own evidence which he may do he can rectify the situation. Insofar and I do not make no concessions at this stage
20 insofar as there is a legitimate complaint. He has his remedies.

But only in fairness as Mr Fraser's representative seems to insist on yes we should be given notice of these matters so we can deal with them properly. Thank you.

CHAIRPERSON: Okay alright we will take an adjournment

it is twenty five past. It may well be that the logistical arrangements are about to be ready maybe it will be ten minutes adjournment.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: But it should...

ADV PRETORIUS SC: It should not be longer than that I will check now.

CHAIRPERSON: Yes. Yes.

ADV PRETORIUS SC: Thank you.

10 **CHAIRPERSON:** Okay we will adjourn for ten minutes. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Mr Pretorius. I see my registrar has not put any file here.

ADV PRETORIUS (SC): [No audible reply]

CHAIRPERSON: Yes, Mr Pretorius.

20 **ADV PRETORIUS (SC):** Thank you, Chair. Chair, the first matter before you is an application made on behalf of Ms K and indeed by Ms K to give her evidence from a protected location and in such a manner as her identity will be revealed. So it is not evidence *in-camera*. It is just evidence under conditions in which her identity will be protected.

Ms K, as you will see from the affidavit before you, is employed the State Security Agency. She is the part of the Veza Investigation Team. She is involved in ongoing investigations of a sensitive nature. And as such, for those two reasons, her identity should be kept confidential.

There is president for this because Mr Y who will become relevant later, when we introduce Ms K, had a similar order given in respect of his evidence previously. And should he return to give evidence, we will ask for a
10 similar order to be given once more.

The nature of the evidence that she will give, which is highlighted in the affidavit before you, and the nature of her duties, which are highlighted in paragraph 12 and following of the application, make it clear that her evidence should and in fact must be given under protected identity.

The affidavit also talks of threats and intimidation that have been undergone by the members of the Investigation Team. It also talks of attempts to interfere with and sabotage the Veza Investigation. Those are dealt with in
20 paragraph 15.

And finally, the regulatory framework demands and regulates the protection of identify of SSA members and we asked that those be applied, there be no exceptions made. The order that we seek – if I can just quickly give you a copy
Chair?

CHAIRPERSON: So the fact of the matter is that – or the grounds for the order are, one, because of her status as employed by SSA.

ADV PRETORIUS (SC): Yes.

CHAIRPERSON: Two, that there have been acts of intimidation relating to people working with her or something like that?

ADV PRETORIUS (SC): Yes, and the investigation in which she is involved.

10 **CHAIRPERSON**: The investigation in which she is involved. Okay alright. I see there is counsel who wants to say something.

UNKNOWN COUNSEL: Our instructions are to oppose this application.

CHAIRPERSON: Is it all of your clients who are opposing it?

UNKNOWN COUNSEL: All of our clients Chairperson.

CHAIRPERSON: Yes.

UNKNOWN COUNSEL: Oppose it.

20 **CHAIRPERSON**: Yes, yes.

UNKNOWN COUNSEL: It is common cause Chairperson that we were never informed or rather provided a copy of this witness with a 3.3. Notice.

CHAIRPERSON: H'm?

UNKNOWN COUNSEL: And the rules of 3.3. provides that if

the Commission's Legal Team intends to present to the Commission a witness whose witness – whose evidence implicates or may implicate another person, it must through the secretary of the Commission notify that person that is the indicated person in writing with a reasonable time before the witness' evidence:

1. 3.3.1 that he or she may be implicated by the witness's evidence;
2. 3.3.2 in which way he or she may be implicated and furnish him or her with the witness statement or portions of the statement.

As we stand, we do not have a copy of – and we do not have a notice for this witness and we do not have a copy or portion of her statement.

All that we have Chairperson is an email that we received on Saturday afternoon which said – or let us talk about the notice about the witness called Mr Y. And the letter said:

“Due to unforeseen circumstances Mr Y will not be able to testify during the furnishing(?) period and it has become necessary for Ms K, the Project Manager of Project Veza, to testify in his place. The substance and import of the averments that implicate or may implicate you was letters that were written to our clients, is the same.”

It is common cause Chairman that the duty to provide our clients with a notice and a statement is not optional. It is legislative requirement.

The evidence leaders are obliged to provide our clients with the statement. We cannot unwish(?) in this manner. To understand that we are told that Ms K will be testifying in the place of Mr Y.

You know, almost, you know, it amounts, you know, to – when you bring up watch amateur soccer. You know, whether substitute a player and the player goes out, he takes his jersey and the ones that is coming in. You know, that cannot be. That cannot be allowed in these proceedings. Rule 3.5 provides that:

“If an implicated person believes that ...[intervenes]

CHAIRPERSON: Would you complain as a soccer fan that the substitute should be wearing his own jersey, not the other player’s jersey?

UNKNOWN COUNSEL: Well, they have rules for substitution.

20 **CHAIRPERSON:** [laughs]

UNKNOWN COUNSEL: Basically.

CHAIRPERSON: [laughs]

UNKNOWN COUNSEL: But that as well. We have – we have – especially – ja, they are not that yellow team. But at any rate. It is common cause or rather Rule 3.5 provides

that:

“An implicated person believes that the Commission’s Legal Team did not give him or her the notice referred to in Rule 3.3. within a reasonable time before the witness could or was to give evidence and that this may be prejudicial to him or her, her or she may apply to the Commission for such an order as it will ensure that he or she is not seriously prejudiced.”

10 This application thus supports that notice has been given. In this case, none has been given. So we are left with no recourse, really, in terms of the rules.

The Legal Team has no discretion, discretion right or duty to ignore the rules. And they cannot use time constraints as justification to undermine the rules and our client’s rights.

With regards to evidence – we are told it is not evidence *in-camera* but – well, we are told what the distinction is between what they want the evidence leaders want to do now
20 in evidence-in-chief... *in-camera*.

We have been advised that – or we believe that this is evidence *in-camera*. Rule 4(1) provides that:

“Subject to Rule 4(2), the hearings of the Commission will be held in public.”

Rule 4(2) says:

“In an appropriate case, the Chairperson may make an order that a hearing be held *in-camera*.

In such a case, the Chairperson shall specify in the order those person who will be berated to attend the hearing *in-camera*.”

The import of the rule Chairperson, we submit that, as a general rule, hearings must be in public. And this is the argument that was basically advanced by the evidence leaders yesterday when – during the application by the
10 Minister for the matter to stand down.

And similarly Chairperson. On Monday, when we applied for these hearing to be held *in-camera*, we are told that we have got to bring a substantial application.

As we stand, we have not received any application. We are the interested party. We should have been served with an application if there is any.

To depart from the general rule we submit Chairperson that an appropriate case has to be made. Well, we are left to speculate what these intimidations are, by whom.

20 It is as if she is not even saying she was pestering intimidated. Those members of the team received or were intimidated but at any rate to the extent that we did not have the application we could not even entertain the contents thereof. Rule 9(2) clearly states that:

“A witness may apply to the Chairperson at least two

weeks before he or she is scheduled to appear at the hearing to have his or her evidence taken *in-camera*.”

Well, the impression we have is that this application, if anything, must have been submitted to the Chairperson the earlier on Saturday when we were told that we are substituting.

So in the circumstances Chairperson, are our instructions are to oppose, one, the admission of Ms K to the extent that we have not been provided with the notice and to the extent...

And considering Chairperson that this would be- well, concerning yesterday’s witness, the fifth witness, at least in respect of one of my clients, that is testifying without notice.

This cannot and should not – this injustice cannot and should not be allowed to persist. It is time that ...[intervenes]

CHAIRPERSON: Well, the first order that is asked for in the order that has been applied for, asks me to condone the fact that no notice is given to implicated parties. So in other words, there is a clear understanding that, on the part of the Legal team, that the norm is to give notice to implicated parties but in this particular case, it is submitted that the circumstances justify not given notice to implicated persons and that would be dealt with – that would have been dealt

with in the affidavit.

UNKNOWN COUNSEL: Chairperson ...[intervenes]

CHAIRPERSON: And of course, you know that there cases even in court where a party who brings an application may be justified in not giving notice and has to ask the court to condone that failure. And if the court does not condone that failure, obviously, the court insists that notice be given.

UNKNOWN COUNSEL: Well, Chairperson you know, a few minutes ago Advocate Pretorius was complaining about me
10 not having spoken to, at least, you know, the courtesy of letting him know that we are going to read our letter into record but it is not understanding the same case that he expects from us to ask.

I hear from you for the time now Chairperson that the first prayer that is being asked for is condonation, you know, not complying with the rules in terms of at least informing us.

We do not know – we are at a terrible disadvantage
Chairperson. We find ourselves having to respond to serious implications that impact on our clients' rights without
20 knowing what the real application is about and what the reason therefore is.

It is my submission Chairperson that this is an injustice that cannot be allowed to persist in these hearings.

CHAIRPERSON: Thank you. Mr Pretorius.

ADV PRETORIUS (SC): Chair, once again, we would have

appreciated notice of the content of the application being made now which the rules require but be that as it may. I will deal with it.

The first issue is whether Ms K should be afforded the opportunity to give evidence under a protected identity. A full case has been made out for that.

Those applications may be brought in a manner that it is brought for the very nature, for the very reason that is contained in the affidavit. That is the one issue.

10 But I think my learned friend goes further. He is now saying that Ms K should not give evidence at all because they have received no 3.3. Notice. That is correct. I would have explained that at the commencement of the evidence but that is a different issue.

So perhaps we should deal first with the issue of the protected identity process and then we can deal with whether she should give evidence at all which is another application of which we had no notice.

20 So Chair in relation to the latter I will deal with it after the first matter has been disposed of unless you wish me to ...[intervenes]

CHAIRPERSON: Well, I think let us deal with both now.

ADV PRETORIUS (SC): Alright.

CHAIRPERSON: Since he has... Ja.

ADV PRETORIUS (SC): Chair, the investigators and the

Legal Team have been interacting with employees of SSA, particularly employees who are conducting ongoing investigations of a sensitive nature.

Mr Y is a member of that team and he was the person who provide an affidavit to the Commission after many months of hard work. He has just emerged from a coma and is quite indisposed, cannot give evidence.

Ms K can also give her own evidence but she is not here to give her own evidence. She is here to confirm what she
10 knows about the statement of Mr Y.

Implicated parties who are implicated by the evidence of Mr Y have full knowledge of, a) whether they have been implicated and b) the basis upon which they had been implicated.

The evidence will not go further than that. So ...[intervenes]

CHAIRPERSON: They were served with Mr Y's affidavit?

ADV PRETORIUS (SC): Yes.

CHAIRPERSON: Ja.

20 **ADV PRETORIUS (SC)**: So Mr Y's affidavit will be presented to you and the evidence will be restricted to the contents of Mr Y's affidavit. That knowledge is shared by Ms Y(sic). So ...[intervenes]

CHAIRPERSON: So effectively, Ms Y ...[intervenes]

ADV PRETORIUS (SC): Ms K.

CHAIRPERSON: Now Ms Y(sic) is coming to say
...[intervenes]

ADV PRETORIUS (SC): Ms K. Sorry, Chair.

CHAIRPERSON: Ms K.

ADV PRETORIUS (SC): My mistake, ja.

CHAIRPERSON: Ms K is coming to say: I have read Mr Y's
affidavit that has been submitted to the Commission which is
the evidence he intended to give in this Commission. I know
about a lot of matters that he deals with. I have personal
10 knowledge of a lot of matters that he deals with in his
affidavit. And I am coming to confirm what he would have
said because I also know it.

ADV PRETORIUS (SC): Correct.

CHAIRPERSON: That is the basis on which she is coming.

ADV PRETORIUS (SC): Correct.

CHAIRPERSON: Ja, okay.

ADV PRETORIUS (SC): To the extent that she has
additional knowledge. She will not give that evidence if that
evidence should implicate any party, who may have slain but
20 not to the extent of implicating any other parties.

CHAIRPERSON: H'm, h'm.

ADV PRETORIUS (SC): And to the extent that she cannot
confirm what Mr Y has said on his affidavit, she will say so.

CHAIRPERSON: Yes, yes.

ADV PRETORIUS (SC): So the bottom line is. There can

be no prejudice because every piece of evidence to be given which might implicate a person, 3.3 Notices have been given.

CHAIRPERSON: H'm.

ADV PRETORIUS (SC): It is just we are substituting one ...[intervenes]

CHAIRPERSON: Yes.

ADV PRETORIUS (SC): ...concealed identity for another concealed identity.

10 **CHAIRPERSON**: Yes. It is a matter of ...[intervenes]

ADV PRETORIUS (SC): [Indistinct]

[Parties intervening each other – unclear.]

CHAIRPERSON: It is a matter of, if two people have personal knowledge of the same events ...[intervenes]

ADV PRETORIUS (SC): Yes.

CHAIRPERSON: ...and once becomes unavailable to testify, another one comes in to testify in regard to the same events.

ADV PRETORIUS (SC): Yes, Chair.

20 **CHAIRPERSON**: Because she too has personal knowledge of those events.

ADV PRETORIUS (SC): Indeed Chair.

CHAIRPERSON: And she would go along the lines of the affidavit that was served on the implicated parties.

ADV PRETORIUS (SC): Yes, Chair.

CHAIRPERSON: Ja.

ADV PRETORIUS (SC): So there is simply no prejudice to anybody.

CHAIRPERSON: Ja. H'm. Okay.

ADV PRETORIUS (SC): And the reason why it has been done this way is that if Ms K was to come and give her own evidence, it would involve a delay.

CHAIRPERSON: Ja.

ADV PRETORIUS (SC): You know that this Commission just
10 cannot afford.

CHAIRPERSON: Ja. H'm. Then you wanted to say something about not giving notice and...

ADV PRETORIUS (SC): Yes, Chair. That is the practise that these applications are brought *in-camera* without notice. There is simply no way that ...[intervenes]

CHAIRPERSON: Ja.

ADV PRETORIUS (SC): ...we can have an exchange of affidavits which would inevitable involve disclosure of identity.

20 **CHAIRPERSON:** Ja, okay. Counsel for various parties, what do you say in response?

UNKNOWN COUNSEL: And I assume my colleagues as well would also want to respond. And briefly Chairperson. If what was told – we are told is correct that Ms K is here to confirm the contents of Mr Y's affidavit. And we were told

that that's basically what was going to happen.

We submit Chairperson that this is unbecoming. You cannot contain(?) what is not before the hearing. But again, we – let me be allowed ...[intervenes]

CHAIRPERSON: Mr K's(sic) affidavit has been submitted to the Commission.

UNKNOWN COUNSEL: Well, but it no status, at least at the moment.

CHAIRPERSON: Yes. Well... Ja ...[intervenes]

10 **UNKNOWN COUNSEL:** So technically it is not before the Commission.

CHAIRPERSON: Continue.

UNKNOWN COUNSEL: And if the purpose is ready to confirm that affidavit. I know we have a problem of time. The Chairperson has a problem with time. A confirmatory affidavit should suffice. With regards to ...[intervenes]

CHAIRPERSON: I think there is a confirmatory affidavit.

UNKNOWN COUNSEL: No, all I am saying is. Submit a confirmatory affidavit. You do not – let them testify. You see
20 Chairperson we cannot ...[intervenes]

CHAIRPERSON: Yes, you see ...[intervenes]

UNKNOWN COUNSEL: So I beg ...[intervenes]

[Parties intervening each other – unclear.]

CHAIRPERSON: You see, this is a matter where the implicated parties, notice is not given to implicated parties

because of the nature of the application but what has happened, as Mr Pretorius indicates, you have been given Mr K's(sic) affidavit.

UNKNOWN COUNSEL: Mr Y.

CHAIRPERSON: Mr Y's affidavit. You know these alphabets, one is going to end up getting confused. So basically, Ms Y(sic) is in substance going to say, I am making an example, when that car accident happened which Mr Y watched or saw. I also was an eye-witness to it.

10 And I have read his affidavit and I am going to confirm what is in accordance with my recollection of what happened. And it is in line to a very large extent with Mr Y's evidence. But where I differ or where my recollection is not the same as his, I will specify.

UNKNOWN COUNSEL: Well, Chairperson our submission is that. If they saw, experienced the same things then there is no need for Ms K to confirm that Mr Y saw and experienced. She can submit her own affidavit ...[intervenes]

CHAIRPERSON: Well ...[intervenes]

20 **UNKNOWN COUNSEL:** ...that deal with ...[intervenes]

CHAIRPERSON: You see ...[intervenes]

UNKNOWN COUNSEL: ...those things that ...[intervenes]

CHAIRPERSON: Maybe confirm is not necessarily – maybe it might be a term that might be confusing to some people. Effectively, she can – she does not need to say: I confirm

what is said. She can be asked questions based on Mr K's – Mr Y's affidavit and she can say: Yes, this is what happened, this is what happened, this is what happened. But I do not think that, you know, saying she should not say – confirm ready – she confirms really adds much in terms of substance.

UNKNOWN COUNSEL: Chairperson ...[intervenes]

CHAIRPERSON: She claims to have personal knowledge of the same matters that Mr Y deals within his affidavit and
10 therefore she would not be giving hearsay evidence.

UNKNOWN COUNSEL: Well, Chairperson the word confirmed is introduced by the evidence leader. So ...[intervenes]

CHAIRPERSON: Ja, I am not ...[intervenes]

UNKNOWN COUNSEL: So we then follow what you are saying.

CHAIRPERSON: Ja.

UNKNOWN COUNSEL: But the reality Chairperson is. We submit that Mr Y's evidence cannot be introduced by a
20 backdoor. There is always a possibility that Mr Y can decide that no, no, no. I am not proceeding with this affidavit. He may, for whatever reason, want to distance himself from the contents of that affidavit.

Hence I say, if they saw and experienced the same things, then there is no reason why we do not – why first

Ms K's affidavit has to be aligned to Mr Y.

And two, why she is not submitting her own affidavit, explaining all the things that she recollects. There is no reason.

The reality is that. We are trying here to justify failure to comply with the rules. And that Chairperson should not be allowed to happen. People's lives are being affected here.

CHAIRPERSON: I will give you – are you done or do you need more – you are done?

10 **UNKNOWN COUNSEL**: I am done Chair.

CHAIRPERSON: You are done. Thank you. I heard that there might be somebody else.

UNKNOWN COUNSEL: Chairperson, we just want to place it on record ...[intervenes]

ADV PRETORIUS (SC): Chair, if my learned friend want to place it on record ...[intervenes]

CHAIRPERSON: Ja.

ADV PRETORIUS (SC): Perhaps he should speak into microphone.

20 **CHAIRPERSON**: Yes.

UNKNOWN COUNSEL: Chairperson, we just want to place it on record, just like what my learned colleague has done. And to notify Chairperson that on the 24th of January, we wrote to the Commission's Legal Team objecting to the evidence of Ms K or Ms K coming to give or to confirm, as

the Chair was saying, the affidavit of Mr Y. Chairperson ...[intervenes]

CHAIRPERSON: Well, I was clarifying that maybe confirm is not the right word because she has personal knowledge, as I understand it, of the same events.

UNKNOWN COUNSEL: Ja. Chairperson, just like what we do. We extend courtesy everyday to the Legal Commission, to the Legal Team of the Commission with my learned colleagues.

10 Yesterday, we extended the courtesy of trying to engage with the Legal Team in terms of what is it that Ms K is coming to do today. And then we were told by members of the Legal Team that she is coming to confirm.

So we want to place it on record to say, just like what we did yesterday when we started, that should it happen, as we are seeing now my learned colleague has raised, that the client – his client was implicated.

Now should it happen that another client – our client or my learned colleague's client is implicated. Then how do we
20 move forward in terms of that issue?

Are we going to say – are we going to accept what the witness has said? Or are we going to now be placed in a position wherein we need to review?

CHAIRPERSON: You will be given an opportunity after to respond to her affidavit or to apply for leave to cross-

examine her. That is what has happened in matters such as this where this kind of application is done and a number of them have been brought and granted on that basis.

The – you would – you may have noticed from the media sometime back that there were witnesses who gave – there were witnesses connected with Transnet who gave evidence from secret location dealing with evidence about certain people that they said had – were collecting bags of money from the Gupta residence. The same thing was done.

10 The same thing has been done with other witnesses who have given evidence from a secret location. You get – the implicated persons get the ...[indistinct] after to refute the evidence. The norm is you get the evidence before but there are exceptions. It is just like in court, as I indicated to your colleague.

 The norm is if you are going to bring an application for an order against somebody, you serve the application on that person so that when you move that application in court that person is represented and is able to oppose but
20 there are circumstances where the court departs from that, the implicated person does not get given notice and the person who brings the application asks the court to condone that for reasons that are given and, if the court is satisfied, then it gives the implicated party and opportunity afterwards to deal with the allegations. That is the

principle.

ADV MVUMBI: Yes, I hear, Chairperson. But, Chairperson, can Chairperson agree or – I do not know, is it too much for us to say it is common cause that Ms K cannot come to the Commission and give evidence to the Commissioner on an affidavit that is disposed (sic) by Mr Y.

CHAIRPERSON: Ja, you see, you are all getting confused with something that really is either here not there. You
10 know, I am saying, as I understood the position, Ms K is saying in effect to a very large extent, take this affidavit by Mr Y as if it was my affidavit because I have personal knowledge of the contents of that affidavit. I am going to come and testify about exactly those things but where my recollection or my knowledge differs from that of Mr Y, I am going to say so that, no, my recollection is different and but a lot of things that are there in that affidavit reflect my own knowledge.

ADV MVUMBI: No, Chairperson, I think the confusion
20 would have not even been there if the legal team of the Commission is willing to engage. Like I pointed out yesterday, the team – the legal team of the implicated people and it is a matter of time, it is a matter of us agreeing that after this presentation of the Commission of whoever witness is there for today, just like what Chair

suggested yesterday, that maybe we stay for an hour, address the issues of the witness that is coming tomorrow.

When Chair goes home later on after the Commission, is at a position of knowing all these issues that we will be raising here today and then that will make this Commission like very, I mean, easy. But now we are faced with a situation where every morning we must do ground check, we must do housekeeping, which is not acceptable and at some point we even withdraw ourselves
10 to certain issues because we are learned colleagues here and we must treat each other with respect. And indeed we try to do that and we cannot go to the public and behave like people who do not have ethics. Cannot do it. That is my submission, Chair.

CHAIRPERSON: Yes. No, thank you very much.

ADV PRETORIUS SC: Chair, can I just respond please?

CHAIRPERSON: Yes.

ADV PRETORIUS SC: Correspondence that has been addressed to the Commission has been responded to, there
20 have been engagements but the evidence of a witness, the circumstances under which a witness gives evidence is not a matter of negotiation between that witness, that witness of representatives and the legal team, these matters are for you to decide, evidence will be properly be placed before you and they can respond.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: Quite frankly, the notion that we must negotiate, whether a witness gives evidence and the conditions under which a witness gives evidence and what the witness can and cannot say is just nonsense, Chair.

CHAIRPERSON: Ja. It think there is another council who wants to say something?

UNKNOWN COUNSEL: Yes, Chair, my learned colleague has me to stand down for him to [inaudible – speaking
10 simultaneously]

CHAIRPERSON: Oh okay, alright.

UNKNOWN COUNSEL: Thank you, Chair, mine is rather make comment rather to oppose the application as brought by Mr Pretorius.

CHAIRPERSON: Yes.

UNKNOWN COUNSEL: Because we understand that – and the extent upon which our client has been implicated. We find comfort as well to say Ms K will only be confined to what she understands based on the fact that she has been
20 involved in the investigation as she will then lead and be led.

However, the discomfort that we have, as much as some undertakings were made in previous witnesses to say you are not implicated, therefore you did not receive the Rule 3.3 notice but when the evidence leader, in the

course of leading the witness, then certain people are implicated and it was brought to your attention.

I would only on the instructions of my client find comfort if I could hear that Ms K's evidence is only going to be confined insofar as it relates to her involvement with Mr Y's evidence, which is under oath. Those are my submissions, Chair.

CHAIRPERSON: Well, what Mr Pretorius has said is that she will not go outside the affidavit of Mr Y and she will not
10 give evidence, her own evidence insofar as it relates to matters that are not dealt with in Mr Y's affidavit.

So in other words, when you look at Mr Y's affidavit, that is what she will confine herself to.

UNKNOWN COUNSEL: Let us assume, let us assume ...[intervenes]

CHAIRPERSON: As I understand the position.

UNKNOWN COUNSEL: Without debating, Mr Chair, it is just for clarity. Let us assume there are certain aspects Mr Y would – rather, Ms K would rather not go to because it
20 would not be competent to give such evidence, can we have an indication from the legal team whether Mr Y at some point, having been indisposed at the moment, will come and testify to some of the aspects of his statement so that we get an opportunity to respond to some of the issues we respond meaningfully rather in a piecemeal

fashion. Those are my submissions, Chair.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: As soon as Mr Y recovers, I do not know if my learned friend heard, Mr Y has recently emerged from a coma, he is seriously indisposed.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: It is nothing that I can give any guarantee about. And my empathy goes towards Mr Y. He will come, if there is space on the calendar, and he will
10 come if you decide, Chair.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: So the matter in your hands.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: I might just add it might help my learned friends that indeed Ms K has prepared an affidavit, which will be put before you, annexing Mr K's (sic) affidavit. To the extent that she cannot confirm what Mr Y says, she will say so.

CHAIRPERSON: Ja. Well, there is another – counsel?

20 **ADV MVUMBI:** I have just received from my clients, the information that we had is that the evidence team has known for probably a while that Mr Y has been ill, has been in hospital, so it is not something that is new that came to their attention now.

CHAIRPERSON: But there might have ...[intervenes]

ADV MVUMBI: So they could have [inaudible – speaking simultaneously]

CHAIRPERSON: They might have thought he would recover in time for the hearing.

ADV MVUMBI: But they have had enough time to at the very least submit or give to us a Rule 3.3 notice that talks to Ms K and they elected not to.

CHAIRPERSON: But the substance of what Ms K is going to talk about, testify about, is in Mr Y's affidavit. You know
10 it.

ADV MVUMBI: But Mr K – or Ms K is not ...[intervenes]

CHAIRPERSON: All you have been told is ...[intervenes]

ADV MVUMBI: ...Mr Y's alter ego.

CHAIRPERSON: All you have been told is instead of Mr Y saying these things in this affidavit, Mr Y, it will be Mr K. The substance of what will be said about your client or whoever is there, it has been given to you, you know it.

ADV MVUMBI: But Chair, that is ignoring the rule. The rule says give us a statement or a extract of the statement,
20 it does not say give us someone else's statement upon which you rely.

CHAIRPERSON: Yes. Well, Mr Pretorius, I think if he has not dealt with that, he will deal with that. I think let me hear, I think there was another counsel who wanted to say something.

UNKNOWN COUNSEL: Thank you. Good morning, once again, Chair. Mine is more on what the Chair has been referring to and referencing at least to the practice in the courts and to the extent that I understood what the Chair has said that it is a norm and possibly I understand the Chair saying it is a norm in this Commission.

May I refer the Chair to what is commonly – the rules applicable here and my learned colleague, I did not hear because my colleague from the State, or the
10 Commission rather, has requested that we deal with his application in separate by the fact that you then directed, Chair.

That is, I would want to confine myself to what is the application brought to you today and to what extent that application should be opposed and how it should be brought. My learned colleague has pointed out that two weeks' notice, which is in turns of Rule 9.2, should give and reasons should be provided to you, Chair. And the rules, therefore, enjoins the Chair to then exercise his
20 discretion. But it does not do so as a wide discretion because the rules at Rule 11 then provides for general applications that will apply, vice versa, to the Commission and to the participants in the Commission.

May I then direct, with permission before the Chair to Rule 11? I will probably want to read selected

provisions. Rule 11.1 says:

“Any party wishing to make any application to the Commission which is not otherwise provided for in the rules must do so on at least seven calendar days notice in writing to the Commission but the Chairperson may condone noncompliance with this notice on good cause shown.”

That I accept, Chair, is what we are guided by the rules even in court.

10 Now I have heard the Chair saying that there is a norm or at least a practice in law that such application may not be served. However, Chair, the rule of this Commission directs at 11.3 and 4 and 5. It says:

“Whenever these rules make provision for any person to apply to the Commission or the Chairperson, the application must be substantive application on affidavit with a notice of motion. The affidavit must, among things, reflect the relevant facts and the order sought and the grounds.”

20 And this is what we understand has been provided to you today. However, then it goes on to say at 11.4:

“The application must be lodged with the Secretary of the Commission who will ensure that the original is delivered to the Chairperson and a copy to the legal team.”

This will also apply in reverse, I would want to think.

“The applicant in that application might cite every person whose rights...”

Emphasis, every person whose rights.

“...may be adversely affected by the order sought and serve...”

Emphasis.

“...a copy on him or her.”

And that is where I take issue, Chair, because my learned
10 colleague’s argument on particular at this point is that we
have not – and to an extent my learned colleague has
accepted that they have not complied with the rules insofar
as 3.3 notice of Y is concerned.

Not only that, now, there is a transgression further
that we are not even given a notice at least seven days
from them knowing of this. What we have been given was
an email that was given to us and I would, to the extent
that my memory serves me well, it says please note that
we will be substituting. Reference to my learned
20 colleague. And this individual will just confirm what Y
says.

I have tried to look at Y’s statement as the
deliberations were going, that nowhere in Y where he then,
as my learned colleague has professed, that Y would
almost be to the similar status as – or K, rather, will be in

the similar status of Y where Y then deposed to say I will want the protection and I want my testimony to be *in camera*.

So until today there was no such intention or at least given to us that we will be applying – at least know that we will be applying to have this testimony of a substitute player *in camera*.

Now having taken what the Chair has said, that this the norm, but my submission will be that we are guided by
10 the rules and the rules, therefore, provided inasmuch as there could be these challenges and these applications, a party that is interested and which we seem to be all in agreement that we are indeed implicated, directly so, if we are now to live to the premise that K is going to substitute and to an extent confirm the affidavit of Y, which we then received the notice and spells out that we are indeed implicated.

So now will that, therefore, justify not being given the application in advance or at least being served
20 because rule 11.4 provides for same and that we then apply ourselves because it says specifically that it must be a notice of motion, affidavit accompanies. So the notice must be served on any interested party so that they can therefore be able to exercise.

My gripe, therefore, Chair, is on noncompliance on

the very same application now that you are now faced with because then the rules otherwise says on practice direction that the Chair will give direction in exercising his discretion. That is my submission, unless there is anything, Chair.

CHAIRPERSON: Thank you, thank you very much. Registrar? Mr Pretorius, what do you say to that?

ADV PRETORIUS SC: Well, Chair, in the first place, it seems that the intention to preclude Ms K from giving
10 evidence *in camera* should not be confused with the intention to prevent her evidence at all. Quite simply, the Commission must hear the evidence, in our submission, it is important evidence. But in relation to the application for protected identity, the rules make it clear and , as all rules, they are there for the convenience of the court, or the Commission, not in order to obstruct due process and to prohibit the Commission from doing its work.

I make no sense for my learned friends to insist that an application to give evidence *in camera* or an application
20 to give evidence under conditions of protected identity should not itself be brought under the same terms.

What my learned friends are asking for is an application in the name of the witness concerned giving full details of the witness concerned so that they contest it. One cannot conceal the name, so you have given an order

that that is so and that is what we have asked you to do. It is perfectly logical, it is within this practice and it is perfectly within ordinary practice to do that.

CHAIRPERSON: Well, Ms K has brought an application.

ADV PRETORIUS SC: And she brought the application long ago, Chair, before you.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: As did Mr Y.

CHAIRPERSON: Yes. Yes. I am – I have heard what the
10 various who have spoken have said, I am going to grant the application and if they wish me to furnish reasons for the decision, they may request reasons and I will provide them.

UNKNOWN COUNSEL: As it pleases the Chair.

CHAIRPERSON: Yes, thank you. I am satisfied that the application should be granted and insofar as any rule may not have been fully complied with, I am satisfied that in all of the circumstances **CONDONATION SHOULD BE GRANTED.**

20 Now in terms of the actual order, I shall make the following order.

ORDER

1. It is recorded that this application was heard without prior notice to affected parties and failure to give notice is here condoned.

2. Having heard argument presented by Mr Pretorius, from the head of the Commission's legal team and having also heard counsel representing some of the parties I make the following order.

2.1 The witness is to be referred to during her evidence before the Commission and after her evidence insofar as the Commission is concerned as Ms K.

10 2.2 The witness' identity shall not be disclosed or published in any manner.

2.3 The names and initials of the witness shall be redacted from all affidavits and documentation presented in evidence.

2.4 No photograph or video or other image of the witness may be taken, published or broadcast.

20 2.5 No person may photograph or publish any photograph or other image of any person engaged in and/or responsible for the protection of the witness when she gives evidence.

2.6 The witness need not be present at the Commission's hearing venue when giving

evidence but she may instead give her evidence from a separate and undisclosed location (the protected witness location.)

2.7 No camera will be permitted in the protected witness location.

2.8 No person other than the Chairperson, members of the Commission's legal team, the Commission's safety and security advisor, those necessary to assist or protect the witness when she give evidence or another person specifically designated by the Chairperson will be permitted to enter or are permitted to enter the protected witness location unless they have prior written permission, the prior written permission of the Chairperson of the Commission.

10

2.9 It is recorded that the oath has been administered to the witness in front of the Chairperson.

20 2.10 And audio link from the protected witness location will be provided so that the witness' evidence can be heard in the Commission's hearing venue when such evidence is given.

2.11 Subject to the usual rules applicable to the conduct of the Commission's proceedings,

2.11.1 members of the public, including the media, may be present in the hearing venue in such numbers as may be directed by the Chairperson.

2.11.2 Sound reaching the hearing venue via the audio link in the protected witness location may be broadcast and the proceedings in the hearing venue may be relevant and broadcast.

10 2.12 This order may be amended or supplemented by the Chairperson at any time if, in his opinion, that is necessary to protect the applicant or the witness or any person in connection with the applicant or the witness' evidence or to ensure fairness to any implicated person.

20 2.13 In order to protect the identity of Ms K, the secretary of the Commission was authorised to sign the notice of application on her behalf.

2.14 This order shall also apply with the necessary changes required by the contents should the witness be directed to give evidence.”

No, 2.14, Mr Pretorius, does not seem to be necessary.

ADV PRETORIUS SC: Yes, it does not apply, Chair.

CHAIRPERSON: Ja, it should not have been there, so the order goes up to 2.13. That is the order I made.

ADV PRETORIUS SC: Yes, 2.14 was only there should the Commission revert to virtual hearings.

CHAIRPERSON: Ja, okay.

ADV PRETORIUS SC: Thank you, Chair.

CHAIRPERSON: Okay. Thank you.

ADV PRETORIUS SC: I am not sure what the Chair wants
10 to do about the short adjournment or should we just proceed?

CHAIRPERSON: Ja, I guess maybe we should have a short adjournment so that when we start we go up to lunchtime.

ADV PRETORIUS SC: Yes, Chair.

CHAIRPERSON: Ja, let us have a 15 minutes adjournment. We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES:

20 **CHAIRPERSON:** Okay, let us continue or let us start.

ADV PRETORIUS SC: Thank you Chair. Ms K can you hear us?

MS K: Yes Advocate Pretorius I can.

ADV PRETORIUS SC: Thank you. Ms K would you look at the bundle before you ...[intervenes]

CHAIRPERSON: By the way I just want to repeat the oath has been administered to the witness.

ADV PRETORIUS SC: Yes, you confirm that Ms K that you have taken the oath?

MS K: Yes I do.

ADV PRETORIUS SC: Thank you. Ms K would you please look at the bundle before you marked SSA Bundle 02?

MS K: Yes.

10 **ADV PRETORIUS SC:** And go to the divider YY9.

MS K: Yes.

ADV PRETORIUS SC: If you go to page 340 and we are referring to the black numbers in the top left hand corner you will see an affidavit.

MS K: Sorry Advocate Pretorius is that – you said YY?

ADV PRETORIUS SC: So YY9.

MS K: 9?

ADV PRETORIUS SC: The last divider in that file.

MS K: Okay, yes.

20 **ADV PRETORIUS SC:** Do you have it?

MS K: Yes thank you.

ADV PRETORIUS SC: Alright, please go to page 340.

MS K: Yes I am there.

ADV PRETORIUS SC: You see there the affidavit of Ms K?

MS K: Yes.

ADV PRETORIUS SC: And if you go to page 341 the signature has been removed but this oath was taken or not the oath rather the affidavit was attested to on the 26th of January 2021. Is that right?

MS K: Yes, that is correct.

ADV PRETORIUS SC: This is your affidavit?

MS K: Yes sir.

ADV PRETORIUS SC: And annexed to your affidavit as Annexure K1 is the affidavit of Mr Y, do you see that?

10 **MS K:** Yes I do.

ADV PRETORIUS SC: And if you go to page 418 you will see that that affidavit was attested to on the 30th of November 2020.

MS K: Yes, that is correct.

ADV PRETORIUS SC: Thank you. Just by way of background Ms K you and Mr Y, amongst others, are employed by the SSA and are involved in the conduct of investigations or an investigation?

CHAIRPERSON: Sorry Mr Pretorius.

20 **ADV PRETORIUS SC:** Sorry, do you want to admit ...[intervenes]

CHAIRPERSON: No, no hang on, is page 418 the last page of Mr Y's affidavit? I am not asking the witness, I am just asking Mr Pretorius. It appears to be.

ADV PRETORIUS SC: Sorry.

CHAIRPERSON: You notice what I have noticed.

ADV PRETORIUS SC: I am getting advice. I am receiving advice from several quarters, I am distracted.

CHAIRPERSON: Okay is page 418 the last page of Mr Y's affidavit?

ADV PRETORIUS SC: 419 is the last page which is the signature of the Commissioner.

CHAIRPERSON: Yes, no, no you are right. It looks like to me it may be that there is something at page 418 that
10 shouldn't be there, or am I mistaken?

ADV PRETORIUS SC: That is a pseudonym.

CHAIRPERSON: Oh, okay.

ADV PRETORIUS SC: It is a pseudonym that has been placed across all affidavit by the investigator, it is a pseudonym in addition to Mr Y.

CHAIRPERSON: Oh, okay, well that confuses.

ADV PRETORIUS SC: Yes, it does and we will correct that Chair.

CHAIRPERSON: Because we should either have a
20 pseudonym that is written there at page 418 or Mr Y and not both.

ADV PRETORIUS SC: Correct. You are absolutely correct, we will correct that Chair but if one goes to page 343 you will see that the pseudonym says "also known as Mr Y", so pseudonym A also known as pseudonym B, it is

very complicated but it is there and we can tidy it up.

CHAIRPERSON: Okay, I may have missed that, it is just that also I think it is better to have one, whether it is Mr Y or ...[intervenes]

ADV PRETORIUS SC: No you are quite correct Chair, we will stick to Mr Y.

CHAIRPERSON: To avoid confusion yes, okay alright.

ADV PRETORIUS SC: Yes, this world is confusing enough as it is.

10 **CHAIRPERSON:** Okay you may proceed.

ADV PRETORIUS SC: Yes. Ms K are you there?

MS K: Yes, yes.

ADV PRETORIUS SC: Both you and Mr Y have been involved in Project Veza, is that correct?

MS K: Yes.

ADV PRETORIUS SC: And you have worked together for a period of time in the course of that investigation?

MS K: Yes Chair, I don't know if I should clarify the working together part.

20 **ADV PRETORIUS SC:** Yes, please do.

MS K: I cannot say that we work together because Mr Y is not a member of the team, he is rather a co-sponsor of the project so he was getting high level sort of reports, just like the sponsor of the project, so he was not a member of the team and I needed to clarify that because the work that

we did he did not really know the day to day running of the project.

ADV PRETORIUS SC: Right, you worked together with him on the project, in other words he was the sponsor of the project on which you worked?

MS K: Co-sponsor yes, but there was another co-sponsor and a sponsor, I am the project manager.

ADV PRETORIUS SC: Alright, you need not refer to your position.

10 **CHAIRPERSON:** I am sorry Mr Pretorius, well yes Ms K as you give evidence just always be alive to not saying anything that could make you identifiable, you understand.

MS K: Okay, yes.

CHAIRPERSON: Yes, yes, that is why Mr Pretorius says you need not mention your position.

ADV PRETORIUS SC: Okay.

CHAIRPERSON: But am I correct in understanding that the distinction you seek to make between yourself and Mr Y is that you were involved in the actual operations but he
20 was receiving reports about those operations?

MS K: Yes Chair.

CHAIRPERSON: Okay, alright.

ADV PRETORIUS SC: Yes, Ms K I am trying to put the propositions to you in general terms so that the precise nature of your position is not disclosed, which would make

it easier to identify you so if you would just bear with me.

MS K: Okay.

ADV PRETORIUS SC: Let's put it this way, both you and Mr Y have had continuous interactions in relation to the work of Project Veza?

MS K: Yes we have.

ADV PRETORIUS SC: And you have shared knowledge.

MS K: Pardon?

ADV PRETORIUS SC: You have shared knowledge
10 concerning the activities of the project, correct?

MS K: Yes.

ADV PRETORIUS SC: And save for exceptional circumstances which we will refer to where relevant whatever he knows about the workings of the project you know, is that correct?

MS K: Yes.

ADV PRETORIUS SC: And as we go through his affidavit, which is annexed to your affidavit where you don't know or have no knowledge of what he says you will tell the Chair,
20 is that correct?

MS K: Yes I will indicate.

ADV PRETORIUS SC: So when you deal with or attest to what Mr K or Mr Y rather says in his affidavit you will have your own personal knowledge of that fact, correct?

MS K: Yes.

ADV PRETORIUS SC: And given the proceedings of the last three days and the nature of the evidence you were giving, a sensitive nature, may I ask you please to be very cautious not to implicate any person other than those who are mentioned in the affidavit of Mr Y. There will be times when you will give your own comments, but provided you do not implicate any person other than those implicated in the affidavit of Mr Y that would be in order.

MS K: Yes I understand that.

10 **ADV PRETORIUS SC:** Thank you. Chair may we admit Exhibit YY8, sorry YY9 into the record.

CHAIRPERSON: Well that is Ms K's affidavit.

ADV PRETORIUS SC: And annexed to Ms K's affidavit is Mr Y's affidavit and it forms part of that affidavit for that reason.

CHAIRPERSON: Yes, and her affidavit will be Exhibit?

ADV PRETORIUS SC: YY9.

CHAIRPERSON: The affidavit of Ms K which starts at page 340 together with its annexure which is the affidavit
20 of Mr Y is admitted as Exhibit YY9.

ADV PRETORIUS SC: Then Ms K you have before you another bundle of documents. It is called SSA Bundle 01, do you see that?

MS K: Yes I do Chair.

ADV PRETORIUS SC: You will testify in due course as I

understand it that the Commission issued a request for information to the State Security Agency for certain information and documentation, three lever arch files were provided to the Commission pursuant to that RFI, the request for information, that – those three bundles, rather contained documents and information which had been declassified by the Director General, the Acting Director General, is that correct?

MS K: Yes, it is.

10 **ADV PRETORIUS SC:** For convenience sake we've compiled a single bundle comprising those three lever arch files and that's marked Bundle 01 Exhibit YY1.

MS K: Yes.

ADV PRETORIUS SC: These are documents which are relevant to the investigatory work that project Veza have done, am I correct?

MS K: Yes, they are.

ADV PRETORIUS SC: They contain documentary evidence which confirm much of the evidence that you and
20 Mr Y will give and that has already, indeed, been given.

MS K: Yes.

CHAIRPERSON: Should I have Bundle 01, Mr Pretorius?

ADV PRETORIUS SC: Yes, the document comprises – if you will bear with me one moment, some 886 pages, Chair, I ask that, that be admitted.

CHAIRPERSON: Ja, okay.

ADV PRETORIUS SC: As Exhibit YY1, it's the reference bundle.

CHAIRPERSON: I'm trying to make sure that we are not going to do something that will be confusing. For quite some time, what we have been doing is to refer, effectively, to the file as Bundle and the documents inside as Exhibits. Of course we have got SSA Bundle 01 on the outside on the spine which is fine but I think you have in mind that, I
10 think it refers to Exhibit YY1.

ADV PRETORIUS SC: Yes, Chair, otherwise we would have 886 separate...[intervenues].

CHAIRPERSON: I realise, of course, what can be done is – ja it's ...[intervenues].

ADV PRETORIUS SC: If it assists, Chair, we can refer to it as Bundle 01.

CHAIRPERSON: Ja, maybe we should – maybe we should just refer to it as Bundle 01, SSA Bundle 01 and ...[intervenues].

20 **ADV PRETORIUS SC:** Also known as Exhibit YY1?

CHAIRPERSON: [Laughter]. So, what is quite clear is that, in Bundle 01 – SSA Bundle 01 there are various documents that have evidential value that are going to be used.

ADV PRETORIUS SC: Yes, Chair.

CHAIRPERSON: Exhibit YY1, ja.

ADV PRETORIUS SC: Chair, if one looks inside the Bundle 01, you'll see an index.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: So, the documents or groups of documents to which we will refer each has its own marking.

CHAIRPERSON: Yes, is that the Q and A and B and C, is that what you're referring to?

ADV PRETORIUS SC: It's on page 2.

10 **CHAIRPERSON:** Yes, I'm looking at page 2.

ADV PRETORIUS SC: It's marked, Index.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: The various documents under – are grouped under heading 1 and then from heading 2, 3, 4 and 5, documents relating to particular projects are listed.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: We won't be referring to all of them but some of them.

20 **CHAIRPERSON:** Yes, well I think, let us say, each document, I guess, has got some kind of heading that I can find it?

ADV PRETORIUS SC: Yes, Chair, we will guide you through as we go through.

CHAIRPERSON: Yes, I wonder whether – at least those that will refer to, we can't, as we come to them use the

heading, say Exhibit YY01, that or something like that or would that still be quite cumbersome?

ADV PRETORIUS SC: Ja, for record keeping purposes, it's probably better that the documentation be collated under one heading and then we refer to page numbers, for reference purposes that will be much easier than going through the Bundle looking for a particular heading.

CHAIRPERSON: Yes, so...[intervenes].

ADV PRETORIUS SC: So the sequence of pages is
10 important.

CHAIRPERSON: Yes, so could we say that, effectively, the Exhibits – documents are all Exhibit YY01.

ADV PRETORIUS SC: Yes, Chair.

CHAIRPERSON: But they- there are different documents under YY01 and you have to identify the page where the...[intervenes].

ADV PRETORIUS SC: Yes, the page and a description of the document.

CHAIRPERSON: Yes, yes okay alright. This file then,
20 we'll refer to it as SSA Bundle 1 of 01 and then the documents will, for convenience, be Exhibit YY01 and each document will be referred to with reference to the pagination and the heading of the document, is that fine?

ADV PRETORIUS SC: Yes, Chair, thank you.

CHAIRPERSON: Okay, alright thank you.

ADV PRETORIUS SC: Ms K, can I take you to the affidavit of Mr Y and just for clarity sake you will tell the Chair what you, of your own personal knowledge can testify to in relation to what Mr Y has said in his affidavit, correct?

MS K: Yes, that's correct.

ADV PRETORIUS SC: And where you cannot, from your own personal knowledge testify to what Mr Y has said in his affidavit you will alert the Chair to that fact, correct?

10 **MS K:** I will.

ADV PRETORIUS SC: You do have added information which may implicate other people but that information you won't present today or tomorrow, that information will be presented in due course in a separate affidavit, correct?

MS K: Yes, I understand.

ADV PRETORIUS SC: Thank you. If you would then, go please, to paragraph 2.1 under the heading, "Co-operation with the Commission".

MS K: Yes, I can see that.

20 **ADV PRETORIUS SC:** Do you have knowledge of the fact that the SSA and in particular the Director General received a request for information from the Commission?

MS K: Yes, I can confirm that.

ADV PRETORIUS SC: Yes, and can you confirm that in that request for information the SSA was asked to provide

information with regard to the SSA's investigation into irregularities within the Chief Directorate Special Operations?

MS K: Yes, I can confirm that.

ADV PRETORIUS SC: And do you know, to your own knowledge, that a number of reports, presentations, assessments, in fact a number of documents were handed over to the Commission in response to this request for information?

10 **MS K:** Yes, I can confirm that.

ADV PRETORIUS SC: Do you also have knowledge of a summons being issued by the Commission dated the 26th of August 2020, requesting certain materials from the Commission?

MS K: Yes, I am aware.

CHAIRPERSON: From the SSA?

ADV PRETORIUS SC: From the SSA by the Commission, correct Chair, thank you and do you know that further materials were produced in response to that summons?

20 **MS K:** Yes, I do know that.

ADV PRETORIUS SC: And subsequently, further request for information – request for information were issued by the Commission to the SSA and they were responded to?

MS K: Yes.

ADV PRETORIUS SC: In paragraph 2.4 there's an

assertion by Mr Y about where these documents, relevant to your investigation were found, do you know that they were found during an inspection in a walk-in safe at the SSA?

MS K: Yes, I do know, I can confirm that.

ADV PRETORIUS SC: This doesn't implicate anyone so I want to ask you. Were those documents lodged there, in the normal course of administration?

MS K: I'm not certain.

10 **ADV PRETORIUS SC:** Alright, you needn't go further.

MS K: Pardon, sorry?

ADV PRETORIUS SC: You needn't go any further in regard to that, there will be further evidence if it's necessary but what I do want to ask you is, the documentation provided to the Commission in response to the requests for information and summons were handed over and then during a long process were declassified for the purposes of making them public, is that correct?

MS K: Yes, that's correct.

20 **ADV PRETORIUS SC:** And those are the documents contained in the bundle that the Chair and I have just been discussing, Exhibit YY01, Bundle 01, is that correct, that Bundle before you?

MS K: Yes, that is correct.

ADV PRETORIUS SC: Paragraph 2.6, Mr Y says that the

documentation provided to the Commission was also handed over to the Directorate of Priority Crime Investigation on 10 June 2019, do you have knowledge of that?

MS K: Yes, I do.

ADV PRETORIUS SC: It was also handed over to the Investigating Directorate ID on the 15th of October 2020, correct?

MS K: Yes, that is correct.

10 **ADV PRETORIUS SC:** And this was done pursuant to two inquiries opened by the SSA on 10 April 2019 in terms of the Prevention and Combating Corrupt Activities Act, is that correct, do you have knowledge of that?

MS K: Yes, I do have knowledge of that.

ADV PRETORIUS SC: Right, now in paragraph 2.7 the origins of Project Veza are described. In paragraph 2.7 reference is made to an internal investigation of the SSA, I presume, called Project Momentum, do you know of that?

MS K: Yes, I do know of it.

20 **ADV PRETORIUS SC:** That project was initiated as an investigation, an internal investigation to address allegations of corruption within the SSA, is that correct, do you know that?

MS K: Yes.

ADV PRETORIUS SC: Right and we are told that limited

progress was made in that investigation because of challenges experienced in relation to access to information, is that also, within your knowledge?

MS K: Yes, it is.

ADV PRETORIUS SC: The investigation, the affidavit continues, was therefore re-enforced and re-launched by the Acting DG, Loyiso Jafta on 5 December 2018 under the name Project Veza.

MS K: Yes.

10 **ADV PRETORIUS SC:** You confirm that, do you?

MS K: Yes, I confirm that Chair.

ADV PRETORIUS SC: Right, and the mandate of Project Veza is described in paragraph 2.8, the investigation team was tasked with investigating irregularities and criminality arising from the contravention of the SSA's governance, operational and financial prescripts during the period 2012 to 2018, do you know that?

MS K: Yes, yes I do.

20 **ADV PRETORIUS SC:** Right, the affidavit continues to say that the investigation has focused on various units with the SSA, chiefly the projects carried out by the CDSO, that's the Chief Directorate Special Operations which is defined earlier, as the covert operational structure within the SSA but also the cover support unit and operations run from the office of the DG. Do you know that and can you...

MS K: Yes thank you for that Chair.

ADV PRETORIUS SC: Explain that from your own knowledge. Sorry I interrupted you.

MS K: Yes I do know that yes Chair.

ADV PRETORIUS SC: Alright. The method or methodology adopted by Project Veza is described in paragraph 2.9 as multiphased, multidisciplinary. I presume that means in other words an all-encompassing approach to the investigation, is that correct?

10 **MS K:** Yes that is correct Sir.

ADV PRETORIUS SC: And its vision is to assist or to attain a sustained institutionalised keen governance culture within the SSA, do you know that?

MS K: Yes that is the vision.

ADV PRETORIUS SC: Right. Mr Y deals with his own experience there but I presume you know him to be a person of experience within SSA?

MS K: Yes I do.

20 **ADV PRETORIUS SC:** He says in paragraph 2.10 that he – that is Mr Y is giving the evidence contained in this affidavit on behalf of the Project Veza investigation team. You were aware of that I presume?

MS K: Yes I am aware.

ADV PRETORIUS SC: It continues to say:

“Threats have been made against individual

members of the investigation team by certain implicated parties.”

Do you have knowledge of that?

MS K: Yes I do although not direct but I do know.

ADV PRETORIUS SC: Alright.

MS K: That.

ADV PRETORIUS SC: We need not mention any names at this stage.

10 “It should further be noted that several individuals including implicated persons who have been assisting our investigation team have also been intimidated.”

You have knowledge of that whether direct or indirect?

MS K: Not direct but there has been reports to us.

ADV PRETORIUS SC: Made to the team? The investigations.

MS K: Yes by some of the people that have cooperated with us.

20 **ADV PRETORIUS SC:** Right. And finally, the statement is made in paragraph 2.10 to the effect that there have been attempts to interfere with and even sabotage the Project Veza investigation. Do you have knowledge of that allegation?

MS K: Yes I do I do have knowledge of that and experienced

it myself directly.

ADV PRETORIUS SC: Really. Alright. Perhaps we can put the detail of that in a supplementary affidavit and deal with persons involved in that regard. If we can move onto paragraph 2.11 please.

MS K: Yes.

ADV PRETORIUS SC: The statement is made that this affidavit that is the affidavit of Mr Y deals with the creation and unlawful operations of a parallel intelligence structure
10 within the SSA and the financial irregularities that accompanied it during the period 2012 to 2018. Do you know that?

MS K: Yes I do know Chair.

ADV PRETORIUS SC:

“However some of the activities the affidavit continues reflect a continuation of the irregularities that accompanied the implementation of the principle agent network Pan Program during the period 2007
20 to 2010. Both the Pan and Project Veza investigations uncovered the unlawful use of parallel intelligence structures to bypass internal controls and avoid accountability for gross financial irregularities and abuses of SSA resources for improper purposes.”

You will testify to those issues in detail but at a general level are you comfortable to assert that as being within your own knowledge?

MS K: I would accept that with a 00:04:24 that I do not have detailed information on the Pan however based on reports that I read I could indeed see the similarities in terms of modus operandi in certain instances.

ADV PRETORIUS SC: Thank you. Paragraph 2.12 deals with the structure of the affidavit and that is a convenient
10 summary of the contents for the reader of the affidavit. We will be covering all those topics so we can go through to the introduction over the page paragraph 3.

MS K: Yes.

ADV PRETORIUS SC: For the sake of completeness and to place the evidence that is given in this affidavit and that will be given by yourself into its proper context you have set out and Mr Y has set out in this affidavit certain constitutional principles.

MS K: Yes.

20 **ADV PRETORIUS SC:** And I would just like to highlight them in summary for the sake of context and completeness. Paragraph 3.1.1 refers to Section 198(C) of the Constitution which stipulates that National Security must be pursued in compliance with the law including international law. I will go on because no one can contest that this is what the

constitution says:

“Section 199(5) reinforces this imperative. The Security Services must act and must teach and require their members to act in accordance with the constitution and the law including customary international law and international agreements binding on the Republic.”

Paragraph 3.1.3 says:

10 “No member of any security service may obey a manifestly unlawful order.”

3.1.4 reads:

“National Legislation must regulate the objects, powers and functions of the Intelligence Service.”

You are obviously aware of those provisions, is that correct?

MS K: That is correct Chair.

ADV PRETORIUS SC: Paragraph 3.2 sets out:

20 “That the constitutional principles are consistent with the White Paper on Intelligence of 1994.”

Evidence in that regard has been given by several witnesses and we do not need to deal with that in any detail.

Paragraph 3.3 refers to two statutes. The first is the Intelligence Services Act 65 of 2002 which has been

amended several times as you will know particularly in 2013 and the National Strategic Intelligence Act those are two pieces of legislation governing the South African Intelligence Services, is that correct?

MS K: Yes that is correct Sir.

ADV PRETORIUS SC: And then reference is made in paragraph 3.4 to the Counter Intelligence Mandate but we need not go there that is part of legislation which no one can dispute. The – well provided it is constitutional of course I
10 must correct myself. If we can go to the following page?

CHAIRPERSON: You are right in because what you saying is no one can dispute that – that is what it says.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: That is what it says whether it is constitutional is another thing but you are talking about what it says.

ADV PRETORIUS SC: Yes correct.

CHAIRPERSON: I think you are right.

ADV PRETORIUS SC: Yes.

20 **CHAIRPERSON:** I interrupted you.

ADV PRETORIUS SC: Yes. Whether it binds the SSA of course.

CHAIRPERSON: Oh.

ADV PRETORIUS SC: Might have – but perhaps we need not deal with those subtleties at least at this stage.

CHAIRPERSON: Ja okay.

ADV PRETORIUS SC: But we have to.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: Given the events of the past week.

CHAIRPERSON: Okay.

ADV PRETORIUS SC: And in fact Chair to be serious there is a contention which may be raised in submissions that there may be some contradictions or conflicts between the 2013 amendments to the Intelligence Services Act and the
10 Constitution.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: But that is a matter for later consideration.

CHAIRPERSON: Ja okay.

ADV PRETORIUS SC: If we can go over the page please Ms K to paragraph 3.5 which deals with the which deals with the...

MS K: Yes Chair.

ADV PRETORIUS SC: The organisational and governance
20 structure of the SSA and the point is made that political responsibility for the SSA lies with the duly designated Minister of State Security and the governance structure of the SSA falls under the leadership of the Director General in this case the acting Director General. Correct?

MS K: Yes.

ADV PRETORIUS SC: Then certain comments are made in paragraph 3.6 and I do not think we need to deal with it today in relation to the role of the Minister of State Security but they are there for the record and I do not wish to ask you to comment on that. In paragraph 3.7 there are some internal documents some of which remain classified some of which we have. There are the MPD's that is the Ministerial Delegations of Powers and Direction of Payment. Is that correct?

10 **MS K:** Yes that is correct.

ADV PRETORIUS SC: And several operational deceptives referred to in paragraph 3.7.2.

MS K: Yes the operational directives.

ADV PRETORIUS SC: Yes. So...

MS K: Thank you.

ADV PRETORIUS SC: So do I understand correctly that the activities of the SSA are governed in detail by various regulatory instruments which may be termed internal instruments, is that correct?

20 **MS K:** Yes that is correct Sir.

ADV PRETORIUS SC: Right. Let us go on to make some high level observations if we may in relation to the evidence that has been collected by the Project Veza investigation team. Now as I understand the position from what you have told us Ms K that you in particular have working knowledge

and direct knowledge of the evidence documentary and otherwise gathered by the investigation team. Is that correct?

MS K: Could you please repeat that?

ADV PRETORIUS SC: That you as a member of the investigation team; the Veza investigation team have knowledge of the evidence collected by the investigation team; the documentary evidence and other evidence that the team has collected. Is that correct?

10 **MS K:** Yes I have knowledge of that.

ADV PRETORIUS SC: Right. And the conclusion is drawn by Mr Y in paragraph 3.8 that the team has established or it has been revealed to the team that the operations run by the Chief Directorate Special Operations fell outside the lawful mandate of the SSA. Did not follow prescribed procedures and totally ignored the applicable governance, financial and operational directives of the SSA. That is a comment at a high level – it is generalised and perhaps it is absolute but can you attest to that yourself or do you wish to qualify it in
20 any way? And by qualify I mean...

MS K: Yes I would like to just indicate that for me I do not think this means that it is all the projects because we do not know the entirety of the picture but most of the projects that we analysed and the documentation that we analysed showed exactly what Mr Y indicated in 3.8.

ADV PRETORIUS SC: Right. And then in 3.9 it is stated...

CHAIRPERSON: I am sorry Mr Pretorius. Ms K

MS K: Yes Chair.

CHAIRPERSON: What you have just said does it mean that you are saying you are not in a position to say the entire CDSO fell outside the lawful mandate of SSA but you are saying you are confining yourself to those operations of CDSO that Project Veza has been investigating.

MS K: Yes Chairperson.

10 **CHAIRPERSON:** Okay alright.

ADV PRETORIUS SC: Thank you. Then paragraph 3.9 continues it says there:

“That the unlawful intelligence operations”

Well let me repeat that it says:

“Unlawful intelligence operations and front companies were used to siphon funds from the SSA and create a parallel intelligence capacities which if not abated would have continued to pose a risk to National Security and the constitutionally established state.”

20

That general comment do you associate yourself with it?

MS K: Yes I do Chair.

ADV PRETORIUS SC: And it continues to say:

“These unaccountable intelligence structures extended to

parallel procurement services vetting counter intelligence, VIP Protection and Domestic Operations.”

Is that statement correct?

MS K: Yes it is.

ADV PRETORIUS SC: It continues to say:

10 “The implicated members or former members used their positions of authority to ensure that they or their family members or close associates directly benefitted from unauthorised contracts with front companies and or illegal operations.”

As a general statement without implicating any particular person is that an accurate statement?

MS K: Yes it is accurate Chair.

ADV PRETORIUS SC: Paragraph 3.11 makes a further general conclusion:

20 “That the structures of the CDSO presumably subject to what you said that you were investigating were used to further political ends by drawing political heads into the security space.”

I am not sure precisely what Mr Y means there but we could ask him in due course to explain if he comes. And by undue inference in the political process. Can you say whether you agree with the statement at least insofar as it

says:

“Structures were used to further political ends by undue interference in the political process.”

MS K: I cannot wholly confirm the cessation save for one instance which I do not know whether it is political interference but what I could gather from one of the implicated individuals during an interview was them admitting to taking money to fund the – protect Luthili House
10 campaign. That she indicated that the money was used to bus in people from KZN who were purported to be MKVA members and the SSA paid for their accommodation, food and transportation. So as for the rest I can – I do not have the evidence because the investigation itself was – and the conclusions thereof are based on evidence – things that I could analyse and actually gather and as well as the team in you know in terms of analysis sent evidence that we can – we could actually analyse ja.

ADV PRETORIUS SC: Yes. You speaking to evidence which
20 has been before in documentary or by way of in documentary form or by way of oral evidence of which you have into that degree direct knowledge, am I correct?

MS K: Yes.

ADV PRETORIUS SC: Insofar as the matters you have just spoken now form part of a project which we will deal with

later. We will deal with it later will we?

MS K: Yes I think we will and maybe I will comment further when we get there.

ADV PRETORIUS SC: Thank you. 3. – the remainder of 3.11 and 3.12 are matters that we can deal with from a legal point of view but 3.11 does say:

10 “This political interference and certain the political interference you know of is in contravention of the SSA’s mandate and the constitutional prescripts relating to Civilian Intelligence Structures.”

Do you associate yourself with that statement? Obviously you cannot talk of political interference of which you have no knowledge but the political interference of which you...

MS K: In general.

ADV PRETORIUS SC: Yes.

MS K: Yes in general yes I agree.

20 **ADV PRETORIUS SC:** Right and then paragraph 3.12 talks of three categories of person covered by your projects investigation or the Project Veza investigation that is the initiators, persons who conceive and direct illicit or illegal operations and we will deal with those in the documentation in due course. Facilitators’ persons who execute those operations under the direction of superiors and primary and

secondary beneficiaries that may fall into various categories. That is an analytical statement I am not sure that it requires any comment but if you have any comment or wish to confirm it you may.

MS K: My only comment is that this illicit value chain is very important in the sense that it shows how organised and orchestrated some of these activities seem to have been based on the evidence that we have.

ADV PRETORIUS SC: Right. And we will deal with that in
10 detail when we deal with the evidence regarding the various projects. Do I understand you correctly?

MS K: Yes.

ADV PRETORIUS SC: Alright. If you would look at paragraph 3.13 and you would bear with me a moment please. If you would look at the names in that paragraph and before we put that paragraph on record just say whether you know.

MS K: Yes.

ADV PRETORIUS SC: That the allegation regarding that
20 individual is a fair allegation or correct allegation from the knowledge that you have not what Mr Y has in the course of your – obtained in the course of your investigations. Just have a look there and then just read out the contents of paragraph 3.13 if you would to the extent that you can confirm it?

MS K: Chair a large extent I do agree and confirm what is reflected there on 3.13 although I think – want to acknowledge that some of the individuals mentioned here actually their involvement was at varying levels and also there are other individuals that are not implicated – actually listed here who obviously I believe played a very critical role.

ADV PRETORIUS SC: Alright well just name those that played a critical role in the matters that you investigated and
10 not others that you do not feel sure about.

MS K: Could you please repeat that?

CHAIRPERSON: Mr Pretorius make it clear your question may be in understood as if you are inviting her to – to include those who might not be mentioned in the paragraph that she knows to have played a critical role. I do not think that is what you intend.

ADV PRETORIUS SC: It is not what I intend at all Chair.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: And perhaps I should clarify and
20 repeat as Ms K wants me to do. Do you see there in paragraph 3.13 a number of names are recorded? Please just mention the names that you from your own knowledge are satisfied played a critical or important role in the matters investigated by Project Veza?

CHAIRPERSON: In other words Ms K as I understand it

what Mr Pretorius is saying is that he notes that you have already said that you are in – you are largely in agreement with what Mr Y says in paragraph 3.13 and he notes that you have said there are other names that are not mentioned.

1. He wants you to confine you to the names that are mentioned but I think he wants you to mention only the names in respect of whom you have personal knowledge of their involvement. But only the names – only names that are in the paragraph. He does not
10 want you to introduce names that are not in the paragraph.

ADV PRETORIUS SC: Yes.

CHAIRPERSON: But you mention those in respect of whom you have personal knowledge of their involvement by virtue of the information you obtained through the investigations that you are busy with it. Mr Pretorius did I capture correctly?

ADV PRETORIUS SC: Yes so Ms K do you follow what I have tried to convey and what the Chair has conveyed?

20 **MS K:** The Chairman was a bit inaudible in some parts so I did not catch most of what he said.

CHAIRPERSON: Oh okay. Okay let me repeat.

MS K: Ja.

CHAIRPERSON: As I understand it Mr Pretorius notes that you say there are certain names which are not included in

paragraph 3.13 that you think may be...

MS K: Cannot hear the Chair.

CHAIRPERSON: Oh. Okay. I think I will have to bring my microphone closer. Can you hear me well now?

MS K: Yes. Yes Chair.

CHAIRPERSON: Okay.

1. I think he does not want you to mention any names that are not in paragraph 3.13. You understand that?

MS K: Yes.

10 **CHAIRPERSON:** Even though you may think that those other names.

MS K: Okay.

CHAIRPERSON: Which are not here also played a role. Okay. That will be dealt with some other time.

MS K: Yes.

CHAIRPERSON: You confine yourself when you mention the names in paragraph 3.13 you confined yourself to those names that you have personal knowledge of as people who were involved.

20 **MS K:** Yes.

CHAIRPERSON: In these things based on your involvement in the Veza investigation. You understand ?

MS K: Yes I do Chair.

CHAIRPERSON: Okay alright. You can then continue.

ADV PRETORIUS SC: Yes could you mention those names

please that you are satisfied played a role or were involved in matters investigated by Project Veza?

MS K: Okay the first – the first one – maybe I should just read the paragraph.

CHAIRPERSON: Maybe – yes – yes read the paragraph insofar as what you are able to confirm. Okay.

MS K: Okay.

CHAIRPERSON: Read it ja.

MS K:

10 “An executive level the abuse of SSA’s mandate occurred primarily under the political leadership of Minister Siyabonga Cwele, David Mahlobo and Advocate Bongani Bongo and was executed or implemented primarily although not exclusively by Mr Moruti Noosi, Ambassador Thulani Dlomo, Ambassador Sondocugo and Mr Fraser – Arthur Fraser.

ADV PRETORIUS SC: Right thank you. Chair it is one minute to one about to start a new topic would this be a convenient time?

CHAIRPERSON: Yes we will take the lunch adjournment and
20 we will resume at two o’clock.

ADV PRETORIUS SC: Thank you Chair.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us continue.

ADV PRETORIUS (SC): Thank you. Ms K, can you hear us?

MS K: Yes, I can Chair.

ADV PRETORIUS (SC): Thank you. We are at paragraph 4.1 of Mr Y's affidavit.

MS K: Okay. Yes.

ADV PRETORIUS (SC): He talks there in paragraph 4.1 of:

10 "...a deliberate and planned system of parturition
 corruption which entrenched and sustained
 executive and mandate overreach, political
 interference and abusive power in the SSA...."

As a general statement, do you agree with that?

MS K: Yes, I do Mr Chair.

ADV PRETORIUS (SC): Paragraph 4.2. reads:

20 "In 2008 and 2009, a group of approximately 48 non-
 SSA members were recruited and trained in
 preparation for their deployment after the May 2009
 Elections into various roles with responsibilities that
 included VIP Protection and Intelligence Collection."

Do you agree with that?

MS K: Yes, I do.

ADV PRETORIUS (SC): Can I just ask? Is this established by evidence given to the Investigation Team?

MS K: Yes, it is.

ADV PRETORIUS (SC): The paragraph continues:

“Their recruitment and training was directed by Ambassador Thulani Dlomo, then a Security Manager at the Kwazulu-Natal Department of Social Development, DSD.

Ambassador Thulani Dlomo had been a member of President Jacob Zuma’s Protection Team.”

Do I understand the position correctly? From your knowledge that the 48 non-SSA members were recruited and
10 trained in preparation for their deployment but that was directed by Ambassador Thulani Dlomo and that at that time, Ambassador Thulani Dlomo was a Security Manager at the Kwazulu-Natal, Department of Social Development?

MS K: Yes, I can confirm that.

ADV PRETORIUS (SC): Thank you. Paragraph 4.3 follows. It says:

“The new recruits were mostly drawn from Kwazulu-Natal ...[intervenes]

MS K: Sorry, apologies Chair.

20 **ADV PRETORIUS (SC)**: Yes?

MS K: I just want to indicate that the latter part of that paragraph which talks about previously members of President Jacob Zuma’s Protection Team. That I am not certain of.

ADV PRETORIUS (SC): Alright. So from your evidence and

from your knowledge, we can exclude that sentence?

MS K: Yes.

CHAIRPERSON: Thank you.

ADV PRETORIUS (SC): Thank you. If we go on to paragraph 4.3. It reads:

“The new recruits were mostly drawn from KwaZulu-Natal and received training on inter alia counterintelligence, weapons training, counterterrorism and VIP protection.”

10 **MS K**: Yes.

ADV PRETORIUS (SC): Is that within in your knowledge from your investigations?

MS K: Yes, it is.

ADV PRETORIUS (SC): This training, the paragraph continues:

“...was undertaken both elsewhere on the continent and locally at the South African National Academy of Intelligence in May 2009...”

Is that correct?

20 **MS K**: Yes, that is correct Chair.

ADV PRETORIUS (SC): You know, as we know, that the location on the continent where the training took place is a known fact. It is not an unknown fact. But it has been removed from the statement in the interest of National Security.

MS K: Yes, I do.

ADV PRETORIUS (SC): Is that correct.

MS K: Yes, that is correct.

ADV PRETORIUS (SC): Paragraph 4.4 reads:

10 “According to one of the SANAI trainers, that is South African National Academy of Intelligence, who reported to the Investigation Team the rationale proffered by Ambassador Dlomo for the training was to build a Presidential Protection Unit that is like the United States Secret Service which would collect intelligence affecting the President.

These recruited personnel would subsequently deployed to SANDF, SAPS and SSA bypassing official recruitment and vetting processes when President Zuma assumed leadership after the elections in 2009.”

Is that a correct reflection of the facts learnt by the Investigation Team to your knowledge?

20 **MS K:** I can say largely yes because I had the interview myself with the individual that provided that and there is a statement to that effect. And we even have – what the report and you know for all of those personnel. What I cannot confirm is the bypassing of official recruitment and vetting processes at SAPS and SANDF. But in – with regards to SSA, I can confirm that.

The only thing I know for sure which I heard from one of the implicated individuals when I interviewed them was that they had, before they were brought over to SSA, they were at SANDF.

So I am not sure whether they were there having followed official recruitment and vetting processes. But I can with authority indicate that on the SSA's side there was bypassing of that.

ADV PRETORIUS (SC): Of both the official recruitment and
10 vetting processes?

MS K: Yes.

ADV PRETORIUS (SC): Thank you. We go over the page
to paragraph 4.5.

“By the end of 2009, (the affidavit continues) only about 27 of the original 48 recruits remained as others had left the programme.

Ambassador Dlomo's direct involvement in the recruitment and training of these non-SSA members is noteworthy as he was still employed by the
20 KwaZulu-Natal DSD, that is the Department of Social Development, and had no official position at the SSA during this period.”

Is that within your knowledge of the Investigation Team including yourself?

MS K: Yes, it is Chair.

ADV PRETORIUS (SC): Continues paragraph 4.6 to say:

“Ambassador Dlomo’s involvement in the training of these new recruits was facilitated by the then Principal of SANAI, the South African National Academy of Intelligence, who sent letters to Ambassador Dlomo’s employers, confirming that he was assisting the SSA with training for the Presidential Protection Unit.

10 Sample letters that we have in our possession are dated 10 June 2009 and 30 October 2011 and thus clearly predate the establishment of a directorate for presidential security support within the SSA on 27 December 2011 and Ambassador Dlomo’s appointment to the SSA on 18 January 2012 as General Manager, Special Operations.”

Are you aware of that evidence and do you know of the allegations in this paragraph?

MS K: Yes, I agree with the paragraph in its entirety.

20 **ADV PRETORIUS (SC)**: Right. And you have seen those letters, have you?

MS K: Yes, I have.

ADV PRETORIUS (SC): Paragraph... Thank you. Paragraph 4.7 goes on to say:

“The evidence available to the Project Veza Investigation Team indicates that the groundwork

was being laid during this period for a Private Protection Unit dedicated to President Zuma.

As detailed below, the restructuring of the SSA would coincide with Ambassador Dlomo's appointment saw these non-SSA members at thought within the Chief Directorate Special Operations and deployed to various structures within the Justice Crime Prevention and Security Cluster."

Is that information known to you and do you confirm it?

10 **MS K**: I cannot confirm that they were absorbed within the JSPS Cluster in its entirety. So maybe... Ja, I cannot confirm that it is – I do not – Ja, I cannot confirm that.

ADV PRETORIUS (SC): Is that you cannot confirm that ...[intervenes] at all?

MS K: [Indistinct]

[Parties intervening each other – unclear]

MS K: Pardon?

ADV PRETORIUS (SC): The question... Well, you finish your answer first and then I will ask a question.

20 **MS K**: I can confirm that where it pertains to CDSO or that there was this appointment and they were absorbing things CDSO or his co-workers. But I cannot confirm that they were also deployed to various structures in the JCPS Cluster.

ADV PRETORIUS (SC): Alright.

CHAIRPERSON: I am sorry Mr Pretorius. You are at 4.7?

Is that where you are?

ADV PRETORIUS (SC): Yes, Chair.

CHAIRPERSON: Well, just to make sure which – what Ms K confirms and what she does not confirm. Let me do this. You see the first sentence in paragraph 4.7 Ms K? Do you see the first ...[intervenes]

MS K: Yes. Yes, Chair.

CHAIRPERSON: It says:

10 “The evidence available to the Project Veza Investigation Team indicates that the groundwork was being laid during this period for a Private Protection Unit dedicated to President Zuma.”

Are you able to associate yourself with that?

MS K: Yes, I can.

CHAIRPERSON: Okay alright. And then there is:

20 “...as detailed below the restructuring of the SSA which coincided with Ambassador Dlomo’s appointment saw these non-SSA members absorbed within the CDSO and deployed to various structures within the Justice Crime Prevention and Security Cluster.”

Is there any part of that sentence that you do not – you are not in a position to confirm as true?

MS K: The part that I cannot confirm Chair is the part where it refers to the deployment to various structures within

JCPS Cluster.

CHAIRPERSON: Otherwise, you can confirm the rest of that sentence.

MS K: Yes, Chair.

CHAIRPERSON: Okay. Mr Pretorius, do you want to proceed from there?

ADV PRETORIUS (SC): Thank you. The paragraph continues Ms K to say:

10 “These non-SSA members were not subject to the former recruitment and vetting processes of the SSA.”

You have confirmed that already as I understand it.

MS K: Yes.

ADV PRETORIUS (SC): The sentence continues:

 “...but were rather co-workers not formally employed by the SSA...”

How would you and the rest of the team and including the sponsor or co-sponsor, Mr Y, have understood the term co-workers? What does that term mean?

20 **MS K**: I am not sure what it means because it is not contained in our operational directives that govern the covert operations. It is just a term that was coined, as far as we know, only in the MPD, you know, when it comes to the operational side.

But I am not sure what it means because even when you

read various documents and submissions that were compiled by CDSO members, they use co-workers and sources or engines interchangeable. So I am not sure what it means.

ADV PRETORIUS (SC): Right. Can you comment as to whether they were formally employed by the SSA, directly employed by the SSA?

MS K: The evidence that I have looked at that is at our disposal was that the – I think we will address it later in this affidavit – is that these people were given contracts but
10 when I – when we analysed those contracts, nobody signed on behalf of the SSA but these people were made to sign and made to believe that after five years they will be absorbed into the organisation.

So I am not sure if that is legal as there is no one representing the SSA in that particular contract. So I do not – based on that, I do not think they were formally employed by the SSA.

ADV PRETORIUS (SC): Right. The sentence or the paragraph continues:

20 “They were given access to SSA funds and resources and provided with firearms from the SSA Armoury.”

Do you have knowledge of that?

MS K: Yes, I do.

ADV PRETORIUS (SC): And is it correct.

MS K: Yes, it is correct.

ADV PRETORIUS (SC): The paragraph continues:

“Through the CDSO, that is the Chief Directorate Special Operations, the SSA assumed responsibility for President Zuma’s food and toxin security, his physical security and the static protection of the President’s aircraft.”

Did that knowledge come to your attention? Do you share that knowledge?

10 **MS K**: Yes, I do. I do know – I am aware of this.

ADV PRETORIUS (SC): It continues:

“In doing so, funds and resources which should have been utilised by legitimate intelligent structures were challenged through this parallel structure serving the interest of President Zuma rather than the national interest.”

Do you agree with that conclusion?

MS K: Yes, I do.

20 **ADV PRETORIUS (SC)**: Paragraph 4.8 is a summary but it is useful and it is worth placing on record. And if you disagree with any part of this summary, will you please tell the Chair? It says:

“1. Recruitment and selection of this private force took place outside formal structures.

“2. At least part of the training was done beyond

the borders of South Africa and not by formal training structures within South Africa.

3. Persons within this force were armed and financed by SSA.

4. At least some were deployed to various security structures within to South Africa.”

And I will come back to that one in a moment.

10 “5. It is apparent that they were accountable to Ambassador Dlomo and served the interest of President Zuma.

6. They performed their duties outside formal SSA structures at least initially.”

Apart from paragraph 4 or apart from the sentence which reads:

“At least some were deployed to various security structures within South Africa.”

Do you agree with that summary?

20 **MS K**: I am not sure about 4.8.6. So I have no comment on that one. But I am not going to say, I agree with it. I am not sure what it means.

ADV PRETORIUS (SC): Right. And 4.8.4. I take it ...[intervenes]

CHAIRPERSON: Well, I am sorry Mr Pretorius. It seems to me that whatever their duties were, they did not perform them within SSA’s structures, at least initially. They seemed

to have performed their duties, whatever their duties were, outside of SSA. If... Does that help you understand what it means?

MS K: [No audible reply]

CHAIRPERSON: Ms K?

MS K: Chairperson, what I can say is that. Some of the duties – SSA would be deployed to, whether it is the provinces or whatever the officials and co-workers as well.

But you would find that the provinces are actually not
10 fed with whatever they are collecting in that area.

And apart from that, whatever they were doing, the information was not channelled through the formal channels of information management and intelligence management within the SSA.

So in that respect I would say that. But I am not sure about this “at least initially” part.

CHAIRPERSON: Oh, is the position that, as far as you know, the manner in which they performed their duties, whatever their duties were, was the same throughout the
20 period you are aware of them performing duties? There would be initially and then maybe later it is different?

MS K: Yes, yes.

CHAIRPERSON: Yes. You know them to have been doing whatever their duties were ...[intervenes]

MS K: I ...[intervenes]

CHAIRPERSON: ...in the same way throughout that you were aware of, of them?

MS K: Chair, could you please repeat that?

CHAIRPERSON: Okay. Do you – are you aware of only way in which they were performing their duties, whatever their duties were? In other words, you are not in a position to say initially this is how they performed their duties and later they performed them differently?

MS K: Yes, I am not aware Chair because as – even as we
10 engaged with the people involved, they do not actually divulge fully what their duties were.

CHAIRPERSON: Yes.

MS K: And I do not – so I do not know how their duties evolved at the beginning or whenever. So that is why I would rather not comment on 4.8.6.

CHAIRPERSON: Ja. Okay alright. Insofar as there is a reference in 4.8.6 to them performing duties outside formal SSA structures. You have said that they would go to provinces and I am just trying to understand that because
20 you did say something even though you say you would rather not comment.

Would the position be that, as far as you understand the position, they would use the infrastructure of SSA for performing their duties for whenever they needed to but they themselves were not part of any formal structure at SSA?

Are you able ...[intervenes]

MS K: Chair, maybe I should explain my understanding in terms of how they operated.

CHAIRPERSON: Ja.

MS K: By way of an example.

CHAIRPERSON: Yes.

MS K: There is a period, a six months' period where about 25, 22 to 25 members of SO travelled across the country. They would spend a month in a province. Another month in
10 another province. Six consecutive months. And that would include admin, HR, everybody even general workers. And they would just say it is for operational purposes.

CHAIRPERSON: H'm.

MS K: So. But it is my understanding that most of the provinces did not understand what they were doing there.

CHAIRPERSON: Yes.

MS K: But ultimately, it was costing the organisation a lot of money for all the people to spend a month, six months, six consecutive months in various places. So I am not sure if
20 that helps in terms of my understanding.

CHAIRPERSON: Yes, but do you know whether whenever, for example, they were in a particular province they would go to the SSA offices in that province and make use of the facilities there?

MS K: No, I do not know that.

CHAIRPERSON: You do not know?

MS K: I do not know any of that.

CHAIRPERSON: Okay alright.

MS K: Yes.

CHAIRPERSON: But other than 4.8.6. Are you in agreement with the rest of that summary, starting from 4.8.1 to 4.8.6 that Mr Pretorius gave earlier?

MS K: My agreement is 4.8.1, 4.8.2, 4.8.3, 4.8.5.

CHAIRPERSON: Okay. 4.8.4 you are not in agreement with
10 or you are not sure about it or you are sure?

MS K: It is – as I indicated earlier. I am not sure about the deployment in the security cluster.

CHAIRPERSON: Okay alright. Okay. So you are in agreement with 4.8.1, 4.8.2, 4.8.3 and 4.8.5.

MS K: Yes, Chairperson.

CHAIRPERSON: You are not sure about 4.8.6 and 4.8.4.

MS K: Yes.

CHAIRPERSON: Ja, okay alright. Mr Pretorius.

ADV PRETORIUS (SC): As I understand it Ms K.

20 **MS K**: Yes?

ADV PRETORIUS (SC): You are not saying that 4.8.6 and 4.8.4 are to your knowledge incorrect. You are saying you do not know. Is that correct?

MS K: Yes, I do not know.

ADV PRETORIUS (SC): Then if we go on then to paragraph

4.9. You talk or Mr Y talks of a restructuring of the SSA. I take it you will agree that this restructuring must be distinguished from the amalgamation restructuring that has been spoken about by other witnesses? This is another form of restructuring. Is that correct?

MS K: It is correct.

ADV PRETORIUS (SC): Alright. Paragraph 4.10 goes into detail and it says:

10 “On 27 December 2011, a proposal compiled by Mr Noosi, the then acting Director, Domestic Branch was recommended by Mr Dennis Dlomo, the then acting DG for Minister Cwele’s approval.

This proposal is included in File 1 of SSA Bundle and is marked Annexure A.

This recommendation sought Minister Cwele’s authorisation for the following structural changes within the SSA.”

20 Before we go to the doc – before we go to the following allegations in the paragraph. If you can just identify the document for reference purposes, please?

CHAIRPERSON: Before you do that Mr Pretorius. To the extent that Mr Y’s affidavit may have references to File 1, File 2, File 3. Because I think you said that you put those into one file. It might be a good idea that in the one file that you put all of that in, there should be sections which can

represent what is – what was in File 1 as he knew it and what was in File 2.

So that one can then say into the record when he refers to File 1 that will be section so and so in this bundle and so on.

ADV PRETORIUS (SC): Yes, that will make research and review easier Chair.

CHAIRPERSON: Ja.

ADV PRETORIUS (SC): And we will do that.

10 **CHAIRPERSON**: Ja.

ADV PRETORIUS (SC): We will divide the single file into three dividers. File 1, there is a reference to the file given by the SSA to the Commission.

CHAIRPERSON: Yes, ja.

ADV PRETORIUS (SC): File 1 of 3. If you go to SSA Bundle 1 of Exhibit YY1, Annexure A is marked with a divider, a green divider A. It is at page 6 of SSA-1. Do you see that?

MS K: Yes, I do Chair.

20 **ADV PRETORIUS (SC)**: Is this the document ...[intervenes]

CHAIRPERSON: I am sorry. What page on...?

ADV PRETORIUS (SC): Page 6.

CHAIRPERSON: Oh, page 6.

ADV PRETORIUS (SC): Black numbers.

CHAIRPERSON: Okay. Thank you. Ja, I have got it.

ADV PRETORIUS (SC): Is this the document that is being referred to in paragraph 4.10?

MS K: Yes, Chair.

ADV PRETORIUS (SC): Its contents are referred to in the following paragraphs. So we can put that aside for one moment and go over the page. There are three paragraphs which deal with the structural changes recommended in that document.

The first in paragraph 4.10.1 is the relocation of the
10 Chief Directorate Special Operations from the line function authority of the Deputy-Director, Domestic Intelligence to the Deputy-Director, Counterintelligence.

Is that fact within your knowledge that this was the recommendation?

MS K: Yes.

ADV PRETORIUS (SC): Secondly in 4.10.2 the relocation of the Cover Support Unit from the office of the Director SSA, Domestic Branch to the office of the Deputy-Director, Counterintelligence. Is that within your knowledge?

20 **MS K**: Yes, it is.

ADV PRETORIUS (SC): And thirdly in 4.10.3 the establishment of the Directorate Presidential Security Support, DSS, within the existing Chief Directorate Special Operations. Is that also part of the recommendation to your knowledge?

MS K: That is correct.

ADV PRETORIUS (SC): Right. The import of the structural changes appears later in the affidavit but to foreshadow it, it is a centralisation of Counterintelligence Special Operations or an amalgamation really of Special Operations and Cover Support within a single or within the authority of the Deputy-Director, Counterintelligence a single division. Is that correct?

MS K: That is correct.

10 **ADV PRETORIUS (SC):** Right. Paragraph 4.11 says:

“These three structural changes were approved by Minister Cwele on the same day that they were recommended to him namely 27 December 2011.

This was shortly before Ambassador Dlomo’s appointment on 18 January 2012 which would see him stepping to the much expanded role of General Manager, Special Operations and a year later to the position of Deputy-Director, Counterintelligence.”

In short, Ambassador Dlomo, it appears, would become
20 the head of this amalgamated organisation or sub-organisation. Do I understand the position correctly and do you agree with it?

MS K: Yes, I do.

ADV PRETORIUS (SC): Paragraph 4.12 reads:

“The nature of the restructuring sought and

recommended and the manner in which it was addressed there was a perceived need to expedite a process of “realigning and refocusing the available operational resources within the realm of counter intelligence.” In short, the CDSO.

Chief Directorate Special Operations.

10 “...and the cover support unit were relocated to counterintelligence and the presidential security support service was established under the Chief Directorate Special Operations. The propose restructuring thus entailed a significant concentration of power in the office of the Deputy Director Counterintelligence and envisaged a leading strategic role for the Chief Directorate Special Operations.”

Those observations, are they firstly within your knowledge and do you agree with them?

MS K: Yes, they are within my knowledge.

20 **ADV PRETORIUS SC:** And do you agree with them insofar as they are conclusions drawn?

MS K: The conclusion that it was – it is more significant concentration of power?

ADV PRETORIUS SC: Yes.

MS K: I am not sure but the rest of that I agree with.

ADV PRETORIUS SC: Alright.

MS K: Because that is factual.

ADV PRETORIUS SC: Right.

CHAIRPERSON: Before you proceed, Mr Pretorius, just for the transcribers, in reading paragraph 4.12 Mr Pretorius indicated that before the word realigning you opened quotes but you forgot to mention where you closed quotes, the quotes would be closed after the two words counter intelligence. Ja, that is fine, that is just for the transcribers.

10 **ADV PRETORIUS SC:** Yes, thank you, Chair.

CHAIRPERSON: Let us continue.

ADV PRETORIUS SC: So one could draw one's own conclusions from the facts there. You do not take any issue with the facts continued in paragraph 4.12 as opposed to the conclusion ...[intervenes]

MS K: Yes. Yes, save to – save for that, that last sentence that refers to the significant concentration of power. So I would – I agree with the – with 4.12 just up to CSO.

20 **ADV PRETORIUS SC:** Thank you.

CHAIRPERSON: In other words ...[intervenes]

MS K: The second last sentence.

CHAIRPERSON: In other words, it is the last sentence of paragraph 4.1 to that you are not able to associate yourself with.

MS K: Yes.

CHAIRPERSON: Ja, okay.

ADV PRETORIUS SC: Let me understand what you are saying. Are you saying that there was no significant concentration of power as far as you are concerned or that you are not sure that you could agree with the way it is described here?

MS K: I am not sure if I can agree with the way it is described.

10 **ADV PRETORIUS SC:** Okay, thank you. 4.13 reads:

“The general motivation for centralising these key assets within counter intelligence was explained with reference to immediate identified security deficiency that had left the President vulnerable to all sorts of threats.”

Now I am not going to ask you to agree or not to agree with what the motivation said but if you look at paragraph 4.13, 4.14 and 4.15 it refers to the motivation for the centralisation of these entities, it refers to the reason
20 advanced for the relocation of the Chief Directorate Special Operations and the explanation given for the relocation for the cover support unit, we have described the facts above but what happens in paragraph 4.13, 4.14 and 4.15 at the hand of Mr Y is he questions the motivation, reasons and explanation given for this

restructuring. If you could take a moment to look at it and tell us whether you share his views or not. These are really views ...[intervenes]

MS K: I have read that, Chair, and where it says on 4.13, where it says:

“Was explained with reference to “immediate identified security deficiencies.”

And also:

10 “That had left the President “vulnerable to all sorts of threats.”

My – I agree that I have a problem with these motivations because there was no threat assessment attached to this very document, it is just stating that it was immediate identified security deficiencies and what are vulnerable – President vulnerable to all sorts of threats.

So, having read that, I agree with what Mr Y indicated in his affidavit.

ADV PRETORIUS SC: To be complete, he did say or does say in the last three lines of 4.13:

20 “Vague references were made in the proposal to the role of the media in undermining of the office of the presidency but not intelligence assessment or evidence was provided in support of this.”

Is...?

MS K: Yes.

ADV PRETORIUS SC: Do you agree with that?

MS K: Yes, thank you.

CHAIRPERSON: Just to make sure I understand what you agree with and what you do not agree with on 4.13, Ms K. As I understand it, the first sentence which is three lines, simply says what was in the motivation. It says the general motivation that was given for the centralising of these key assets within counter intelligence was explained with reference to – and he quotes:

10 “Immediate identified security deficiencies.”

In other words, he is saying this what you would find, this is what they said and he says it was said that those immediate identified security deficiencies had left the President, and he quotes again:

 “...vulnerable to all sorts of threats.”

In other words, as I understand it, he is not – he is simply saying this is what the motivation that was provided said.

Do you know this to be correct, namely this is the motivation that was given as he describes in that first
20 sentence or are you not sure about that?

MS K: I align myself with the view that he expresses in that same paragraph where he says:

 “Vague references were made in the proposal to the role of the media in undermining the office of the presidency but no intelligence assessments or

evidence was provided in support of this.”

So I do agree that stating it in the way it was in that motivation was actually very vague.

CHAIRPERSON: Okay, that seems – what you have just said seems to suggest that you might not be sure with regard to the first sentence but you are quite comfortable that the second sentence is true, is correct.

MS K: No, Chair, I am comfortable with the first sentence because what is in the quotes is taken directly from the
10 document that is in evidence.

CHAIRPERSON: Yes, yes.

MS K: That is in evidence that we had analysed. So I am comfortable with it because it is factual, it is stated there.

CHAIRPERSON: Okay, okay. No, that is fine then. Yes, Mr Pretorius?

ADV PRETORIUS SC: Thank you, Chair. If we go then to 4.14 where the reason advanced is quoted in that paragraph.

MS K: Pardon?

20 **ADV PRETORIUS SC:** If you look at paragraph 14, 4.1.14?

MS K: Yes, I see that.

ADV PRETORIUS SC: Right. There the deponent, Mr Y, talks about the reason advanced for the relocation of the CDSO. Do you see that?

MS K: Yes, I do.

ADV PRETORIUS SC: And it merely quotes the motivating document. Are you happy with that?

MS K: Yes.

ADV PRETORIUS SC: You agree with that.

MS K: Yes, I do.

ADV PRETORIUS SC: They merely quote it from the document. And then paragraph 4.15 deals with the proposed relocation of the cover support unit and its
10 explanation on the basis set out there to provide backstopping. What is backstopping?

MS K: It is arrangements that are meant to support cover structures, operations, identities, so in that in that covert environment, even just in terms of operations, it is actually a [indistinct 10.26] that is there.

ADV PRETORIUS SC: Right. The affidavit continues.

“Although in theory the CDSO, as a legitimate deep
cover operational arm of the agency, would benefit
from a close working relationship with the cover
20 support unit, the deployment of close protection officers does not require backstopping.”

Do you agree with that observation?

MS K: I partly agree because if it is close protection officers they are right there, they are being seen, so I do not know what backstopping would be required in terms of

that. So I guess I do agree.

ADV PRETORIUS SC: Yes. Continue:

“Hence the rationale does not extend to the presidential security support service.”

Do you agree with that?

MS K: Yes, I do.

ADV PRETORIUS SC: It follows or rather, what follows is the statement that:

10 “It should also be noted that backstopping and proper cover support are not limited to counter intelligence operations. On the contrary, most operational activity with the SSA would require basic backpacking for the purposes of cover. The placement of the cover support unit in the counter intelligence subdivision is therefore questionable as it renders the unit remote to other areas of operation that would benefit from its support.”

That is an observation. Do you agree with it?

MS K: Yes, I do.

20 **ADV PRETORIUS SC**: Right. 4.16 continues to make certain observations in relation to the recommendation that we are dealing with and refers to the justification given for the establishment of the presidential security support. That is a matter of fact, those quote are there in the motivation or the recommendation document but halfway

down the comment is made as follows:

“Significantly no reference was made in the proposal to existing state structures tasked with providing VIP and TSCM services nor was there any indication that the shift in SSA’s mandate had been canvassed with other stakeholders or was even necessary.”

Firstly, what does TSCM stand for?

MS K: Technical Surveillance Counter Measures.

10 **ADV PRETORIUS SC**: Right, what are those?

MS K: I think it entails issues of like sweeping for bugs.

ADV PRETORIUS SC: Yes.

MS K: It is a – ja, I am not going to expand further on that.

ADV PRETORIUS SC: In any event, the comments made after word “significantly” to the end of the paragraph are largely factual, do you agree with them?

MS K: I do agree with that.

ADV PRETORIUS SC: The last sentence reads:

20 “Instead, the submission creates the impression that VIP protection was the responsibility of SSA with outlining the origin of this doctrinal shift or its approval by the South African Police Service and the South African National Defence Force.”

Did you agree with that observation? It is largely factual.

MS K: Yes, this is factual, there was no mention of the roles that the others – the other departments had to play in that space. So, in essence, it has created an impression that there was sort of like a vacuum in that space without actually providing an in-depth threat assessment in that regard.

ADV PRETORIUS SC: Yes. Then 4.17 describes how the document that we are considering, described the recruitment and appointment of 20 officers. The last
10 sentence says:

“The impression created and the recommendation is that these “officers were legitimately recruited and employed by the SSA.”

Do you agree with that? We will go ...[intervenes]

MS K: I do agree.

ADV PRETORIUS SC: Yes. The next comment is relevant to that:

20 “4.18 However, the headhunted officers listed in attachment A of the recommendation are in fact the same individuals who were recruited and trained under the direction Ambassador Dlomo in 2008/2009. They had not been subject to the official recruitment and vetting processes of the SSA yet two years later they were absorbed into a newly established presidential security support

service coinciding with Ambassador Dlomo's appointment as general manager of the CDSA."

Again that is factual. Do you agree with it?

MS K: Yes, I do.

ADV PRETORIUS SC: The 4.19:

"Dorothy played a..."

And that word should read Dorothy, if you could note that please, Ms K.

MS K: Yes.

10 **ADV PRETORIUS SC:**

"Dorothy played a key role in the implementation of the structural changes. In February 2012 she was seconded from Mr Noosi's office to assist Ambassador Dlomo as the acting...:

Well, I am not going to mention the post because that might also reveal her identify but do you agree with that factual observation?

MS K: Yes, I do. Yes, I do.

ADV PRETORIUS SC: And then ...[intervenes]

20 **CHAIRPERSON:** Mr Pretorius will you remember to arrange for Mr Y to do a supplementary to just correct that?

ADV PRETORIUS SC: Yes, will do.

CHAIRPERSON: It should be read to say Dorothy.

ADV PRETORIUS SC: Yes. The word Dorothy should be

inserted where appropriate.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: I will not mention the name it should replace.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: Anyway, that person, and I am not going to mention, Ms K, the appointment in 2013 referred to in this paragraph, I will go on, but:

10 “Dorothy facilitated the compilation of contracts with so-called co-workers, their placement within the CDSO as well as the preparation of submissions relating to their registration and payment.”

Do you agree with that factual observation?

MS K: Yes, I agree with it. In fact this is what we heard directly from her during an interview as well as another HR person that was assisting her.

ADV PRETORIUS SC: Thank you. 4.20:

20 “Shortly after Ambassador Dlomo’s appointment on 18 January 2012 the scope of his authority as general manager of special operations was further expanded. Whole the 27 December 2011 restructuring brought the cover support unit within the counter intelligence subdivision, I am aware that urgent approval was sought in February 2012 for a further structural realignment to bring the

cover support unit under special operations.”

Is that a correct recordal of the facts?

MS K: I believe so although this document was never –
the copy of this document that I saw was not signed.

ADV PRETORIUS SC: Alright.

10 “The effect of this proposal, which was compiled by
Dorothy was that all three units, the Chief
Directorate Special Operations, the Presidential
Security Support Service and the Cover Support
Unit were brought under Ambassador Dlomo’s
control as General Manager Special Operations.”

Is that a correct recordal of the facts?

MS K: Yes.

ADV PRETORIUS SC: Alright. Now there is an
observation made in paragraph 4.2.1 and I will invite your
comment on that as to whether you agree with it or not.

20 “The timeline set out above demonstrates that the
restructuring within the SSA, decentralised control
of counter intelligence operations under
Ambassador Dlomo was a plan in the making long
before he was officially appointed in January 2012.
The groundwork for this restructured and
repurposed CDSO was laid by Ambassador Dlomo in
2008/2009 with his recruitment and training of the
co-workers who would subsequently be deployed for

the President's projects at the SSA.”

Those two sentences, do you have any comment, do you agree with them, are they reasonable? Are you in agreement?

MS K: I agree with them, Chair.

ADV PRETORIUS SC: Thank you. It continues, the paragraph, that is, continues:

10 “The structural changes approved by Mr Cele in December 2011 meant that when Ambassador Dlomo was officially appointed in January 2012 the SSA’s counter intelligence architecture had already been transformed in order to provide him with the power and resources to directly serve the political interests of President Zuma through intelligence operations that were clearly unconstitutional and illegal.”

What do you say about that conclusion?

MS K: I agree with the conclusion.

ADV PRETORIUS SC: Alright. It continues:

20 “Under Ambassador’s watch the CDSO engaged in exponential overspending and flouted the SSA’s financial operational and HR directives through covert mechanisms and illegal contracts.”

What do you say about that largely factual observation?

MS K: That is factual.

ADV PRETORIUS SC: Right. 4.22 – oh and you agree with it, do you?

MS K: Yes, I agree with it.

ADV PRETORIUS SC: Thank you. 4.22:

“The impact...”

And this again is a summary so you can comment freely:

“The impact of the centralisation of power within counter intelligence is borne out by the activities subsequently carried out by the CDSO, the presidential security support service and cover support unit as detailed below. In summary, the consequences of structural changes were:

10

4.22.1 The infiltration into the SSA by co-workers who bypassed official recruitment, training and vetting processes.

4.22.2 The overreach of the duly authorised mandate of the SSA.

20

4.22.3 Illegal activities carried out by a parallel counter intelligence structure under the guise of covert operations.

4.22.4 Executive interference and operational activities.

4.22.5 The rampant looting of SSA funds, and

4.22.6 The illegal use of SSA firearms.”

Would you comment on some or all and inform the Chair to

what extent you agree or disagree with those conclusions?

MS K: I agree with all of them, all of these conclusions.

ADV PRETORIUS SC: Thank you.

MS K: Chair.

ADV PRETORIUS SC: Thank you, Ms K. In paragraph 5 you deal in some detail ...[intervenes]

CHAIRPERSON: Mr Y deals in some detail.

ADV PRETORIUS SC: Yes.

MS K: Yes.

10 **ADV PRETORIUS SC**: In paragraph 5, the Directorate for Presidential Security Support is dealt with in some detail by Mr Y. and let us go through it paragraph by paragraph.

MS K: Yes.

ADV PRETORIUS SC: 5.1, the first sentence says that:

“The extent to which the activities conducted by the SSA’s CDSO...”

And CDSO for reference is the Chief Directorate Special Operations.

20 “...exceeded the duly authorised mandate of the Agency.”

Is that is a correct statement of fact?

MS K: Yes, it is.

ADV PRETORIUS SC: It continues, the paragraph continues:

“The establishment and operation of the Directorate

for Presidential Security Support represents the clearest example of mandate overreach by the CDSO under Ambassador Dlomo’s leadership.”

Do you agree with that statement?

MS K: Yes provided that everybody understands that we are referring here to Ambassador Thulani Dlomo.

ADV PRETORIUS SC: Right. Thank you for reminding us.
“More generally it reflects the shift...”

CHAIRPERSON: Well, I am sorry, Mr Pretorius. Well,
10 maybe let us take this opportunity for me to get clarity because there are two Dlomos here. I have seen a reference to Ambassador Dlomo and then there is – I think there is Thulani Dlomo and Dennis Dlomo.

Now, Ms K you say provided the understanding is that this reference to Ambassador Dlomo is a reference to Ambassador Thulani Dlomo. I am wondering whether they were both referred to as ambassadors or were ambassadors both of them at some stage. Is there only one of them who was an Ambassador?

20 **MS K:** They are both...

CHAIRPERSON: They were both Ambassadors at some stage?

MS K: Yes, Chair.

CHAIRPERSON: Oh, which means, therefore, in the affidavit wherever there is Ambassador Dlomo without a

reference to the name it might create difficulties unless the context indicates which one, such as if one was ...[intervenes]

MS K: Yes, but ...[intervenes]

CHAIRPERSON: If only a particular one was associated with DSO, CDSO, then if that is the context then we would know that is the one who was associated with that operation.

MS K: Yes, Chairperson.

10 **CHAIRPERSON**: Yes. Okay.

ADV PRETORIUS SC: As I understand it, Ms K, when you refer to Ambassador Dlomo in this affidavit of Mr Y you are referring to Ambassador Thulani Dlomo, is that correct?

MS K: Yes, that is correct.

ADV PRETORIUS SC: Alright.

CHAIRPERSON: Oh, okay, so for purposes of Mr Y's affidavit, where there is refer to Ambassador Dlomo you are referring to Ambassador Thulani Dlomo. Ms K?

MS K: Yes, I would say so, Chair.

20 **CHAIRPERSON**: Yes, okay. Okay, it is just that it is important because serious allegations are made so one does not want to understand certain allegations to be attached to somebody that was not intended. So it is important to understand who is being referred to in regard to what allegations. Okay, Mr Pretorius?

ADV PRETORIUS SC: The remaining sentence in paragraph 5.1 is the last sentence. Do you have any comment in regard to the sentence which refers to the:

“...shift in intelligence philosophy represented by this restructuring.”

It has been given by other witnesses.

MS K: Yes, I agree with that.

ADV PRETORIUS SC: And then 5.2 repeats evidence that is contained earlier. We can go to 5.3 which refers to the
10 Presidential Handbook as does 5.4. Do you take any issue with the fact that the Presidential Handbook sets out the extent of administrative, logistical and security in general support services to be rendered to the President, the Deputy President, their spouses and children?

MS K: Where are we now?

ADV PRETORIUS SC: Paragraph 5.3.

MS K: Sorry, I am lost in terms of the document.

ADV PRETORIUS SC: Yes, sorry. 5.3 on page 361 of bundle SSA02.

20 **MS K:** Yes.

ADV PRETORIUS SC: Quotes from the Presidential Handbook and provides, in summary, that Presidential Handbook deals in detail with the various services to be rendered to the President including security services.

MS K: Yes, I agree.

ADV PRETORIUS SC: And paragraph 5.4 also point out
...[intervenes]

CHAIRPERSON: Well, I am sorry, Mr Pretorius, we have
got to always make sure we know what she agrees to. You
have read paragraph 5.4 Ms K, have you not?

ADV PRETORIUS SC: Coming to 5.4, Chair.

CHAIRPERSON: Oh, was that not the one you were
talking about?

ADV PRETORIUS SC: Ja, I was talking about 5.3 but your
10 comments are valid in relation to those.

CHAIRPERSON: Yes, ja, okay. You see, I thought we
were already at 5.4 Okay, alright. I think that the way that
you have been doing it, Mr Pretorius is good to actually
read so that she is able to say that is what I am not
agreeing to, that is what ...[intervenes]

ADV PRETORIUS SC: And given the circumstances of the
nature of this evidence and its format, it is perhaps wise to
go slower rather than...

CHAIRPERSON: Yes, no, no, that is fine, ja.

20 **ADV PRETORIUS SC:** Thank you.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: Ms K, I hope you will bear with us,
then.

MS K: Yes.

ADV PRETORIUS SC: The paragraph 5.3 reads:

“The Presidential Handbook to the extent of the administrative, logistical security and general support services to be rendered to the President, Deputy President and their spouses and children.”

Do you accept the correctness of that statement?

MS K: I have to accept the correctness of that statement because if something – if that is the objective of the document I cannot dispute it.

ADV PRETORIUS SC: Yes sure.

10 **CHAIRPERSON:** Well you can only agree with the statement if you have seen the presidential handbook and you have seen that that is what it does.

MS K: Yes, we did have a copy of the presidential handbook.

CHAIRPERSON: Okay.

MS K: And this part was actually drawn from there and we the only thing that we were certain of is the year because sometimes the handbooks revised but the one that we could get our hands on stipulated the rules as reflected
20 here.

CHAIRPERSON: Okay, no that is fine, that is good enough.

ADV PRETORIUS SC: And the one you did get your hands on and assume provided to the investigators, the Commission is in fact in the bundle. It is in the legislation

bundle, which you do have Chair. So we can cross check that if necessary. In any event, the stated objective, the paragraph records of the presidential handbook is:

“To provide, quote a concise operational guide to relevant government departmental staff, with clearly indicated responsibilities and duties and by implication, lines of accountability.”

Do you see that?

MS K: Yes, I do.

10 **ADV PRETORIUS SC:** And again - whilst you may not remember the exact words I take it; you do not take issue with that we can check it.

MS K: No, I do not.

ADV PRETORIUS SC: Right, 5.4 goes further to say that the presidential handbook outlines that firstly, the responsibility for the President's medical and health care resides with the Surgeon General and the South African military and health service unit of the SANDF.

20 Secondly, the South African Police Service is obliged to take, and I quote

“Full responsibility for the protection and security of the President and Deputy President, with the intelligence services providing regular and comprehensive security assessments.”

Do you agree with those observations, are those facts

real?

MS K: Yes, I do.

ADV PRETORIUS SC: According to the handbook:

“Protection and security measures of the President and Deputy President include, but are not limited to the following 5.4.1, regular security assessments in conjunction with the Intelligence Agencies.

10 5.4.2 static protection at all official and private residences and office accommodation used from time to time during the term of office.

5.4.3 in transit protection during all domestic and international movements.

5.4.4 regular vetting of protectors, medical personnel and other staff.

5.4.5 screening of service providers.

5.4.6 static protection of aircraft’; and

5.4.7 regular revision of ICT security systems.”

20 Is that your understanding of the handbooks provisions in regard to protection and security measures relating to the President and Deputy President?

MS K: Yes, it is.

ADV PRETORIUS SC: 5.5. I am sorry did you want to add something?

MS K: No nothing.

ADV PRETORIUS SC:

“5.5 notwithstanding this clear assignment of responsibility and the existing structures rendering medical and security support services to the President, the SSA established the Directorate for Presidential Security support to perform exactly the same functions. In terms of formal documentation, outlining the mandate of the Presidential Security support service the Directorate comprised the following functions.

- 10 5.5.1 VIP protection.
- 5.5.2 cyber security.
- 5.5.3 technical surveillance countermeasures and
- 5.5.4 toxicology.

Is that what was contained in the formal documentation outlining the mandate of the Presidential Security support service?

MS K: I just want to refer to the document so that I do not miss quotes and confirm without - yes, this is accurate. This is accurate, Chair.

20 **CHAIRPERSON:** Thank you.

ADV PRETORIUS SC: Thank you if you go to paragraph 5.6, Ms K. The first sentence reads:

“This not only broaden the mandate of the SSA without following legislative processes that effectively usurped functions that were duly

assigned to the South African Police Service Presidential Protection Unit, and the South African Military and Health Services Unit of the SANDF.”

We will come to what witnesses said in a moment. The first sentence is an observation of the implications of what you have spoken about and what Mr Y has spoken about above. Do you agree with the observation and 5.6 per sentence?

MS K: I do on the basis that among the documents that
10 we have, and also in our engagements with the relevant people who were responsible for these responsibilities within SSA, we could not trace whether there were MOU’s or with these departments which were coordinating the work, you know that would indicate that this service was requested from SSA.

So in that regard, I do agree that they did usurp the functions but if there is a document out there that can support that there was an agreement, then my view would be different.

20 **ADV PRETORIUS SC:** Right, well the next sentence deals with that it says:

“According to witness reports received during our investigations, the Presidential Security Support Service functioned without any memorandum of understanding with the SAPS or SANDF regarding

the provision of protection services, to the President and Deputy President of the country.”

That sentence says not only that you did not find one, but that you were told that there was not one do. Is that what you were told?

MS K: Yes, when we spoke to Ms Dorothy that is what we were told.

ADV PRETORIUS SC: Right, the paragraph continues:

10 “Whilst the legitimate SSA channels would receive requests for support, such as the provision of threat and risk assessments, secure communication and TSCM. These were used as the justification for the deployment of the Presidential Security Support Service. As a result of these unclear lines of communication and a lack of agreement in coordination with the relevant stakeholders, tensions were reported between members of the CDSO’s Presidential Security Support Unit and members of the SAPS Presidential Protection Unit

20 to the detriment of the effective working of the protective services of SAPS.”

Is that a fair observation in your view, do you agree with it?

MS K: The first one where we talk about legitimate SSA channels would receive the requests, I agree with that

because it meant that PSS would still under SO's still deploy their own people and do whatever outside of these formal channels.

And also in terms of their unclear lines of communication, there were reports of tensions from the people who worked in this PSS from the SSA side when some of the implicated individuals did indicate that there was that tension that existed because of this arrangement.

ADV PRETORIUS SC: Yes, the only part that you have
10 not commented on is whether this series of arrangements was to the detriment of the effective working of the protected services of the South African Police Services. Can you comment on that?

MS K: I cannot confirm that it was to the detriment of the effective working of the protective because I have not engaged with - and the team has not engaged with SAPS and we have not gotten a view from that side, so I cannot confirm that.

ADV PRETORIUS SC: Right, it appears Miss K that you
20 have been very cautious and careful to restrict your confirmation of the correctness of the affidavit of Mr Y to matters that you are reasonably certain of, is that a correct observation?

MS K: I am not being overly cautious but I have to be conscious of the terminology that is used and what it

means, what its implications are. So if I am not sure and I do not have direct evidence of the detriment that was caused, I cannot support and say, and come in and act and speak authoritatively on that.

ADV PRETORIUS SC: Yes, I understand.

MS K: I did not, for instance I did not see any documentation that showed any complaints from SAPS in this regard. All I saw we request and itineraries sent from SAPS PPU to SSA but they would say for TSCM, that is all.

10 **ADV PRETORIUS SC:** Ms K, please do not misunderstand me I am not being critical at all, in fact quite the opposite. It does appear and it is a good thing for the evidence that has been led that you are exercising the caution that you are. So I am not being critical at all and I trust that you will continue giving evidence in this way.

MS K: Thank you, Chair.

ADV PRETORIUS SC: Let us not misunderstand one another.

20 **CHAIRPERSON:** Well, I also wanted to say exactly the same thing, Ms K that Mr Pretorius was not criticising you he was actually meaning to say, you are being cautious and that is a good thing. So that that which you confirm, everyone will know you confirmed because you believe you have knowledge of that and there are proper grounds and when you are not sure you make it clear that you are not

sure and therefore you are not going to confirm something that you are not sure about.

That might not mean you saying it is not true. It might simply mean that you are not in a position to say whether it is true or not and obviously when you say it, it is where your understanding is that it is not true, you must feel free to say this part is not true or as far as I know the position is different and as far as I know, this is the position. So that is good it is not a bad thing.

10 **MS K**: Thank you Chair.

ADV PRETORIUS SC: Yes, and Ms K as the day goes on or as the day's drag on please continue along the same lines. Paragraph 5.7 reads:

“According to members within the Presidential Security Support Service, they were responsible for security around accommodation venues, routes and crowds in relation to the president and Deputy President.”

Is that correct?

20 **MS K**: Yes, that is what was indicated to us.

ADV PRETORIUS SC: Right.

“Members of the unit would be deployed as advanced teams to detect any potential risk or threat to the President or Deputy President when travelling.”

Is that correct, is that what you were told?

MS K: Yes, that is correct.

ADV PRETORIUS SC:

“The information if any that was generated from these trips would be channelled only to Ambassador Dlomo and not formal information management structures or structure within the SSA.”

Is that a correct statement or is that what you were told?

MS K: Yes, it is a correct statement.

10 **ADV PRETORIUS SC:**

“There is no indication that threat and risk assessments which according to the presidential handbook should have been provided by intelligence were made available to the South African Police Service or the SANDF regularly or at all.”

Do you have a comment on that, is it correct?

MS K: I think there is no indication that is true but I – no I think I have no comment on this one because it is very
20 ambiguous for me because I see it as if it says there is no indication that certain risk assessments which according to the President should have been provided by intelligence or made available to SAPS and SANDF regularly or at all.

I do not have a proof of that, I do not know. All I know, I can say is that we have not seen any intelligence

or intelligence products that came from this unit or SO in general. So that is why I am not sure whether to agree with the statement or not.

ADV PRETORIUS SC: Alright, we can leave it there, thank you and go to paragraph 5.8:

10 “In summary, a separate and discrete - which I suppose should be spelt in this context, d-i-s-c-r-e-t-e force, although it was also discreet - was established within the SSA reporting to and accountable to in the main Ambassador Dlomo. The lawful structure for the personal protection of the President, namely SAPS was entirely side-lined.”

Thus far, can you comment on those two sentences or the content of those two sentences?

MS K: I do not have any issues with the first sentence. However, the second one that says the lawful structure for the personal protection of the President namely SAPS was entirely side-lined.

20 I do not totally agree with that, mainly because there was - if I have seen documents that are bearing the emblem of SAPS and assigned by a senior member of SAPS that are being sent to Ambassador Thulani Dlomo then I cannot say they were entirely side-lined and because I was not on the ground I cannot, so it may have caused tension but I am not sure about the word entirely.

ADV PRETORIUS SC: Right, would you partially agree to the extent that there was a degree of side-lining?

MS K: Yes, I would partially agree.

ADV PRETORIUS SC: Right, if we can go on the next sentence says that - and obviously refers to the information available to Mr Y. He says:

“My information is that Ambassador Dlomo reported directly to President Zuma.”

Do you have any knowledge of that statement or the report
10 of that statement?

MS K: I think it is something that we did use, not that there is any proof that I have seen that he was doing exactly that. The only information that I can confirm is that some of the people that were involved in some of these projects carried out by CDSO did indicate that they were reporting directly to President Zuma.

In fact, some of the people that we interviewed in fact one did indicate that they were reporting directly to the President. So I do not know whether that would be
20 supporting that Ambassador Thulani Dlomo reported directly. I do not know because all of those people were reporting to him, so maybe it follows that he reported to the President.

ADV PRETORIUS SC: So what you are saying in relation to that sentence as I understand it that people in the unit

subordinate to Ambassador Dlomo told you that they reported directly to President Zuma, am I correct?

MS K: Yes, they said - one of them even said they felt very powerful because they were reporting directly to the President.

ADV PRETORIUS SC: Right and then the last sentence reads:

10 “In the result, President Zuma benefited from an
 SSA based protection service financed and
 controlled by the SSA.”

Let us go as far as that for the moment. Do you agree with that part of the last sentence in paragraph 5.8?

MS K: Seen that they were deployed SSA there was an entire unit just focusing on that within CDSO I would say that, that sentence is correct.

ADV PRETORIUS SC: Right. The protection service is said in this sentence to be possibly performing intelligence functions, do you have to comment on that?

20 **MS K:** We assume that all SSA members because as
 much as CDSO had the core workers were non-SSA
 members, there were also members of SSA who were
 involved there, a handful of them. So I should assume that
 they were performing intelligence functions. So ja, I do not
 know what...[intervene]

ADV PRETORIUS SC: You have already confirmed, I am

sorry, I interrupted you. Do you have anything to add?

MS K: No, I think they were performing those intelligence functions, but whether these were in line with our mandate or you know whether it also followed our information management system whatever, whether - how that information was channelled, I cannot comment on that but I am assuming that they were performing intelligence functions.

ADV PRETORIUS SC: Thank you and the last part of that
10 sentence as it had been trained to do, I think you have confirmed earlier that the training involved intelligence training. Am I correct?

MS K: Yes.

ADV PRETORIUS SC: Let us move on then if we may to the Toxicology Unit, described in paragraph 5.9. The first sentence reads:

“In 2012, a Toxicology Unit was established within the CDSO under Ambassador Dlomo’s management.”

20 Is that correct statement?

MS K: Yes, it is correct. I am just not sure about the date, the year but it is correct the rest of the sentence.

ADV PRETORIUS SC: Thank you. Paragraph continues:

“There were no indications that this unit was established legitimately or with even an attempt to

comply with the threshold governance prescripts of the SSA.”

Is that a correct statement?

MS K: Yes, it is.

ADV PRETORIUS SC: “Ambassador Dlomo - the paragraph continues:

“in conjunction with a non-SSA member, Dr Mandisa Mokwena were involved in the recruitment and training of individuals in the toxicology environment
10 to capacitate this new unit.”

Is that the correct statement?

MS K: Yes, according to the witness statement that we have, yes.

ADV PRETORIUS SC:

“This was done in conjunction with an organisation referred to as a Foreign International Development Agency for Food Safety and Security.”

Now, we have taken out the name of the country where this food and safety security Agency existed but apart from
20 that, are you comfortable with the contents of that sentence?

MS K: Yes, I am.

ADV PRETORIUS SC:

“Based on our investigations - the affidavit continues, this organisation does not appear to

exist in any official records.”

Can you confirm that?

MS K: Yes, when we did the search, we could not find that organisation.

ADV PRETORIUS SC: Right, paragraph 5.10:

“The recruitment and training agreement was signed by Ambassador Dlomo on behalf of the Republic of South Africa and by an unidentified representative on behalf of the foreign organisation.”

10 And again, where you read the word foreign, the name of the country has been taken out and replaced by the word foreign. But this sentence is that the correct reflection of the facts?

MS K: Yes, it is.

ADV PRETORIUS SC:

“In terms of the agreement the foreign side would provide course curriculum, training equipment and installation with an overall implementation date of 20 January 2013.”

20 Is that a correct statement?

MS K: Yes, it is.

ADV PRETORIUS SC:

“During 2012 - the affidavit continues, individuals were identified through referrals and invited to submit their curriculum vitae. Four individuals were

selected, two toxicologists and two lab assistants. The individuals were not interviewed, but were allegedly vetted and sent for polygraph examinations conducted by the foreign country before attending a three week course in their country, in other words the foreign country, in December 2012.”

Is that in accordance with the knowledge that you have of this project?

10 **MS K:** That is what we were told by one of the toxicologists.

ADV PRETORIUS SC: Thank you, 5.11 says:

“The Toxicology Unit was located within the Directorate for Presidential Security Support in terms of the organisational design. However, it also fell within a CDSO project called Project Khusela previously called Project Accurate of which Dr Mokwena was the project manager.”

Is that correct?

20 **MS K:** Yes, that is correct but I have to also mention that while Project Khusela was purported to have replaced Project Accurate, Project Accurate still continued while Khusela was in existence.

ADV PRETORIUS SC: Thank you and we deal with Project Khusela in more detail below, but let us continue.

The affidavit reads:

“The Toxicology Units laboratory, including a vivarium - and I will come back to that in a moment, was established in an SSA safe house in Waterkloof.”

Is that correct?

MS K: That is what we were told, I do not know if it is correct, but that is what we were told.

ADV PRETORIUS SC: Right, a vivarium, I suppose is to
10 test poisons. I do not know let me not speculate, it is a container that contains live animals. Do you know that?

MS K: I do not know what it is either.

ADV PRETORIUS SC:

“There appears to have been - the affidavit continues, a double dipping of funds, as members of the Toxicology Unit reported to the Directorate for Presidential Security Support for their travelling funds, subsistence and travel allowance and accommodation costs, while funds were also paid to
20 Project Khusela as part of the CDSO operational expenditure.”

Is that a correct statement of facts?

MS K: That is how it appears based on the information that we gathered.

ADV PRETORIUS SC: Does that include written

information or documentary information?

MS K: The documentary information shows that people were taking TA's directly for Project Khusela but at the same time, the people that are working under toxicology, saying they were working, they were reporting to the PSS. However, whoever was leading PSS says that unit never reported to them.

So that is why we asked, there was - we were faced with this I think we had to analyse whether were they
10 travelling under PSS or were they – and getting money in that regard. But or what we are sure of is that there were times that were taken directly for Project Khusela and when the settlements were done for those TA's they attached receipts you know for travel and whatever by the Toxicology Unit, so that is why we – it is not actually clear.

ADV PRETORIUS SC: Do I understand you correctly that operatives within that unit drew money both under the head Project Khusela and under the head Toxicology Unit?

MS K: That is the suspicion, that is why we are saying it
20 appears.

ADV PRETORIUS SC: Okay, thank you for that.

MS K: Yes.

ADV PRETORIUS SC:

“The leader of the Toxicology Unit who was one of the trained toxicologists indicated to the

investigation team that she had used her own business entity Remix which is a pseudonym which had been established in 2007 as a special purpose vehicle for receiving and dispersing operational funds from the SSA for this project.”

Is that a correct statement of fact that you were told that?

MS K: It is not entirely accurate.

ADV PRETORIUS SC: Could you just...

MS K: My understanding is that – my understanding is that
10 Remix had been established in 2007 independent of the
SSA. So the person indicated that their company was an
environmental kind of company and later on when they –
because they were get – they were receiving the R1.8 million
a month cash from SO Operatives they felt that it was too
much to handle that money in cash so the owner of the
company offered Ambassador Thulane Dlomo that they can
use her company so – to disperse these funds – these funds.
So that is the situation so I think it is not completely
accurate the way it is put there.

20 **ADV PRETORIUS SC:** Right. Paragraph 5.12 reads:

“Members of the Toxicology Unit were deployed in line with the other Presidential Security Support Services such as technical, surveillance counter-measures, PSCM to all areas that the President would be exposed to

both internationally and domestically. They were responsible for checking rooms, kitchens and dining spaces that would be occupied by the President but not the Presidential aircraft. In one document Ambassador Dlomo is cited as a donor to the establishment of the Toxicology Units and referred to as Chief.”

Is that a correct record of what you were told or what
10 the investigation established?

MS K: The investigation was – the investigation team was informed by one of the Toxicologists that they never checked the Presidential aircraft. So that one – that part is correct.

The second part which refers to in one document Ambassador Dlomo is cited as a donor to the establishment of the Toxicology Unit and referred to as Chief that is not completely accurate.

He was – they – he was referred to as Chief Thulane Dlomo in documents where there was sort like an agreement
20 with that foreign international development agency that we spoke about earlier. So he appeared there as a co-sponsor for the project. Not necessarily for a donor for the establishment of the Toxicology Unit.

I hope I am making sense.

ADV PRETORIUS SC: Yes thank you. If we can go then to

paragraph 5.13 the allegations or the statements set out in this paragraph are important so I will deal with them sentence by sentence. The first sentence reads:

“However the actual purpose of the Toxicology Unit is questionable and it appears to have had little impact since its establishment in 2012.”

Let me continue because that sentence really foreshadows what is to come.

10 “Notwithstanding the specialised training and considerable resources at its disposal the Toxicology Unit failed to detect or prevent the alleged poisoning of the former President in 2014.”

Thus far what do you say about the contents of that paragraph please?

MS K: I would be more comfortable with the paragraph if the – the first sentence – the first sentence is talking about having little impact since its establishment in 2012. I think
20 there needs to be a qualifier there because we should say the Toxicology Unit under the – the umbrella of CDSO because ultimately there is still a Toxicology Unit within SSA but it is not necessarily linked to these activities.

So in my view if we saying it appears to have had little impact since its establishment in 2012 it would then be

misinterpreted to mean that we are saying the legitimate unit now that is under Counter Intelligence has not been affective. So I am not in a position to say that.

ADV PRETORIUS SC: So do I understand you correctly Ms K to say that there is what you termed a legitimate Toxicology Unit within the SSA and the Toxicology Unit we referring here was another unit under the CDSO. Is that correct?

MS K: Yes that is the one that we are talking about under –
10 under CDSO. However some of the members including the person that we interviewed who was recruited and polygraphed by these foreign people from a foreign country was ultimately absorbed into the Toxicology Unit that exists now.

ADV PRETORIUS SC: Okay. But if one qualifies the first sentence by referring to the Toxicology Unit established under the CDSO are you comfortable with the correctness of that statement?

MS K: Yes I will be comfortable with that.

20 **ADV PRETORIUS SC:** Okay and the second sentence?

MS K: I agree with that – that you would have expected that they would have detected – especially because there was no many – so much resources that were dedicated to protecting the President this would include the VIP Protection, the Toxicology Unit, the guarding of the plane, all of it by SSA.

So you would expect that at least you could detect that – the poison so I do agree with that statement.

ADV PRETORIUS SC: Yes. And although on the face of it it may seem to be a light hearted statement. It is actually on careful examination quite serious. The next sentence reads:

10 “Indeed during an interview with the person employed by the Toxicology Unit it was indicated that in all the years that they had serviced the former President the only threat that had been detected was expired cold drinks.”

MS K: Yes she did indicate that to us and ja.

ADV PRETORIUS SC: You deal anywhere with the budget that was allocated to this Toxicology Unit. If not it is extra evidence and we should perhaps deal with it elsewhere.

MS K: Kindly repeat that Sir.

ADV PRETORIUS SC: The budget that was allocated.

MS K: Yes.

20 **ADV PRETORIUS SC:** To the Toxicology Unit I do not think we deal with it in – or sorry I do not think Mr Y deals with it in this affidavit. Am I correct and it would not necessarily...

MS K: I think it is – I think it is dealt with under the – the item where we talk about contracts. The contract with Remix.

ADV PRETORIUS SC: Alright so it is relevant to this point

that a significant amount of money appears to have been spent on this unit. What amount was spent?

MS K: It was R1.8 million cash per month.

ADV PRETORIUS SC: Right. The affidavit continues:

10 “The failure to detect the poisoning of a sitting President was either a major intelligence failure by a specialised unit that had been trained and resourced for the sole purpose or exposes the Toxicology Unit as a structure used to siphon funds out of the SSA and or use such funds for other non-disclosed purposes.”

That comment at least as far as its content is concerned is very fairly clear, do you have any comment?

MS K: No except that I agree with the statement.

ADV PRETORIUS SC: Right. Let us go on then to the protection of the Presidential aircraft. Paragraph 5.14 reads:

20 “In November 2014 Ambassador Dlomo by then Deputy Director General Counter Intelligence instituted a project for the protection of the Presidential aircraft. The rationale for the project according to witness accounts was that Ambassador Dlomo was made aware that pilots and crew members were bringing in unauthorised individuals to

sleep in the aircraft.”

One would have thought that there were other ways to deal with it but let me not go there. What do you say about those first two sentences?

MS K: I think this is a correct reflection because we gathered this from – from an interview we had with a person who was very key in this project.

ADV PRETORIUS SC: Right. The affidavit – the affidavit in paragraph 5.1.4 continues to read:

10 “No formal threat and risk assessment on the alleged concerns form the basis of the project.”

Is that a correct statement as far as you are concerned?

MS K: Yes.

ADV PRETORIUS SC: Continues to read:

20 “Individuals selected for the project had no training or knowledge of aviation matters yet they accepted and carried duties to guard the Presidential plane and helicopter. This mandate was based on a verbal briefing from Ambassador Dlomo on a purported threat.”

You agree with those statements?

MS K: I do because this is their – an account from a person that was involved in that space.

ADV PRETORIUS SC: Alright.

MS K: And they did say they were – they never got any training.

ADV PRETORIUS SC: 5.15 I will read the whole paragraph because it can be read as a single concept.

“Although Ambassador.”

CHAIRPERSON: One second Mr Pretorius. I think Counsel for SSA has something to say.

UNKNOWN COUNSEL: I am sorry Chair to take my learned
10 friend a bit back on the paragraphs 5.9 that deals with the Toxicology Unit. It was put to the witness Chair whether...

CHAIRPERSON: What paragraph?

UNKNOWN COUNSEL: I think she - it is under the heading 5.9.

CHAIRPERSON: 5.9?

UNKNOWN COUNSEL: Yes.

CHAIRPERSON: Ja.

UNKNOWN COUNSEL: Up to 5.13.

CHAIRPERSON: Ja.

20 **UNKNOWN COUNSEL:** Towards the end of 5.13 my learned friend asked the witness whether or rather how much was spent on the Toxicology Unit? Her response was R1.8.

CHAIRPERSON: It is CDSO.

UNKNOWN COUNSEL: No, no specifically how much was spent on that unit – Toxicology Unit.

CHAIRPERSON: Oh Toxicology.

UNKNOWN COUNSEL: Not CDSO and her response was R1.8 million. Now given the fact that the Toxicology Unit was part as alleged to say the least for now was part of the CDSO is that R1.8 a collective amount of is it specific for the Toxicology Unit? That is the clarity that we seek Chair. Thank you.

CHAIRPERSON: So you ask whether it relates to the Toxicology Unit only?

10 **UNKNOWN COUNSEL:** That is correct.

CHAIRPERSON: I thought it would have been clear that it is the unit but I may have misunderstood. Mr Pretorius.

ADV PRETORIUS SC: Well so may have I misunderstood. I thought the question was clear that the expenditure in relation to the Toxicology Unit firstly is dealt with elsewhere in this series of documents. But secondly was R1.8 million per month for the Toxicology Unit. Do I understand the position correctly Ms K?

20 **MS K:** I think I understand where the question comes from because it is – the R1.8 million that was taken per month was for Project Kusile which was focussing on the Toxicology segment of the work of the CDSO. So as a project so I am not sure whether the entire unit utilised only that amount.

ADV PRETORIUS SC: So it could have been more do I understand you to say?

MS K: Yes it could have been more. Because the R1.8 million per month that I am talking about only refers to Kusile which is purported to be dealing with this area exactly.

ADV PRETORIUS SC: Thank you.

CHAIRPERSON: Thank you.

ADV PRETORIUS SC: If we may proceed then to paragraph 5.15. You have dealt with 5.14 I understand is that correct?

MS K: Yes Chair.

ADV PRETORIUS SC: 5.15 reads:

10 “Although Ambassador Dlomo selected the
SSA members that were tasked with
protecting the Presidential aircraft the
project was formerly allocated to the Chief
Directorate Internal Security.”

And involved in that Chief Directorate was a person with a
pseudonym ‘Johan’ and I am not going to mention his
position either. But the affidavit continues at paragraph 5.15
to read?

20 “It is unclear why this project which like the
Presidential Security Support Service
encroached upon the SAPS mandate to
render Presidential protection of this kind
was set up within CDIS. It is reasonable to
infer that this was done to deliberately
remove all things related to the protection of

the former President out of the realm of the SAPS and to instead place them under the control of Ambassador Dlomo.”

Is that a fair representation and a correct representation of the facts in the first part of the affidavit and secondly the inference that is drawn. Do you agree with that inference?

MS K: In my – in my understanding is that the guarding of the Presidential aircraft falls within the mandate of SANDF.
10 So as much as – so I am not sure if this is completely correct. Maybe it is just a typo or maybe I do not understand this completely. But otherwise the essence of what is indicated in this paragraph I agree with.

ADV PRETORIUS SC: Right I think the paragraph is – it tends to convey that the Presidential Security Support Service encroached upon the SAPS mandate to protect the President and the project in relation to Presidential aircraft also encroached on the SAPS mandate to protect the President. Do you read it in the same way and so is it
20 correct?

MS K: No, no that is inaccurate Sir.

CHAIRPERSON: Ja I think what – I think what Ms K – Ms K.

MS K: The – this is under – yes Chair.

CHAIRPERSON: Ms K. Ms K. I think what Ms K was saying previously Mr Pretorius she seemed to be saying as far as

the guarding of the Presidential aircraft is concerned one cannot say that this unit was removing or interfering with the mandate of the SAPS because that is as far as she knows supposed to be within the mandate of SANDF. I think that is the only qualification she sought to make. So if I am correct in understanding her in that way she sought to say insofar as this unit sought to guard the Presidential aircraft they may have been or they were encroaching of SANDF's mandate but in terms of the rest they were encroaching on SAPS
10 mandate.

ADV PRETORIUS SC: Yes I – I understood that Chair.

CHAIRPERSON: Ms K is that correct?

ADV PRETORIUS SC: Ja.

CHAIRPERSON: Ms K is my understanding correct of your evidence?

MS K: I think so. I think so Chair. But I want to also clarify that ...

CHAIRPERSON: Okay clarify further.

MS K: That the intrusion of Presidential Security Support
20 Services there it is more like we say similarly but it is actually not PSS that provided that service of guarding the Presidential aircraft. It is actually another Chief Directorate – Chief Directorate Internal Security. I just need that to be understood.

ADV PRETORIUS SC: Yes.

MS K: So it is not PSS.

ADV PRETORIUS SC: So for that reason Chair I was going a little slower because there are a number of concepts now that are being...

CHAIRPERSON: No that is fine, that is fine.

ADV PRETORIUS SC: Included in a single sentence so let us just try and clarify that. I think it is clear but just for the sake the record let us just clear it up.

10 The aircraft protection project resided under CDIS,
am I correct?

MS K: Yes you are correct Chair.

ADV PRETORIUS SC: It would have duplicated or encroached upon the mandate of the SANDF, is that correct?

MS K: Yes in my understanding.

ADV PRETORIUS SC: Yes. The Presidential Security Support Service resided elsewhere Chief Directorate Special Operations, is that correct?

MS K: Yes.

20 **ADV PRETORIUS SC:** And it would have encroached on the SAPS mandate to render Presidential protection, is that correct?

MS K: Yes that is correct.

ADV PRETORIUS SC: Alright so all those propositions are wrapped up in that sentence but I think we have clarified with the assistance of Chair.

MS K: But I – sorry Chair. I think it is important to note that both CDIS and CDSO fall under Counter Intelligence which would have made both units report to Ambassador Thulani Dlomo as the DDG Counter Intelligence.

ADV PRETORIUS SC: Alright that is useful to understand thank you. So the next sentence it is reasonable to infer that this was done to deliberately remove all things related to the protection of the former President out of the realm of SAPS, SAPS and to instead place them under the control of
10 Ambassador Dlomo in the various units under his control. Is that a fair representation of an inference that can be drawn?

MS K: I partially agree mainly because one of the people that we interviewed did indicate that they think that was the aim to take over everything you know around the President. Particularly the protection everything that had to do with the protection.

ADV PRETORIUS SC: Yes so we have the facts on the one hand. We have what you were told in the course of your investigation on the other and we have the conclusion drawn
20 by Mr Y and your comments. Is that a fair summary?

MS K: Yes. Yes.

ADV PRETORIUS SC: Alright let us go to 5.16 if we may?

CHAIRPERSON: I am sorry Mr Pretorius I just want to clear this. Is it correct Ms K that all your knowledge in regard to these – these matters that you are sharing with the

commission is based on what you found during the investigations either by way of documentation or what you were told by people that you interviewed in the course of conducting the Project Veza investigation?

MS K: That is hundred percent correct Chair.

CHAIRPERSON: Yes. So that the – the – there would not – you would not have personal knowledge – you would not have personally witnessed the events as they occurred as such that your investigations – your investigation that is
10 Project Veza investigation re – may have revealed evidence that certain events or certain things did happen.

MS K: Yes Chair.

CHAIRPERSON: Okay alright. Thank you. Mr Pretorius.

ADV PRETORIUS SC: Perhaps one should add to that your personal knowledge of the structures and personnel within SSA.

MS K: Pardon please repeat that.

ADV PRETORIUS SC: You also have personal knowledge of the SSA organisation its structures and the persons of the
20 persons within the SSA, is that correct?

MS K: I did not get the first part of that question.

CHAIRPERSON: Oh I think what Mr Pretorius is saying is you do personally know certain people within the SSA that we are talking about here.

MS K: Personally.

CHAIRPERSON: You will know that.

MS K: It is people that ...

CHAIRPERSON: Yes people that you know as having been at SSA at a particular time.

MS K: Not everybody most of the people that we – are implicated and we are in – we are investigating I actually met as we were scheduling interviews. So at the beginning I was just dealing with names of people. So I can say that 99. Maybe 9% of the people that are implicated in this project
10 were not known to me. So as – except maybe people that would be in senior positions where you know that who is the DG, who is the you know those prominent positions.

CHAIRPERSON: Yes.

MS K: However the other people I basically met them during this investigation for the first time.

CHAIRPERSON: Okay alright.

ADV PRETORIUS SC: Right yes that was the point I was making. Perhaps should have been qualified more accurately Ms K that there are people who occupy positions
20 within the SSA and you would have direct knowledge of who they were and the positions they occupied, am I correct? Certain people.

MS K: Yes. And to also establish what positions people held most of our interviews started with just the beginning when a person joined the SSA what positions they held

throughout. So that also gave the team some kind of background in terms of where the person been, who they may have been exposed to and the kind of experience they may have had.

ADV PRETORIUS SC: Right it may help us to understand the scope of the investigation more accurately if we asked you over what period of time did the investigation last or for what period of time has it already been in existence I should say?

10 **MS K:** The investigation?

ADV PRETORIUS SC: Yes Veza.

MS K: As indicated in the introduction there was Project Momentum which started in June 2018 so in December that is when Veza was established to reinforce what Momentum had already begun. So that was December 2018 that I was – we were all – we were appointed but some of the members that were in Momentum continued in this.

ADV PRETORIUS SC: Right but Veza at least has been going on-going for two years?

20 **MS K:** Yes.

ADV PRETORIUS SC: More than two years, right.

MS K: Yes.

ADV PRETORIUS SC: And during that time if you could give the Chair an indication of the number of people approximately not precisely you would have interviewed?

CHAIRPERSON: Hang on let us take an adjournment. I see it is four o'clock and let us talk about how far we will go. I am prepared to sit longer. What is your – how does the plan look like in terms of tomorrow and ...;

ADV PRETORIUS SC: Chair we are not going to finish today.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: That is clear.

CHAIRPERSON: But we should do as much as we can I
10 would imagine.

ADV PRETORIUS SC: We should do as much as we can.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: I must confess my stamina does not match yours so I would like to minute it.

CHAIRPERSON: No you are standing and I am seated.

ADV PRETORIUS SC: Yes that is true there is a mitigating circumstance.

CHAIRPERSON: Yes. So – so in terms of Ms K giving
20 evidence – her evidence spilling over to tomorrow in terms of the legal team did that fit within the plan or?

ADV PRETORIUS SC: Yes it does fit within the plan Chair.

CHAIRPERSON: Oh she is not pushing out a witness.

ADV PRETORIUS SC: I would prefer if we could – well it all depends on Ms K of course. Perhaps we should consult her.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: But I would not – because I have still got to prepare.

CHAIRPERSON: Yes.

ADV PRETORIUS SC: I would prefer if we could stop sometime around five o'clock.

CHAIRPERSON: Okay no that is fine particularly if the plan for tomorrow was – it is not like there is a witness who will be pushed out.

10 **ADV PRETORIUS SC:** Yes, no there is no witness to be pushed out.

CHAIRPERSON: Oh okay no that is fine. Well I think then I would be guided by your assessment even whether we should go up to five.

ADV PRETORIUS SC: Yes I think Chair it would if I may ask that we adjourn.

CHAIRPERSON: Yes and then ja and then continue tomorrow.

ADV PRETORIUS SC: Yes Chair.

CHAIRPERSON: Continues – start at ten tomorrow?

20 **ADV PRETORIUS SC:** At ten.

CHAIRPERSON: We start at ten. Okay no that is fine. Maybe we should do that then – what I am – what I am not sure about and do you think we would finish tomorrow because I am looking at how much we have covered in terms of Mr Y's affidavit. We have done 25 of 80 pages. Unless

that suggests we might not reach.

ADV PRETORIUS SC: Well barring any intervention from my right Chair we should get much further.

CHAIRPERSON: Ja.

ADV PRETORIUS SC: In fact virtually finish tomorrow.

CHAIRPERSON: Oh okay.

ADV PRETORIUS SC: But it is not certain we may have to go to Friday.

CHAIRPERSON: Okay. Okay. No that is fine. So Ms K you
10 are following the discussion?

MS K: Yes I am Chair.

CHAIRPERSON: Yes you have no problem?

MS K: No I do not have any problem.

CHAIRPERSON: Okay I think we will then adjourn now and then we resume tomorrow at ten o'clock.

MS K: Thank you Chair.

CHAIRPERSON: So you - you will come back to your place from where you are giving evidence tomorrow at ten Ms K.

MS K: Thank you Chair.

20 **CHAIRPERSON:** Okay. We – we are going to adjourn then until tomorrow at ten. We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 28 JANUARY 2021