

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 Thursday, 14 October 2021

2 [Open session]

3 [The accused appeared via videolink]

4 --- Upon commencing at 9.35 a.m.

5 PRESIDING JUDGE VELDT-FOGLIA: Good morning.

6 Court Officer, could you please call the case.

7 THE COURT OFFICER: Good morning, Your Honours. This is case
8 KSC-BC-2020-05, The Specialist Prosecutor versus Salih Mustafa.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

10 First of all, I will call appearances.

11 Mr. Prosecutor, could you tell us who is present for the
12 Specialist Prosecutor's Office.

13 MR. DE MINICIS: Good morning, Your Honours. The team is the
14 same as yesterday, with the exception of Ms. Deborah Osborn who is
15 here today instead of Alex Whiting, the Deputy Specialist Prosecutor.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much.

17 Victims' Counsel, please.

18 MS. PUES: Good morning, Your Honours. Good morning, everybody.
19 The Victims' Counsel team is represented by Njomza Haxhibeqiri,
20 Junior Legal Associate, and myself, Anni Pues, as Victims' Counsel.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 Defence counsel, you have the floor.

23 MR. VON BONE: Good morning, Your Honours. The Defence is
24 represented by myself, Julius von Bone, my co-counsel Betim Shala,
25 and interpreter and investigator, Fatmir Pelaj. And remotely is

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 joining Mr. Mustafa.

2 PRESIDING JUDGE VELDT-FOGLIA: Good. Thank you very much. And
3 for the record, you are appearing before Trial Panel I.

4 Before we continue with testimony of Witness W03594, I would
5 like to follow up with the SPO regarding the two matters we discussed
6 at the end of the hearing of Tuesday. It was about the updated order
7 of the witnesses proposed by the Panel. I know that you have said
8 that you have taken note of it. Could you please inform the Panel
9 whether the proposed order can be followed considering witness
10 availability so that we can prepare accordingly.

11 MR. DE MINICIS: Yes, Your Honour. The proposed order is fine
12 for the SPO. We can adjust the schedule as proposed by the Panel.

13 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you for that,
14 Mr. Prosecutor.

15 And secondly, there was a matter we discussed - I won't say too
16 much about it because we did that in private - with regard to
17 Witness W01679. You indicated that you would come back to the Panel
18 with an answer.

19 Would you like to take the floor about that, but then in
20 private, of course.

21 MR. DE MINICIS: Yes, Your Honour. My colleague Ms. D'Ascoli is
22 ready to address the Court in private session about that.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well.

24 Madam Court Officer, could you bring us into private session,
25 please.

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1 ~~[Private session]~~ [Open session]

2 THE COURT OFFICER: Your Honours, we're now in private session.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

4 Madam Prosecutor, you have the floor.

5 MS. D'ASCOLI: Yes, thank you, Your Honours. And thank you for
6 your observations with regard to that translation. We were, in fact,
7 going to address that issue in the filing at the end of the month,
8 which presents the number -- the exhibits discussed with the witness
9 that the SPO seeks admission of. We will do that in any case so that
10 we will all have it in writing.

11 But just to give a brief summary so that Your Honours are
12 informed about it, with regard to the SPO English translation of the
13 UNMIK witness statement of 1679, as Your Honours indicated, that is
14 to be found at pages 060695 to 060697 of the ERN document 060690 to
15 060698ET. So that is an internal draft translation of that UNMIK
16 statement. We were not -- we have relied on the original as
17 discussed during the testimony. We were not going to rely on that
18 because it was just a routine draft translation that was done, you
19 know, whenever we have Official Notes or documents that we disclose
20 to the parties, there's also automatically an English translation
21 done. However, in this case, there was already an original one, and,
22 therefore, the draft SPO translation wasn't finalised. And we were
23 planning to rely on it simply because it has at the bottom the
24 translation of the hand marking, the corrections that the witness
25 made during his testimony.

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1 So that was the addition compared to the prior statement.

2 But that translation is not as accurate as the original one,
3 let's say, the one that can be found in the UNMIK statement at pages
4 7000678 to 7000688, and that is the translation the SPO relies upon
5 for that UNMIK statement. But, again, we will put that in writing so
6 that it is clear.

7 In any case, the witness, I recall, has provided -- has read out
8 in court the English -- I mean, has read out in court the handwritten
9 corrections which, of course, now appear as translated in the
10 transcript, so that might suffice. We will find a suitable solution
11 and discuss that in our next filing at the end of the month.

12 And, then, Your Honours' other question was in relation to sort
13 of guide or index in the Official Note regarding the content of that
14 note. Because I think Your Honour's remark was that English
15 translation was not to be found listed in the Official Note. That's
16 correct, in fact, and that is because it was simply the translation
17 of that UNMIK statement that was annexed as Exhibit 4 into the
18 Official Note linked to the interview of [REDACTED] with
19 Witness W01689.

20 The Official Note does contain the list of the exhibits, which I
21 remember was Exhibit 1 to 4, attached to the Official Note and
22 discussed in the SPO interview, and through the conversion table that
23 we provided for the witness, Your Honours can see the specific pages
24 and also Exhibit 1, 2, 3, or 4 discussed in the SPO interview.

25 So by having the Official Note and the conversion table, we

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1 believe Your Honours have all of the information in order to
2 understand which exhibits we're talking about and where to locate
3 them in the SPO interview.

4 The ET translation, so the document 060690 to 060698ET was not
5 listed because it's simply a translation of that Official Note. And,
6 in fact, it does -- it doesn't have any content in the first pages
7 because being an English translation, of course, it reports back to
8 the original and the only English translation contained in it was the
9 one of the UNMIK statement which, however, as I discussed, is not
10 the -- is not a final one and not the one that we have been relying
11 upon for the UNMIK statement.

12 And we will put this -- these observations and submissions into
13 the filing for the admission of exhibits with the witnesses for
14 October so that everything is clear and is also memorialised.

15 And if Your Honours have further questions, I'm happy to address
16 them.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Prosecutor. It
18 is noted and, if necessary, we will come back to it. I think that
19 will suffice for now.

20 Good. Madam Court Officer, can we go back into public.

21 [Open session]

22 THE COURT OFFICER: Your Honours, we're in public session.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

24 We will continue now with the testimony of Witness W03594.

25 Madam Court Usher, could you please bring the witness into the

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 courtroom.

2 [The witness takes the stand]

3 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, good morning. Can
4 you hear me?

5 THE INTERPRETER: Microphone for the -- for Your Honour.

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, can you hear me?

7 THE WITNESS: [Interpretation] Good morning. I hear you.

8 PRESIDING JUDGE VELDT-FOGLIA: Good. Did you get some rest?

9 THE WITNESS: [Interpretation] Yes, I did.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness. Today we
11 will continue with your testimony, and I remind you that you are
12 still under oath and you have the obligation to tell the truth.

13 Do you understand that?

14 THE WITNESS: [Interpretation] Yes, fully.

15 PRESIDING JUDGE VELDT-FOGLIA: Okay.

16 Victims' Counsel, in the first round you said you didn't want
17 to -- like to pose any questions to the witness, but we are now in
18 the second round and I do you give the possibility, if you want, to
19 pose some questions to the witness.

20 MS. PUES: Thank you very much, Your Honours. Indeed, following
21 the Defence questioning, I do have two very brief questions for the
22 witness.

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness.

24 THE WITNESS: [Interpretation] Yes.

25 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel is going to pose

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1232

Questioned by Victims' Counsel:

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 apparently two questions to you and I will give her now the floor.

2 MS. PUES: Thank you.

3 THE WITNESS: [Interpretation] Good morning.

4 WITNESS: W03594 [Resumed]

5 [Witness answered through interpreter]

6 Questioned by Victims' Counsel:

7 Q. Two very brief questions from my side.

8 The first question: Is it correct -- this is just a follow-up
9 question to your answers yesterday or to the questions yesterday. Is
10 it correct that [REDACTED]

11 [REDACTED] -- sorry.

12 PRESIDING JUDGE VELDT-FOGLIA: No, we are in public.

13 MS. PUES: I'm sorry --

14 PRESIDING JUDGE VELDT-FOGLIA: Shall we go into private? Is
15 that better?

16 MS. PUES: Please, yes, let us go into private. I'm sorry.

17 PRESIDING JUDGE VELDT-FOGLIA: No worries.

18 Madam Court Officer, could you bring us into private, please.

19 ~~[Private session]~~ [Open session]

20 THE COURT OFFICER: Your Honours, we're in private session.

21 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Victims' Counsel.

22 MS. PUES: Thank you.

23 Q. So, Mr. Witness, we are now in private session so that no one
24 will be able to hear publicly what is being said here.

25 Is it correct that [REDACTED]

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1233

Questioned by Victims' Counsel:

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 [REDACTED]

2 A. It is true.

3 Q. And are families something highly important, not just in Kosovo
4 culture but also to you?

5 PRESIDING JUDGE VELDT-FOGLIA: Madam, I would like to ask you to
6 try to be open in your questioning.

7 MS. PUES: Your Honours, this is one very specific question, so
8 I can't see how I can pose it in a more open way, but I will just
9 think about it for a second.

10 PRESIDING JUDGE VELDT-FOGLIA: What is the importance of family
11 and if the answers, you can -- thank you [Microphone not activated]
12 you are already saying that it is important.

13 MS. PUES:

14 Q. What is the importance of families in general and your family to
15 you?

16 A. It is above everything else. Very important. Above everything
17 in life.

18 Q. Thank you.

19 MS. PUES: Those were my questions. Thank you.

20 PRESIDING JUDGE VELDT-FOGLIA: Good.

21 THE WITNESS: [Interpretation] May I make an explanation,
22 Your Honour?

23 PRESIDING JUDGE VELDT-FOGLIA: Of course, you may make an
24 explanation. Please proceed.

25 THE WITNESS: [Interpretation] Yesterday I requested to be

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1234

Questioned by Victims' Counsel:

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, when a witness
5 appears in court to testify, all parties - and that would be the
6 Prosecutor and the Defence counsel and his team - can ask you
7 questions according to our Rules of Procedure and Evidence, and also
8 the Victims' Counsel, even if it is not your counsel, can ask
9 questions to all witnesses. So in this case, the Victims' Counsel is
10 in a position to ask you a question.

11 THE WITNESS: [Interpretation] I apologise.

12 PRESIDING JUDGE VELDT-FOGLIA: You don't need to apologise.
13 It's good that you ask the question to be -- to get clarification.

14 Defence counsel, I'm looking at you to see whether you want to
15 put some questions in rejoinder, and for how long approximately.

16 MR. VON BONE: Just a few, Your Honour.

17 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

18 [Specialist Counsel confer]

19 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
20 bring us into public for a moment. Or maybe longer.

21 [Open session]

22 THE COURT OFFICER: Your Honours, we're back in public session.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

24 Defence counsel, we are in public now. I brought us back into
25 public, and I will give you now the floor if --

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1235

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 MR. VON BONE: I want to brief consult something.

2 PRESIDING JUDGE VELDT-FOGLIA: Yes. But I will give you the
3 floor as soon as you are ready for that for rejoinder.

4 MR. VON BONE: Yes. Yes.

5 Your Honour, we have no further questions.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence counsel.

7 Okay. Very well. There are no questions anymore from the
8 Defence counsel. That means that now the Panel will -- and the
9 Panel, that are the Judges, will ask you some questions. We will do
10 it as follows. I will start with a few questions to you. Then my
11 colleague at my left side will ask you some questions. And then we
12 will have a break because we have to organise something logistic, and
13 then we will continue with a few more questions.

14 Is that clear to you?

15 THE WITNESS: [Interpretation] Yes, it's clear.

16 PRESIDING JUDGE VELDT-FOGLIA: And that will be then the end
17 for -- after that, the end, in principle, of your testimony.

18 Mr. Witness, we are now in public and, therefore, I ask
19 Madam Court Officer if she could bring us into private.

20 ~~[Private session]~~ [Open session]

21 THE COURT OFFICER: Your Honours, we're in private session.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

23 Questioned by the Court:

24 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, did people in the
25 surroundings of Zllash [REDACTED] knew that there was a place like

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1236

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 Zllash where people were detained?

2 A. No, neither me nor them had any knowledge thereof.

3 PRESIDING JUDGE VELDT-FOGLIA: And you told in your SPO
4 interview -- and it's Part 2 and it's the usual number, 061016-TR-ET,
5 in Part 2, page 11, and then line 19 till 24. You can put it up,
6 please, Madam Court Officer.

7 I read -- no, let me put it differently. Did the [REDACTED]
8 where

9 you were staying, did they know where you were?

10 A. Yes, yes, they knew. They went several times to Zllash to ask
11 for my release, so they were fully aware, after my imprisonment.

12 PRESIDING JUDGE VELDT-FOGLIA: So that is when they found out
13 that you were there. Or did they find out that you were there?

14 A. They found out because they asked for explanation to be given to
15 them in Zllash. They went to [REDACTED] first.

16 PRESIDING JUDGE VELDT-FOGLIA: And then they went to Zllash? Do
17 I understand that well?

18 A. Yes. Because [REDACTED] told them that, "I have no knowledge of
19 it." And so they went to Zllash.

20 THE INTERPRETER: Microphone, please.

21 PRESIDING JUDGE VELDT-FOGLIA: Were you informed by the
22 [REDACTED]

23 what they said to the [REDACTED] when they asked about your
24 whereabouts?

25 A. Your Honour, they didn't give them any explanation. They went
26 to the very building where the prisoners were, but they were given no
27 explanation whatsoever.

28 PRESIDING JUDGE VELDT-FOGLIA: Were they told where you were?

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 1237
Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 A. No. According to what they told me, no, they were not told
2 anything.

3 PRESIDING JUDGE VELDT-FOGLIA: But then for me to understand,
4 why would they go to Zllash to ask where you were?

5 A. Because, in our tradition, as Albanians, when you take away a
6 guest from your home, it's like you take the very host himself, and I
7 came out of that house. So that's why they asked for explanation.
8 They knew that -- they were in the yard when I got into the vehicle,
9 and I told them that, "I'm going to [REDACTED] And I thought because
10 this is what they told me, "We are taking you to [REDACTED] So that
11 was
12 the idea that I had. And they went to him.

12 PRESIDING JUDGE VELDT-FOGLIA: And they knew that [REDACTED] was
13 in
14 Zllash?

15 A. Yes, I explained to them. Because [REDACTED]
16 from before.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay, very well.

18 Could you clarify to the Panel when you became a member of the
19 KLA?

20 A. From day one. From day one where the war broke in Drenica.

21 PRESIDING JUDGE VELDT-FOGLIA: And could you put a time stamp on
22 it, less or more?

23 A. It was in 1998. At the beginning of March of 1998, more or
24 less. So in 1998, 1999, I was constantly in the war zones.

25 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] I noted
that on --

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1238

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 THE INTERPRETER: Your Honour, microphone, please.

2 PRESIDING JUDGE VELDT-FOGLIA: I noted, Mr. Witness, that on
3 12 October you were also asked a question about when you became a
4 member of the KLA, and you said that - and that is for the record,
5 page 1034 -- no, let me see. The realtime transcript page 18,
6 line 14 till 17. And that was the SPO examination.

7 You told that after the war, you were declared a member of the
8 [REDACTED] Brigade. That's correct?

9 A. No, it's not that I have declared myself as being --

10 PRESIDING JUDGE VELDT-FOGLIA: No, you were declared.

11 A. They declared me. Because in our country, it's not that you
12 declare something but it's a commission that tells you, I mean, if
13 you deserve to be a part of a unit or not.

14 PRESIDING JUDGE VELDT-FOGLIA: And did that give you the right
15 to receive a veteran pension?

16 A. No.

17 PRESIDING JUDGE VELDT-FOGLIA: And did it entail other rights
18 for you? Did it bring you other rights to be declared by this
19 commission to be a veteran?

20 A. No. It's the moral rights. They are enough, I think, so --

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1239

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you for that. [Microphone
5 not activated].

6 THE INTERPRETER: Your Honour, microphone please.

7 PRESIDING JUDGE VELDT-FOGLIA: Yes, thank you for that. I have
8 a small follow-up to what the Victims' Counsel asked you.

9 Yesterday - that was the 13 October 2021 on page 92, line 8 till
10 10 - you said [REDACTED] And do you know
11 where he lives?

12 A. Of course, I do. [REDACTED]

13 [REDACTED]

14 PRESIDING JUDGE VELDT-FOGLIA: [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 PRESIDING JUDGE VELDT-FOGLIA: Now, I say it because in your

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 1240

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 [REDACTED]

2 [REDACTED]

3 important.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] thank
10 you, Mr. Witness.

11 I will have some further questions but I will --

12 THE INTERPRETER: Microphone, please.

13 PRESIDING JUDGE VELDT-FOGLIA: I have some further questions,
14 but those will be posed by me on a later moment in time today. I
15 will now give the floor to my colleague at my left-hand side for some
16 further questions.

17 JUDGE BITTI: Thank you, Madam Presiding Judge.

18 Good morning, Mr. Witness. I have just a few questions for you
19 for some clarifications.

20 At page 74 of yesterday's transcript, lines 12 and 13, you
21 explain that those detained with you were training, that they were
22 exercising.

23 Could you describe how were they exercising and which kind of
24 exercise they were doing?

25 A. So, Mr. Judge, we had enough time there to be trained. I mean,

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1241
Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 we could not stay in the same place all the time. Because we were
2 not allowed to move in the yard, we were moving inside the room. So
3 we could not go outside but we spent all the time there, so this is
4 why we were exercising and we were moving in the place where we were.

5 So we had those types of exercises that one can do while you are
6 imprisoned, when you were detained. So they were like bodily
7 exercises, so moving the hands. We would jump. These were the
8 things that we would do.

9 So we could all exercise. Nobody was just sitting. We could
10 all exercise.

11 JUDGE BITTI: In your statement -- thank you, Mr. Witness.

12 In your statement to the SPO - I will say it once, then I will
13 just refer to the parts of that statement, it's 061016-TR-ET. Here
14 it is Part 1, page 21, line 1 - you speak about a small area, a very
15 tight area. How was it possible to exercise, all of you, in such a
16 small area?

17 A. I have said that it is small, but in our conditions it was not
18 small. I mean, that was sufficient room there. Other four or five
19 persons could as well be in the same place. It was not that small
20 for us not to exercise. So we have stood up and we exercised while
21 standing up. We also could move, go from where we were to the door
22 and then from the door back. I mean, we had that possibility of
23 moving within the room.

24 JUDGE BITTI: Thank you, Mr. Witness. However, moving is not
25 exactly the same as exercising. But I understand that you were both

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1242
Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 moving and exercising.

2 A. Well, while we were moving, so personally, for instance, I was
3 having these exercises using my hands, my arms, and the legs as well.
4 I mean, you can exercise even by staying at the same place. This is
5 the reality. So I'm just telling you the reality. I'm telling you
6 that we had sufficient time. We had ample time.

7 JUDGE BITTI: A further question also. Thank you, Mr. Witness.

8 I'm wondering how could you exercise when you state at Part 5 of
9 your SPO witness statement, Part 5, page 9, line 20, that:

10 "We were in the state of half dead, half alive"?

11 How could you exercise in such a condition?

12 A. Your Honour, when I said that, I referred to the psychological
13 state, not to the physical state. And this is something that I
14 attest to you today as well. So I don't know what state I was in.
15 And I'm talking here with reference to the psychological state.

16 It's true. I was half alive, half dead. I was not normal. So
17 in those conditions, in those circumstances, I did not feel myself as
18 being normal. And I believe that no one in those conditions would
19 not feel differently. Namely that they would not feel normal. So
20 personally, I tried to convince myself but I could not find something
21 to convince myself while I had 100 different problems and worries
22 about my family. I didn't know where my family was. I didn't know
23 what was expected of me the next day, and this is why I have referred
24 to myself as being half dead and half alive. And that is true.

25 I have not said that I have been weak physically speaking but

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1243
Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 from the moral and psychological aspect, I have not been half dead
2 but probably I have been 90 per cent dead.

3 JUDGE BITTI: Thank you, Mr. Witness.

4 Moving to another topic now. You explained to us that when you
5 were released you were worried about yourself. This is at transcript
6 of yesterday, page 73, line 24.

7 You also explained to us during the last days here in court that
8 you went through [REDACTED] difficult [REDACTED] of detention and
actually
9 you describe a rather dramatic situation when you were released,
10 which was the moment of the Serb offensive, and you spoke to us about
11 seeing people being executed or at least when they were already lying
12 on the floor and they were dead, after being executed.

13 Could you explain why, in such a dramatic situation, as you
14 stated yesterday, what appeared to be the most important for you was
15 to shave? This was yesterday, page 42, lines 7 to 16.

16 A. It is true. I said that I did that before I joined the column.
17 Because if I joined the column in that state, because the column was
18 accompanied, was escorted by the Serbian forces as well. So I didn't
19 take the Gillette, the razor myself but it was offered to me. And so
20 they gave me two razors, not one. So with this hand over here,
21 because that was injured, and -- I used it. I didn't ask for a razor
22 but it was provided to me. So we ate the food because they gave
23 their own food to us and I asked them, "Is it possible for -- I mean,
24 do you have a razor?" And they said yes. And they didn't give me
25 one razor but two razors. So this is what I did before I joined the

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1244

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 column. Because if I were to go directly to my house, I would not
2 have razed myself, I would not shaved myself. So I shaved myself in
3 the mountainous area before I joined the column.

4 JUDGE BITTI: That I understand. My question was just a bit
5 different. Why was that so important at that very moment, in such a
6 dramatic situation to shave? Why was that so important for you?

7 A. Your Honour, it was of importance to me because if the Serbian
8 forces would look at me that way, they would automatically think that
9 you would be a member of the KLA, that you were in the mountains with
10 the KLA. That was the reason why.

11 So if they would look at you in that state with a beard, they
12 would automatically separate you from the column. That was the
13 reason why.

14 JUDGE BITTI: Okay.

15 A. Because it was [REDACTED] that I was not shaved. That was
16 the reason why. It's not that I wanted to look prettier or nicer,
17 but it was the reason because they would see the people that were
18 wearing a beard and they would separate it from the column. Because
19 automatically that would lead to suspicion of me being a member of
20 the KLA.

21 JUDGE BITTI: Okay, thank you.

22 In at least two parts -- I'm moving to another topic now. In at
23 least two parts of your SPO statement, you refer to the anger they
24 had. For example, in Part 2, page 8, line 23, you said:

25 "Perhaps there was some kind of an anger that they had."

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1245

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 Part 4, page 2, line 17:

2 "I was hit four to five times, until they managed to get rid of
3 that anger that they had."

4 Who are "they"?

5 A. I don't understand what you are referring to, Your Honour.

6 JUDGE BITTI: Maybe I need to read a little bit more. So I'm
7 going to go to Part 4, page 2. Yes, we can also put it on the
8 screen, indeed. It's 061016-TR-ET, Part 4, and it's page 2, and it's
9 in the middle of the page.

10 I will start on page -- sorry, page 2, line 11. And I'm
11 reading:

12 "Q. Were the others hit in the same way?

13 "A. Yes.

14 "Q. How often?

15 "A. All of them. All of them were hit.

16 "Q. Right. And how many -- how many times were each of them
17 hit?

18 "A. I don't know. I was four or five times, until they managed
19 to get rid of that anger that they had."

20 "They," are you referring to the KLA soldiers or to somebody
21 else?

22 A. I now understand. I am referring to the young man, because he
23 was by himself. He was not accompanied by other people. I was
24 referring to him. And so I put my hands out and I know that it was
25 four or five times that I was hit in my hands. And those were very

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1246

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 mild hits and it was not something major. It was just one person.

2 It was not two, three persons. It was just one person.

3 JUDGE BITTI: Thank you. But you said "they managed to get rid
4 of that anger."

5 What do you mean by "that anger"? The anger of whom? And the
6 anger against whom and for what?

7 A. Your Honour, I think that he was a person who had some anger. I
8 was not thinking about the others. And the next day, I heard that he
9 got in the barn without the permission of other people, because the
10 people that were staying at the door, this is what they told me. And
11 they told me that he would not dare enter those premises any longer.
12 And I'm being very frank here. Because nobody else would do that.
13 And I said it yesterday that he was a young man. And he said, "Put
14 your hand out." He was like being my child. So it was only him that
15 hit me. That was the only person. It was not two or three persons.
16 He was the only person. Also probably he wanted just to train
17 himself. I don't know.

18 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness.

19 JUDGE BITTI: Thank you, Madam Presiding Judge.

20 Thank you, Mr. Witness. I understood that.

21 I will go back to another reference of anger so that maybe you
22 can explain to me a bit more.

23 Could we go now to Part 2, page 8. And I will start at line 18.

24 Maybe that will be easier for you to explain.

25 So line 18. I'm starting:

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1247

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 "Q. Right. But they did tell you they had made a mistake.

2 "A. Yes. Yes, but I didn't believe them at all. How could a
3 mistake be made and keep a person in a stable?

4 "Q. Right. But why did you think you were being held then?
5 Why did you think that it wasn't a mistake?"

6 Your answer:

7 "Perhaps there was some kind of an anger that they had ..."

8 Again, could you explain why you are referring to this anger?
9 An anger against whom and for what?

10 A. Your Honour, when I say [indiscernible], there are many mistakes
11 being done and I think that somebody wanted to take revenge on me.
12 And I have said it before and I want to say it again, that they were
13 not the people that were there. I have told you, I have told the SPO
14 as well, that we are interested to identify the person that issued
15 the order to imprison myself. I've been in the Serbian prisons as
16 well. So the guard that opened and closed the door was not the one
17 to be responsible for imprisoning myself, but responsible were those
18 that raised the indictment and those that gave the order for that.

19 And again, I'm saying that the person that issued the order
20 against myself was not there, was beyond that place, and that was a
21 kinds of a fury, a kind of an anger, and that's something that I'm
22 interested, not only myself but as a family as well. So I want to
23 know who that person is because that is the person that would affect
24 my honour, my moral honour, my patriotic honour, my family honour.
25 And so at that moment in time when they asked me for forgiving, I

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1248
Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 didn't trust them. But those that said what they told me, I mean,
2 they were very humane to me. They behaved themselves very well. But
3 probably I took that with some reservation when they told me that,
4 "This person was entered the barn without our permission," and they
5 told me that this person would never enter the barn again and this is
6 what happened. He never entered the barn again.

7 JUDGE BITTI: Thank you. Thank you, Mr. Witness. I will go to
8 something else now.

9 In Part 2, we are there, of your SPO statement from line 23,
10 page 8, line 2, page 9, you say the following:

11 "All of us that were" -- and I know this has already been
12 discussed but I would like to get some more clarification.

13 "All of us [REDACTED] we were a target.

14 "Q. Since when had you been you a target?

15 "A. From the beginning of the war. Even before, even before we
16 were."

17 Then on page 10 in Part 2, lines 16 to 19, after the following
18 question:

19 "Did you think that the reason why you were being held there was
20 because [REDACTED] or a different reason?"

21 You stated:

22 "A. No, there was no other reasons."

23 And then you said:

24 "This is what I believed and this is what I believe today."

25 The question is very simple. Do you still believe today that

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1249
Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 you were targeted because [REDACTED]

2 A. Your Honour, it can be one of the reasons, but I don't believe
3 so because I didn't have anything to do with it. I mostly dealt with
4 [REDACTED]

5 [REDACTED] And I don't believe that. Because if it was some fury,
6 some anger towards me, there had two years at their disposal to do
7 that, to take myself. So they had no time for fury or anger towards
8 myself.

9 JUDGE BITTI: So your answer to my question is yes. The only
10 reason that you were targeted, what you believe today, is that
11 because [REDACTED] Your answer is yes.

12 THE WITNESS: [Interpretation] I cannot take it that I have been
13 in prison because of [REDACTED] Probably that might
14 be the reason, but I would say that 100 per cent that should be
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 contradictions started -- but, yeah.

21 JUDGE BITTI: I would like you to answer to my question and I
22 will put the question again, by either yes or no, because that's what
23 you were extremely clear in the SPO statement and I would like if
24 today you would be as clear as you were. And if you are not, then
25 maybe afterwards we will go to an explanation.

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1250

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 The question is the following and it is extremely clear. You
2 can answer by "yes" or "no."

3 Do you still believe today that you were targeted because you
4 [REDACTED]

5 A. It is true.

6 JUDGE BITTI: Thank you very much, Mr. Witness.

7 THE WITNESS: [Interpretation] One of the reasons might be that
8 as well.

9 JUDGE BITTI: Is it the only reason that you believe you were
10 targeted or is there one of many reasons? Because you said "yes" to
11 my question. So I take the yes.

12 THE WITNESS: [Interpretation] No. One of the reasons is this
13 one as well. I'm not sure, but one of the reasons might be this one
14 as well. There are many other reasons, and this might be one of
15 them.

16 JUDGE BITTI: Okay. We will stop there. I will go to something
17 else.

18 And this in Part 1 of your SPO statement, page 27, lines 11 to
19 15. You stated the following:

20 "It is strange that how they play the role of that I didn't know
21 those people which is strange because I knew almost 80 per cent of
22 Kosovo. That is the reason why, in my opinion, they postponed this
23 for a week because they wanted to put away ... people that I would be
24 able to recognise. They didn't want them to be there."

25 Could you explain why it was so important for them - and I

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1251

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 understand that "them" is the KLA - not to be recognised by you.

2 A. Your Honour, I have said it before and I say it, I state it to
3 you convincingly today as well. It is unbelievable for me to not
4 know them. So people that were there were people I didn't know.
5 Probably they happened to be there, but those were people that I
6 didn't know. I didn't know any of them although they were not
7 wearing masks at all.

8 So I said that they were playing a game, because it was a very
9 important for them to find persons that I would not know. Because I
10 know a lot of people. I'm known by many people but I also know a lot
11 of people. But I didn't go to that area to that zone. I didn't know
12 the people there. But if I were to the Drenica area, I would know
13 many people.

14 So I was in [REDACTED] I was there on the
15 28th, and I didn't know who was responsible from the KLA in that
16 area. The only person that I knew was [REDACTED] That used to be
17 my friend and I knew that he was there. As for the others, I didn't
18 know them, I didn't know what their names were, their last names
19 were, and that's the reason why I said what I said.

20 JUDGE BITTI: Yes, I understand that, Mr. Witness.

21 The question was not exactly that. I understood that you didn't
22 recognise them.

23 The question was: Could you explain, could you explain, why it
24 was important for them not to be recognised by you?

25 A. Your Honour, so probably the person that ordered my imprisonment

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1252
Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 would not be there, and even the three persons that took me, they
2 would not be there as well. So this is why I said that some game has
3 been played in order for them to find people that were not known to
4 me and that's my conviction to this date. So I didn't know these
5 people, but they were behaving very decently towards myself.

6 JUDGE BITTI: Thank you, Mr. Witness. I will try to -- as a
7 follow-up question, to ask you the following: According to you, were
8 they afraid of being recognised; and why?

9 A. No, they were not afraid at all because they were very sure that
10 I did not know them. Because I had never ever seen those faces. Of
11 course, they have known me for sure. Probably not everyone, but most
12 of them knew who I was. But they were not afraid. They knew that I
13 did not know them.

14 JUDGE BITTI: Do you know if other detainees, those who were
15 detained with you, had recognised them?

16 A. I do not know. Because no names were mentioned. And to tell
17 you the truth, we didn't discuss the -- our problems with anyone. So
18 we -- I just knew that it was, for instance, dark when they were
19 taken. So they mentioned no names. I don't know. Probably they
20 knew them. I don't know. But no names were mentioned. But if
21 someone was from that area, probably they knew someone.

22 For people that were not from that area, they would not have
23 known those people, [REDACTED] They were in the same position like
24 myself.

25 So I'm very frankly telling you that I got to learn from

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1253

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 [REDACTED] that we were in Zllash because [REDACTED]

2 [REDACTED] I had never gone there before.

3 JUDGE BITTI: Okay. I will go to my last topic.

4 In Part 2 of your SPO statement, page 4, lines 16, 17, you
5 stated that:

6 "They removed our watches."

7 Who removed your watch?

8 A. So this is in other prisons as well. I mean, if you go to the
9 prison, they would take those things. I mean, they took the watch
10 there at the door, and they gave it back to me when I was released.

11 At the door of the barn I was describing, it was there that the
12 watch was -- was taken away from me. It's not that they took it
13 really from us but it's kind of a law. So it's when you surrender,
14 yeah.

15 JUDGE BITTI: Okay. And then they returned that watch to you
16 when you left the barn?

17 A. It is true, yes. So the person that gave me [REDACTED]
18 that person gave the watch back to me as well.

19 JUDGE BITTI: Okay.

20 A. That was my watch, and there was no reason for me to speak about
21 the watch yesterday.

22 JUDGE BITTI: So you're telling me also that none of the people
23 detained with you had a watch in the barn?

24 A. I don't believe so. No one had a watch. No, I don't believe
25 so.

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1254

Questioned by the Court

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 JUDGE BITTI: And they returned the watch of all those persons,
2 [REDACTED] when they were released?

3 A. I do not know. Your Honour, I do not know whether the others
4 had a watch or not. I was [REDACTED]
5 released, [REDACTED] and I was
6 given the watch.

7 To tell you the truth, I was not interested in the others.

8 JUDGE BITTI: Thank you. Thank you, Mr. Witness.

9 Madam Presiding Judge, I don't have any more questions. Thanks
10 a lot.

11 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]

12 Madam Court Officer, can we go back into public session, please.

13 THE INTERPRETER: Microphone, Your Honour.

14 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can we go
15 back into public session, please.

16 [Open session]

17 THE COURT OFFICER: Your Honours, we're back in public session.

18 PRESIDING JUDGE VELDT-FOGLIA: It's now 10.35. We will have a
19 break now because we need to have some technical set-up, an hour is
20 needed for that. So we have now a break of an hour.

21 So, Mr. Witness, we see you back in an hour. There will be some
22 questions, a few, and then I think we will be at the end of your
23 testimony.

24 I will ask Madam Court Usher to accompany you out of the
25 courtroom.

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1 [The witness stands down]

2 PRESIDING JUDGE VELDT-FOGLIA: We will resume in 60 minutes.

3 The hearing is adjourned.

4 --- Recess taken at 10.36 a.m.

5 --- On resuming at 11.34 a.m.

6 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. I will register
7 appearances. I see for the SPO the same persons are present. That's
8 correct, yes. I see only the Victims' Counsel. Good, we register
9 that too.

10 Mr. von Bone.

11 MR. VON BONE: Mr. Pelaj will join a little bit after.

12 PRESIDING JUDGE VELDT-FOGLIA: Okay, thank you.

13 Mr. Prosecutor, I see you standing.

14 MR. DE MINICIS: Thank you, Your Honour. There is a matter
15 which we would like to briefly address before the witness is brought
16 in, with the Court's leave.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay, please.

18 MR. DE MINICIS: Your Honour, today at page 12, lines 7 to 13,
19 the witness stated that he was a KLA member from March 1998, which
20 was when the war erupted in the Drenica area, from what the witness
21 said.

22 But, Your Honour, our understanding from the evidence that the
23 witness gave yesterday and the other days is that the witness in
24 1998 -- from 1998 -- yes, sorry. Your Honours, could we please move
25 to private session.

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1 PRESIDING JUDGE VELDT-FOGLIA: Good.

2 Madam Court Officer, could you bring us into private session.

3 And please redact what we have been saying.

4 MR. DE MINICIS: I think, Your Honour, that what we said so --

5 PRESIDING JUDGE VELDT-FOGLIA: Wait, wait, wait, wait. We have
6 to go into private.

7 ~~{Private session}~~ [Open session]

8 THE COURT OFFICER: Your Honours, we're now in private session.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you for that.

10 MR. DE MINICIS: Apologies for that, Your Honour. I think that
11 what we have said so far is not necessarily identifying of the
12 witness so -- but, of course, if would be up to Your Honours.

13 However, our understanding from the evidence given by the
14 witness is that when the war started, he was [REDACTED]

15 [REDACTED]

16 This can be found in the record of 12 October, page 17. And at
17 page 18, he stated that he was declared a member of the
18 [REDACTED] Brigade after the war.

19 Now, we would like the record, if possible, Your Honour, to be
20 clear about that, and the way we do so, whether the Panel would like
21 to ask a clarifying question or whether it be the Prosecution to do
22 so, we have no preference. But we would like to have some further
23 clarity -- some clarity on the record about that, if possible.

24 PRESIDING JUDGE VELDT-FOGLIA: What is it what you would like to
25 have asked to the witness?

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1 MR. DE MINICIS: Well, Your Honour, we think that -- our
2 understanding is that the witness may have been made some sort of a
3 post -- after the fact some sort of an honorary member of the KLA but
4 he was not an active-duty soldier. We don't believe that he took an
5 oath with the KLA or that he was embedded in a combat unit or that he
6 was given a uniform or an ordnance weapon. He was essentially not a
7 soldier. And we would like to clear that up.

8 So perhaps this would be the questions we would be asking,
9 whether he was, in fact, a soldier embedded in a unit of the KLA in
10 March, when he said that he started to be a member of the KLA. That
11 would be, for example, a question I would be asking. Or whether he
12 did, in fact, participate in any combat operations or was part of any
13 unit with superiors and subordinates and within a chain of command
14 during the war. I think these questions might clear this up,
15 Your Honour.

16 PRESIDING JUDGE VELDT-FOGLIA: I give the floor to the Defence
17 counsel.

18 MR. VON BONE: Well, the characterisation of the KLA as if it
19 would be only a combat type of army, I think, would be a
20 mischaracterisation, as there have been many, many people, as it is
21 it a volunteer organisation basically, and I think -- I'm not sure in
22 which direction this would go. I think the witness is not part of
23 any particular combat or brigade or whatever, but I do not think that
24 he could not be a member of the KLA or be declared a member of the
25 KLA or being seen as somebody of the KLA, considering the type of

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1 organisation that we are talking about. People that would lend their
2 house would maybe even be seen or considered themselves as KLA
3 members.

4 So I think I'm fine with any question regarding that. I just
5 want to make sure that there is no particular characterisation or
6 conclusion drawn from that in that area.

7 [Trial Panel confers]

8 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, we will allow for
9 that question. What I will do is that I will give you the
10 possibility, Defence counsel, if you want, to follow up on what is
11 answered, that can you do that.

12 That is ...

13 MR. DE MINICIS: Thank you, Your Honour. And just to clarify,
14 like, I do agree that being in a combat unit, per se, is not the only
15 status in which one can be a soldier, but there is, for example, in
16 international humanitarian law, taking an active part to the
17 hostilities, which can take different forms, that would qualify
18 somebody as a soldier. Somebody who feels himself as part of the KLA
19 does not.

20 PRESIDING JUDGE VELDT-FOGLIA: Good. Yes, thank you.

21 Then we will now continue with the testimony of the witness.

22 I will first go into public session again.

23 Madam Court Officer, can you bring us back.

24 [Open session]

25 THE COURT OFFICER: Your Honours, we're back in public.

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1259

Further Re-examination by Mr. De Minicis

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

2 Madam Court Usher, please bring the witness in.

3 [The witness takes the stand]

4 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, welcome back. I
5 hope you had a good break. And we would like to ask you some more
6 questions. However, before I continue to ask you some questions, I
7 will give the floor to Mr. Prosecutor. He has a follow-up question.
8 And after that, the Defence counsel will be put in the possibility to
9 ask you a question on that same topic. Okay?

10 Do you hear me?

11 THE WITNESS: [Interpretation] Yes, I do, very well.

12 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

13 Mr. Prosecutor, you have the floor.

14 MR. DE MINICIS: Thanks, Your Honour. But I believe that we --
15 again, we need to move into private session to go through this
16 questioning.

17 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
18 bring us into private session, please.

19 ~~[Private session]~~ [Open session]

20 THE COURT OFFICER: Your Honours, we're now in private session.

21 PRESIDING JUDGE VELDT-FOGLIA: Okay, please proceed,
22 Mr. Prosecutor.

23 MR. DE MINICIS: Thank you, Your Honour.

24 Further Re-examination by Mr. De Minicis:

25 Q. Mr. Witness, good morning. I just would like to seek some

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1260

Further Re-examination by Mr. De Minicis

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 clarification about something you stated today.

2 On 12 October, you told the Panel that when the war started in
3 1998, you were [REDACTED]

4 [REDACTED]

5 And these are page 17 and 18 of the record, the draft transcript for
6 12 October.

7 Then you stated, on page 18, you were declared a member of the
8 [REDACTED] Brigade after the war. However, today, at page 12,
9 lines 7 to 13, you stated, you told Madam President that you were a
10 KLA member from March 1998.

11 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, Mr. Prosecutor. I'm
12 under the impression that we have lost Mr. Mustafa's connection, so
13 we have to check firstly on that.

14 Mr. Witness, we lost the connection with Mr. Mustafa.

15 Mr. Mustafa, can you hear us?

16 THE ACCUSED: [Via videolink] [Interpretation] Yes, Your Honour.
17 There was this brief interruption. But, yes, now.

18 PRESIDING JUDGE VELDT-FOGLIA: Then we can proceed now that we
19 have again a connection with the Detention Unit.

20 [Trial Panel and Court Officer confer]

21 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, would you be in
22 need of showing any evidence?

23 MR. DE MINICIS: No, Your Honour, I would not.

24 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mustafa, we will continue now
25 with the interrogation of the witness.

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 1261

Further Cross-examination by Mr. Von Bone

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 Yes, please proceed.

2 MR. DE MINICIS: Thank you.

3 Q. So, Mr. Witness, in March, when the conflict erupted in Drenica,

4 were a [REDACTED]

5 [REDACTED]

6 A. Yes, it's true.

7 Q. Were you at that time part of any KLA unit?

8 A. No, I didn't.

9 Q. Were you, in 1999, part of any KLA unit?

10 A. No, I was not.

11 MR. DE MINICIS: Thanks, Your Honour. That will be all.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Prosecutor.

13 Defence counsel -- or Victims' Counsel, would you like to -- no.

14 Defence counsel, would you like to ask a question to the

15 witness?

16 MR. VON BONE: Yes.

17 Further Cross-examination by Mr. Von Bone:

18 Q. I'm not sure where it is in the transcript, Mr. Witness, but --

19 PRESIDING JUDGE VELDT-FOGLIA: You can provide us with that

20 later. It is very *ad hoc*.

21 MR. VON BONE:

22 Q. Upon the questioning of the Panel, you said that you were a KLA

23 member as of March 1998, and we just want to be clear on what you

24 meant with that.

25 A. I was in touch with KLA members from the beginning of the war,

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 1262

Further Cross-examination by Mr. Von Bone

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 [REDACTED]

2 [REDACTED]

3 that we gave there, I was declared as a member of [REDACTED]

4 Brigade. I was also [REDACTED]

5 [REDACTED]

6 [REDACTED] After the war, I was declared as a member of the [REDACTED]

7 [REDACTED] Brigade, so an honorary member, because of the help that I

8 gave in the war zones.

9 But I can say that KLA members did not include only uniformed
10 people. Also the people who helped the KLA. People who provided
11 help to it. So we were all involved in it. We moved around, we had
12 to move within the day, to move from Prishtine to the war zones and
13 back, and we were even more in danger than the people who were in the
14 war zones. That's why -- that's what I meant by the fact that I was
15 with the KLA members.

16 That's why the brigade staff declared me as a member of that
17 brigade.

18 So KLA members did not include the uniformed people. Also us --
19 they also included us, without having a uniform. So that brigade
20 deemed it necessary to do so, but not upon my request. I didn't make
21 an application for it. I am thankful to them and I -- although I
22 didn't receive any benefits. But I'm thankful to them because today,
23 tomorrow, after tomorrow, my grandchildren will know that I gave a
24 contribution to this cause.

25 That's my clarification, Mr. Lawyer.

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1263

Further Cross-examination by Mr. Von Bone

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 MR. VON BONE: And the reference is page 12, line 12, Your
2 Honour.

3 PRESIDING JUDGE VELDT-FOGLIA: I receive -- sorry, I'm receiving
4 translation --

5 THE INTERPRETER: I apologise, Your Honour.

6 MR. VON BONE: So I think the transcript was 12 -- page 12,
7 line 12.

8 And one more follow-up question to the witness.

9 Q. So what would you say if I would say that the KLA could be
10 characterised as an organisation that consisted both of armed
11 personnel or --

12 MR. DE MINICIS: Objection.

13 PRESIDING JUDGE VELDT-FOGLIA: Yes. Wait, wait, wait --

14 MR. VON BONE:

15 Q. -- or civilian person --

16 MR. DE MINICIS: Objection, Your Honour.

17 PRESIDING JUDGE VELDT-FOGLIA: Now, this is not -- this is
18 another question.

19 MR. VON BONE: Yeah.

20 PRESIDING JUDGE VELDT-FOGLIA: We are talking about his position
21 in the KLA, if he was, and I see the objection of the SPO and also on
22 this side. So that is not a follow-up question I would allow.

23 MR. VON BONE: I think, Your Honour, that I simply go in to what
24 the witness is saying, even though he did not say it with so many
25 words, but he says clearly that it is not only people who are on the

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1264

Further Cross-examination by Mr. Von Bone

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 combat area but also civilians [indiscernible].

2 PRESIDING JUDGE VELDT-FOGLIA: No, wait. I will --

3 MR. DE MINICIS: Sorry.

4 PRESIDING JUDGE VELDT-FOGLIA: I allowed a question from one of
5 the parties and, of course, then also for the Victims' Counsel and
6 for the Defence because I saw the point, and it was something that
7 also came up with the Panel, about his position within the KLA. That
8 I wanted to have clarified.

9 These, for me, is really a new path we are going on. So I would
10 not want to allow that.

11 MR. VON BONE: May I then rephrase the question in another term
12 just as [overlapping speakers] ...

13 PRESIDING JUDGE VELDT-FOGLIA: If you're not playing with words,
14 I, of course, want to give you the floor. If you think you have to
15 clarify something on this specific point.

16 MR. VON BONE: Yes, yes.

17 Q. So, to be clear, you were a [REDACTED]

18 A. Yes, I was.

19 Q. And were there many of you considered as members of the KLA
20 after the war?

21 A. The commission make an evaluation. Those people who contributed
22 to the KLA and who put their lives in danger by doing so were
23 declared as such, just like others were declared as such. So if they
24 contributed in the war in any form during 1998 and 1999. So not only
25 those who were armed or uniformed, but also civilians who were

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1265

Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 declared as such, as members or veterans. Because their contribution
2 during those years was evaluated.

3 That's my clarification, Mr. Lawyer.

4 Q. Thank you.

5 MR. VON BONE: No further questions.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you for that. Good.

7 Questioned by the Court: [Continued]

8 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, I have a question
9 with you - and we are still in private session - with regard to your
10 stay in the barn and it has to do with [REDACTED]

11 Was [REDACTED] already in the barn when you arrived?

12 A. Yes, Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: And how was [REDACTED] doing?

14 A. Among all of us, [REDACTED] had the best physical condition.

15 PRESIDING JUDGE VELDT-FOGLIA: Let me then refresh -- try to
16 refresh your memory by quoting what you said in Prishtine in 2019.

17 And that is for Madam Court Officer, if you can please put up
18 the SPO witness interview Part 1, and then it's -- the important line
19 is -- the important page is 22, line 11. Yes. It will do for now.
20 Thank you.

21 And then you said there that he -- "he was a strong person. He
22 was complaining that he was tortured a lot."

23 Did you say that?

24 A. Yes, Your Honour.

25 PRESIDING JUDGE VELDT-FOGLIA: Okay.

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1266
Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 A. But complaining is one thing and his physical condition is
2 something else. You asked me how he was when I found him there.
3 They were all complaining.

4 PRESIDING JUDGE VELDT-FOGLIA: But -- okay. That will do for
5 me. But he said that he had been tortured to you?

6 A. Everyone who was inside told me that they had been tortured.
7 But physically speaking, because I didn't ask them questions, they
8 explained that they had been in darkness where they had been taken
9 and hadn't seen anything and that they had been tortured.

10 But when I found them there, when I was put inside, from my life
11 experience in -- my previous life experience in prisons, from my
12 experience when I had been fed by my -- by other inmates for one
13 month, for instance, that is -- based on that experience, from what I
14 saw, I don't think that what they said was true, that is, because
15 they complained that they been beaten up with rods of iron or with
16 sticks of wood, and something like that.

17 So it's true that all of them said something, [REDACTED] and the
18 other
19 people. But I can tell that you [REDACTED] was the strongest one. He
20 was
21 heavily built, a vital man. [REDACTED] was the person who did most
22 exercises, physical exercise there.

23 PRESIDING JUDGE VELDT-FOGLIA: That was not my question anymore.
24 Please stick to the question.

25 Then yesterday -- we can take this document away.

Yesterday we discussed the signs you saw on the bodies of the
other detainees. And that is the realtime transcript from 12 --

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1267
Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 that's the day before yesterday, 12 October, page 1064, line 18. And
2 then you explicitly said that you -- when you were confronted
3 with that you said that there were scars, marks and holes in their
4 bodies, that you didn't say holes.

5 Is that correct?

6 A. Yes, it's correct. I was misunderstood. I said that they had
7 lines, like scars --

8 PRESIDING JUDGE VELDT-FOGLIA: No, but that's clear for me.
9 That's clear for me. Thank you.

10 Madam Court Officer, could you please bring up Part 1, page 26
11 of the SPO witness interview, and then the important lines are 13 and
12 14. And please -- so yes. First that.

13 So I will read it out to you, Mr. Witness:

14 "They told me that ... these were done before you were out here.
15 And they had all had scars and marks on their body and they had holes
16 on their body."

17 That's what you said. And you now say, "I was misunderstood."

18 Do I get that right?

19 A. Lines or depressions are some sort of hole too. But I don't
20 know how to explain it because when there are lines -- depressed
21 lines in the body are something else. A hole is when you puncture
22 the body with some sort of needle, for instance. They didn't have
23 that. They didn't have that kind of holes. They had bruises and
24 some sort of lines on their bodies. Because some time had passed
25 when I was put in there. I -- it is by my family I can tell you that

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1268
Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 I didn't see any such marks on their heads or -- but they told me
2 that they had -- that they -- that things had been done to them, but
3 I didn't take their words for it. And that's the reality.

4 PRESIDING JUDGE VELDT-FOGLIA: Yes, that will do.

5 Then I ask Madam Court Officer to put up the video recording.
6 And, for the record, 061016B, Part 1, time stamp 1:03:13 to 1:04:05.

7 And, Mr. Witness, I will ask the interpreter that we listen to
8 this and she interpret that little part, because I want to know what
9 was said. Because then we can just make it clear and then can you
10 clarify, if you can, of course.

11 Madam Court Officer, if you could put it up. And then it would
12 be from 1:03:13.

13 I don't see if we can see here. You can see that where is
14 1:03:13. Okay. Good. Whenever you are ready.

15 Mr. Witness, we are trying to get sound with the audiovisual
16 recording, but that seems to be a problem for the moment.

17 A. Okay. That's okay.

18 [Trial Panel and Court Officer confer]

19 PRESIDING JUDGE VELDT-FOGLIA: I was informed that the
20 technician will come in and to see if it's a problem from outside or
21 within the court. So please a little bit of patience.

22 Welcome. Maybe you can give us a hand.

23 [Video-clip played]

24 "Q. Right. So others. But was any other harm caused in your
25 presence to the other people held in the stable?"

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1269

Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 "A. No. They told me that, 'Because of you, but this -- these
2 were done before you were out here.' They all had scars and marks on
3 their body and they had holes on their body."

4 THE INTERPRETER: "No. They said, 'It was inflicted on us
5 before.' They just told me that, 'Because of you -- but in fact this
6 was done before.' All of them had holes on their body. Marks."

7 "Q. All right. So -- but nothing was done to you during the
8 first week?"

9 PRESIDING JUDGE VELDT-FOGLIA: We can stop here.

10 For the interpreter, could you repeat what you said about the
11 holes?

12 THE INTERPRETER: Yes, Your Honour. The witness said: "They
13 all had holes on their backs, on their bodies."

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, could you -- do you
15 want to comment on this on your -- what you said in Prishtine?

16 A. Yes, yes, I do. I said "holes," I meant marks. Because the way
17 I saw it is like "hole" means lines, scars on their bodies. They had
18 scars. Their backs were red and the lines may be also holes. But,
19 in fact, they were long lines. This is what I wanted to explain to
20 the Prosecutor. Because a hole may be in one certain place, but they
21 had scars, I mean lines, which were reddish.

22 PRESIDING JUDGE VELDT-FOGLIA: Okay. A hole, I would say that
23 is something round. But I understand now from what you're saying is,
24 if I summarise it, that you meant with the word "hole" long lines on
25 the back. Is that correct?

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 1270
Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 A. This is what I had in mind. Like, long lines on their bodies.

2 MR. VON BONE: Your Honour, if I read the line 10 and 11, it is
3 what the witness says or what is being translated. "All of them had
4 holes on their body, marks."

5 So we continue on this holes issue, but as it was interpreted,
6 line 10 and 11, I think it is exactly what the witness said.

7 PRESIDING JUDGE VELDT-FOGLIA: That is not the question of the
8 Panel, and I would like to have clarification on the word "hole," and
9 that's what I'm doing here.

10 Good. Mr. Witness, thank you for this clarification.

11 Then I have a last point and then I would like to bring up --
12 no, let me first ask you. We have discussed a person called
13 [REDACTED]

14 for example, the transcript of 12 October 2021, page 1052, line 14.

15 Do you remember when [REDACTED] the youngster as you would call
16 him, arrived in the barn?

17 A. Yes, I remember.

18 PRESIDING JUDGE VELDT-FOGLIA: Was it after you were brought to
19 the barn?

20 A. I think it was after some ten days.

21 PRESIDING JUDGE VELDT-FOGLIA: Yesterday you said that you did
22 not say in Prishtine that somebody was taken from the barn since you
23 arrived in the barn.

24 A. It is true.

25 PRESIDING JUDGE VELDT-FOGLIA: And, for the record, that is
page 1053, lines 18, 19, and I must correct myself. It's not

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1271
Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 yesterday but 12 October of 2021. And you already said that that is
2 correct. Okay.

3 Madam Court Officer, could you bring up - and it's already also
4 discussed by the Prosecutor, this part of the testimony - that is
5 Part 3, page 10, lines 10 to 13. And we can also already put up next
6 to it the video recording 061016B, Part 3, time stamp 23:52 till
7 24:16.

8 And, Mr. Witness, I will cite from the SPO witness interview.
9 It's not here on the screen, but on page 9 you say:

10 "The youngster came after seven to eight days," like what you
11 said now, ten days. But, I mean, he came afterwards.

12 A. I don't recall. I know that he came after me, but I can't be
13 sure about how many days after. It might be seven, eight, nine, ten.
14 But I do know that it had passed quite a long time after I was
15 brought there.

16 We couldn't keep count of the days, Your Honour. We couldn't
17 count the days there. I don't recall. But it was after I was there.

18 PRESIDING JUDGE VELDT-FOGLIA: Your point is clear.

19 And then you say:

20 "The night that he arrived, he was brought in the middle of the
21 night."

22 And then you say -- and then they ask:

23 "And when was he beaten up?"

24 And then you say:

25 "That night. That night. He was beaten up that night. There

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1272
Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 was no way to take him to beat him up again because he couldn't even
2 stand."

3 My question is here: How was [REDACTED] doing that night?

4 A. When he came? When he came that night, he was not in good
5 condition, and he complained that he was beaten up.

6 It was night. It was dark. He said, "I didn't distinguish
7 anyone. They beat me up." That was what he said. He was not in a
8 good condition. And we helped him, and on the next day he started to
9 move and he stood up. He was not in a good condition, Your Honour.
10 He was also young. He was scared. He was very scared.

11 PRESIDING JUDGE VELDT-FOGLIA: And if you say, "He was not in a
12 good condition," what do you mean by that?

13 A. He was not in a good condition physically. Even though it was
14 midnight, on the next day in the morning, he said, "I can't stand
15 up." And we helped him to stand up. Because he was very young and
16 we felt very sorry for him. But he recovered. And then after that,
17 nobody took him away from the barn.

18 PRESIDING JUDGE VELDT-FOGLIA: And why could he not stand up?

19 A. As he said, he said, "They have beaten up -- me up in my legs
20 and I can't get up."

21 PRESIDING JUDGE VELDT-FOGLIA: There's no need, Madam Court
22 Officer, to hear the video. So thank you for that. We can take this
23 away.

24 Mr. Witness, does the name [REDACTED] [phoen] say something
25 to you?

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1273

Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 A. No. No, I have never heard of him. That's the first time I'm
2 hearing that name.

3 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good. And then are you --

4 THE INTERPRETER: Sorry, the name is [REDACTED] in Albanian.

5 Interpreter corrects.

6 PRESIDING JUDGE VELDT-FOGLIA: Wait. I will have a look. Okay,
7 thank you for that.

8 Are you, today, afraid of the people who imprisoned you back
9 then?

10 A. I am afraid of the certain individual that has sent me there and
11 I am keen on discovering who he is. So I have to be afraid because
12 of what he did to me. He might do something similar to me even
13 today. The most [indiscernible] I don't know whom to be afraid of.

14 THE INTERPRETER: Microphone, please.

15 PRESIDING JUDGE VELDT-FOGLIA: Did you or your family have ever
16 problems due to your imprisonment in Zllash?

17 A. No. No, we've -- we have had no problems other than those
18 provocations that I explained to the Prosecution here. Other than
19 that, no.

20 PRESIDING JUDGE VELDT-FOGLIA: Okay. And when you were asked --
21 and now I'm referring to Part 6, and page 4, line 18 and 19 of your
22 witness interview. You said to the same question I just posed to
23 you:

24 "I was sent words to be careful, not to mention any names."

25 A. No. Nobody sent me a word. It is a misunderstanding. Nobody

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1274

Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 sent me any word.

2 You can bring me up against anyone. Nobody threatened me to use
3 any names.

4 PRESIDING JUDGE VELDT-FOGLIA: I just confront you with your
5 previous statement in which you said this.

6 A. No, not -- not to mention names. I said I don't want to mention
7 any names for as long as I don't know who the person is. But not
8 that I was threatened by anyone.

9 When I gave the statement, it was a year ago. And I have no
10 reason to say anything. I am free to declare what happened. Nobody
11 threatened me not to mention any names. If somebody had, then I
12 would think that that person was involved in what happened to me.

13 So 20 years have passed and everyone poses as my friend, so
14 everyone feigned to be my friends. So I have had no threats made to
15 me, Your Honour. Why shouldn't I mention names? If I know who the
16 person is, then I don't fear anyone. And I am here to give a true
17 statement, not to defend anyone and not to accuse anyone
18 unnecessarily. So I am free to appear before the public, either here
19 or in Kosovo.

20 I have told the Prosecution too, "Put yourself in my shoes. Can
21 you believe that someone who did that to me did it on his own head,
22 without being ordered to do that?" If I knew the person -- who the
23 person is, I wouldn't be here. Because, Your Honour, I also told to
24 the Prosecution we have the canon law which is a law of
25 Leke Dukagjini. If I knew, I would have acted differently as a

Witness: W03594 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 1275

Questioned by the Court (Continued)

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 family. But I know nothing.

2 I want to explain once again. The thing is -- I mean, the worst
3 thing is in my mind, in my family's mind, if I suspect someone, maybe
4 they are not the culprits. So I'm here to find the culprit. Someone
5 has ordered my imprisonment and I think that person is alive to this
6 day. If I knew who he was, why should I stand up for him, why should
7 I defend him?

8 PRESIDING JUDGE VELDT-FOGLIA: Okay [Previous translation
9 continues] ...

10 A. That's the truth. Nobody has threatened me.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness.

12 Madam Court Officer, could we go into public.

13 [Open session]

14 THE COURT OFFICER: Your Honours, we're back in public session.

15 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, we reached the end
16 of your testimony, and I can imagine that it must have been very
17 tiring and demanding. It was two and a half days here. I would like
18 to thank you for the effort you put into giving your testimony, and I
19 believe that your testimony will help us in our effort to find what
20 has happened and what is the truth.

21 We wish you a safe journey home, and I remind you that you
22 should not talk to anybody about the statement you have given before
23 the Kosovo Specialist Chambers.

24 I will now ask the Court Usher to usher you out. And, as I
25 said, I wish you a safe trip home. Thank you.

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 THE WITNESS: [Interpretation] Thank you.

2 [The witness withdrew]

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Usher.

4 For the record, I see that Mr. Pelaj is also in the courtroom,
5 so then we have put that on record too.

6 I do my usual round of the parties, if there's something else to
7 raise, and the Victims' Counsel.

8 MR. DE MINICIS: Nothing from the Prosecution. Thank you,
9 Your Honour.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

11 Victims' Counsel.

12 MS. PUES: Nothing from us. Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel.

14 MR. VON BONE: Only the schedule. I had contact with the
15 Prosecutor. They will give a new filing as far as the order is
16 concerned. That will be helpful for hotel bookings, flight schedules
17 and so on, so I hope we can adhere to it. Thank you very much.

18 Thank you also, counsel.

19 PRESIDING JUDGE VELDT-FOGLIA: Good. Thank you.

20 We will resume on Tuesday, the 2nd of November, with the
21 testimony of Witness W04603.

22 I thank again the parties, the Victims' Counsel for their
23 attendance. I also thank the interpreters, the stenographer, and the
24 security for their assistance today.

25 The hearing is adjourned.

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 --- Whereupon the hearing adjourned at 12.28 p.m.

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