

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

1 Wednesday, 22 September 2021

2 [Open session]

3 [The accused appeared via videolink]

4 --- Upon commencing at 9.31 a.m.

5 PRESIDING JUDGE VELDT-FOGLIA: Good morning, welcome.

6 Court Officer, can you please call the case.

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

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

10 Can I please ask the parties, the Victims' Counsel, and the
11 Registry to introduce themselves, starting with the Specialist
12 Prosecutor's Office.

13 MR. MICHALCZUK: Good morning, Your Honours. Good morning,
14 everyone. The Prosecution is represented today by myself,
15 Cezary Michalczuk, Prosecutor; Silvia D'Ascoli, Associate Prosecutor;
16 Filippo de Minicis, Associate Prosecutor; and also Alex Whiting,
17 Deputy Specialist Prosecutor; today with us, the Case Manager is
18 Julie Mann.

19 Thank you.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 Please, Victims' Counsel.

22 MS. PUES: Good morning, Your Honours. Good morning, everybody.
23 Victims' Counsel is today represented by myself, Anni Pues as
24 counsel; and Marie-Pier Barbeau as Senior Legal Associate.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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1 Now, the Defence please.

2 MR. VON BONE: Good morning, Your Honour. My name is
3 Julius von Bone. I am representing Mr. Mustafa as lead counsel.
4 Here is also present Mr. Shala, my co-counsel; and Mr. Fatmir Pelaj,
5 my investigator. Mr. Mustafa is on remote also present.

6 Thank you very much.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

8 And I turn to the Registry, please.

9 MR. ROCHE: Good morning, Your Honours. My name is Ralph Roche
10 from the Registry. Thank you.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 And for the record, my colleagues for Trial Panel I are
13 Roland Dekkers, Gilbert Bitti, and Vladimir Mikula, and I am
14 Mappie Veldt-Foglia, Presiding Judge for Trial Panel I.

15 Before we revert to the testimony of Witness 3593, I would like
16 to explain briefly the schedule for today. It is our intention to
17 finalise with the examination of Witness 3593, and then to start
18 tomorrow with the examination of the next witness. So that's the
19 plan for today.

20 MR. VON BONE: Your Honour, may I just say that tomorrow the
21 accused will be present in the courtroom.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 MR. VON BONE: And that is going to be probably always with that
24 particular witness.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you for informing the

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1 Panel.

2 Court Usher, can we please usher the witness into the courtroom.

3 Mr. Mustafa, do you hear me?

4 THE ACCUSED: [via videolink] [Interpretation] Yes, Your Honour.

5 PRESIDING JUDGE VELDT-FOGLIA: To inform you that you are now in
6 the courtroom seen through a big screen. So that's the way you are
7 participating with us today.

8 THE ACCUSED: [via videolink] [Interpretation] Yes, Your Honour.
9 Thank you.

10 [The witness takes the stand]

11 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, good morning.

12 THE WITNESS: [Interpretation] Good morning.

13 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. How are you doing
14 today?

15 THE WITNESS: [Interpretation] Okay.

16 PRESIDING JUDGE VELDT-FOGLIA: Good. Very well, Mr. Witness.
17 We will continue with the Defence posing questions to you, and I will
18 now give the floor to the Defence counsel to complete his
19 questioning.

20 And let me remind you, Mr. Witness, you are still under oath to
21 tell the truth. Do you understand this? I see you nodding.

22 Counsel, you have the floor. You have one hour and 32 minutes
23 left from the two hours and ten minutes allocated to you.

24 MR. VON BONE: Thank you very much, Your Honour.

25 WITNESS: W03593 [Resumed]

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) *Reclassified pursuant to F493* Page 570

Cross-examination by Mr. von Bone (Continued)

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1 [Witness answered through interpretation]

2 Cross-examination by Mr. von Bone: [Continued]

3 Q. Good morning, Mr. Witness. How are you?

4 A. Good morning.

5 MR. VON BONE: Just for the record, I will ask to go into
6 private session, and I expect that to take about 25 minutes. So just
7 that people have an indication how long that might take.

8 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can you
9 please bring us into private session.

10 ~~[Private session]~~ [Open session]

11 THE COURT OFFICER: Your Honours, we are now in private session.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

13 Please proceed, Defence counsel.

14 MR. VON BONE: Thank you very much.

15 Q. Mr. Witness, we discussed yesterday the day that you were
16 released, and that was the 18th, as you said. What I wanted to ask
17 you is the following: You gave a statement to the Prosecutor.

18 MR. VON BONE: And, for the record, that is ERN 061015-TR-ET
19 Part 2, Revised, of [REDACTED]

20 Q. And I'm on page 13 of that particular declaration that you made.

21 Mr. Witness, you spoke about that you were kept in the barn
22 where you were ultimately released from, and you said that about
23 seven or eight days before your release there was a gentleman who
24 came into the barn. And I would like to quote that for you, and I'm
25 on line 8. You said:

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) *Reclassified pursuant to F493* Page 571

Cross-examination by Mr. von Bone (Continued)

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1 "Sorry, I have mentioned too, I have forgotten to mention this,
2 and I don't know... I've mentioned that there, that person, it was
3 like this colleague of yours here, and he had some kind of bag. He
4 looked like your colleague here and he had some kind of bag. He was
5 a good person and he came and asked us, How you are living here?
6 Have you had food to eat? And we told him what had happened but we
7 didn't tell him everything."

8 Do you recall this, Mr. Witness, that you made that statement?
9 That you made that statement to the Prosecutor, speaking about this
10 person.

11 A. Yes.

12 THE INTERPRETER: Interpreters kindly ask the witness to sit
13 closer to the microphone. Thank you.

14 MR. VON BONE:

15 Q. Mr. Witness, would you please approach a little bit more the
16 microphone so that everybody can clearly hear you? Thank you very
17 much, Mr. Witness.

18 So that person, what can you tell us about that person who came
19 and who then asked, "Have you had any food to eat?"

20 A. May I speak now?

21 Q. Sure.

22 PRESIDING JUDGE VELDT-FOGLIA: Yes, you may.

23 THE WITNESS: [Interpretation] At that time, this gentleman that
24 came, he was a nice, young man. He was thin. He had a bag. We
25 didn't know who he was. We couldn't know, of course, because we were

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Cross-examination by Mr. von Bone (Continued)

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1 prisoners. But he came and he told the guards that were there, "Go
2 out," and we understood that he was a good man, a just man. And he
3 asked us, "Did they beat you? Did they maltreat you? Did they give
4 you food?" He asked about everything. We didn't dare tell him that
5 we were beaten because, of course, we didn't know who that person
6 was. We thought that maybe he was in disguise.

7 But from that day that person came there, and I hope God will
8 help him, we were not beaten anymore, and they started to give us
9 more food. But they stopped beating us.

10 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, I have a question
11 for you.

12 MR. VON BONE: Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: What is the background to this
14 specific question in a private session? Because what we have heard
15 now from the witness, and your question, in my view, could have been
16 done also in public. And as I said yesterday, I really want to
17 protect the confidential information in this courtroom and, at the
18 same time, I don't want to make this a private trial.

19 So I urge everyone to be so careful in what we choose to do in
20 private or not. And even if we have to revert more often from
21 private to public and back, I prefer to do that --

22 MR. VON BONE: [Microphone not activated].

23 PRESIDING JUDGE VELDT-FOGLIA: -- than to have these closed
24 sessions, because we have a task to do but it's a public task. And
25 private sessions should be minimalised. And if we -- we should not

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 573

Cross-examination by Mr. von Bone (Continued)

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1 share any confidential information. If it happens, what -- it should
2 not happen, we redact. But, please, give it a thought.

3 And know that I don't mind if you are -- and I have said in
4 our -- or we have said in our Conduct of Proceedings that we -- or I
5 think at one of our trial preparation conferences that we think it's
6 important that we group the questions in order to have private and --
7 to have private sessions and public sessions. But if it's difficult
8 to do, yes, then it's difficult, and then we will revert a little bit
9 more. Okay? Please.

10 MR. VON BONE: I understand, Your Honour. And I will ask to go
11 into public session later on, but I think that we will have a lot of
12 names, actually, in the coming time.

13 PRESIDING JUDGE VELDT-FOGLIA: Okay. This specific question,
14 what was then the background to do it in private?

15 MR. VON BONE: [Microphone not activated].

16 THE INTERPRETER: Microphone, please.

17 MR. VON BONE: I go to another page, and there there is names.

18 PRESIDING JUDGE VELDT-FOGLIA: Okay.

19 MR. VON BONE:

20 Q. A little bit further in that same situation, you said about
21 this:

22 "There were other people, so we became 12 to 13 people there.
23 From that day, that person, that gentleman came there, we stayed for
24 another seven to eight days, and from that day nobody beat us. We
25 received no beatings anymore from that day. I don't know who that

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1 person was. If I was to see him today, I would just want to thank
2 him."

3 Is that correct, Mr. Witness, that you stated that?

4 A. Yes.

5 Q. And it took about another seven, eight days when you were
6 released; is that correct?

7 A. Yes.

8 Q. Now, you were in that second barn, because this part is in the
9 barn from which you were released. And you were in that barn not
10 alone. You said, "We became 12 to 13 people." And I want to go back
11 to the moment that you arrived for the first time in that second
12 barn. Are you following me?

13 A. Yes.

14 Q. Because you were taken with [REDACTED] together to that second
barn.

15 And initially, there were two or three people there. And was it on
16 the time that you arrived in that second barn, and you were getting
17 there with [REDACTED] was it at that time that you found or that you
saw

18 [REDACTED] there?

19 A. Yes.

20 Q. And you knew [REDACTED]?

21 A. Yes.

22 Q. And he knew you? You knew each other?

23 A. Yes.

24 Q. Now, once again, you were transported with [REDACTED] to that
second

25 barn, you were there with [REDACTED] Do you recall anybody

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1 else who was there?

2 A. I don't remember exactly. I've forgotten. There were four or
3 five. I really can't tell you how many precisely. I wasn't that
4 interested. I had my own problem. Those that I mentioned, I was
5 next to them. I [REDACTED] he was a
6 [REDACTED] But as I said, we didn't dare speak to each
7 other because we were at risk and we were afraid.

8 Q. When you were there, obviously you saw [REDACTED] there.
9 And my question is: Did you ever ask him why he was there?

10 A. Yes.

11 Q. And what did he tell you?

12 A. He told me that he was allegedly taken because he was [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 Q. And from where was he taken? Where did he come from? Was he
17 from the same place as you were?

18 A. I don't know from where he was taken. He was not at his house.
19 He was a guest somewhere.

20 Q. Now, you have described that many people in that second barn
21 have been beaten or slapped; is that correct?

22 A. Yes.

23 Q. And could you explain us when they would be beaten, would they
24 be always be taken out; or, would it sometimes happen that they would
25 be beaten while you were present?

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1 A. That happened two -- two times, three times. They would beat us
2 all at once. Not heavily. They would slap us once or twice.
3 Sometimes they would just kick us in line, like everybody one by one
4 equally.

5 Q. And would it also happen that they would take out somebody and
6 that somebody would come back with bruises or -- well, that you
7 noticed that this person was heavily beaten?

8 A. Yes.

9 Q. Do you recall how many times [REDACTED] was taken out, that
10 he was beaten, and that you saw him coming back?

11 A. No, he was never beaten. Never.

12 Q. He was never beaten?

13 A. Apart from those times that he was slapped together with us, but
14 I did not see him being taken away to be beaten.

15 Q. But you saw that he was being slapped?

16 A. Yes.

17 Q. By how many people?

18 A. Every time they came in to beat us, he was beaten too. They
19 didn't discriminate: I will just beat you, or then I will just beat
20 you. They would just beat us all and slap us all.

21 Q. And with how many people would they come in if they would be
22 slapping or beating like that?

23 A. I don't remember. Sometimes it would happen that they would
24 come at 3.00 at night, four or five of them, armed, in uniforms.
25 They would enter the barn. They would use offensive language against

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1 us, slap us on our faces, kick us.

2 Q. Did [REDACTED] have any bruises or a blue eye or -- through the
3 beatings that you know of, or did he have pain somewhere on his arm
4 or legs or anywhere?

5 A. No.

6 Q. He had no bruises or no pain anywhere?

7 A. He had pain. He was saying that he had pain in his arm, in his
8 leg, but I didn't see any visible bruises.

9 Q. In that barn, was it able -- were you possible to look through a
10 window outside; or if there was a window, was that window too high to
11 look outside? Could you tell that to us.

12 A. We couldn't see anything at all. I don't remember even if there
13 was a window. It was a very small place. Even if there was one, it
14 must have been a small window.

15 Q. I understand. And after that gentleman that you spoke about
16 earlier came, then nobody was being beaten anymore; is that correct?

17 A. Yes.

18 Q. Including [REDACTED]

19 A. [No interpretation].

20 Q. That includes [REDACTED]

21 A. None of us was beaten again. Probably he was a person that they
22 feared and could no longer beat us. But I don't know who that person
23 was.

24 Q. Now, I understood that [REDACTED] was -- had been severely beaten
25 already when you saw him the first time; is that correct?

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Cross-examination by Mr. von Bone (Continued)

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1 A. Yes, yes.

2 Q. Because he was actually the first person that you ever saw when
3 you arrived in that place; correct?

4 Would you please answer the question? I did not hear your
5 answer. My question was --

6 A. Yes, yes.

7 Q. Sorry. And did [REDACTED] at some point, when you first saw him
8 on

9 that first occasion, did he ever mention to you how long he had been
10 already there?

11 A. No, he did not. I already told you that when I was sent to the
12 first barn, when I entered the barn, they got the sack off my head
13 and I saw a person. There was a bed over there. And I thought that
14 that person was dead, because he was lying. And after a certain
15 period of time, they just, you know, put me inside and they left.
16 But after some time, this person, who was lying in the bed, raised
17 his hand and told me, "They're going to kill you." So that's
18 everything that we have spoken about. We couldn't speak any longer
19 because we were afraid that people after the door would hear us.

20 Q. And did you ever hear from him at maybe a later stage when you
21 were feeding him or any other stage that he told you that he was
22 there already longer before you?

23 A. No, we didn't talk about that at all. I don't know.

24 Q. Okay. So, once again, that was the first occasion. You were at
25 some point beaten and you went with [REDACTED] to the second barn.

26 A. Yes.

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Cross-examination by Mr. von Bone (Continued)

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1 Q. And there you were at some point --

2 THE INTERPRETER: Microphone, please.

3 MR. VON BONE:

4 Q. And there you were at some point beaten again?

5 A. Yes.

6 Q. Was that the beating where there was the incident [REDACTED]

7 [REDACTED]

8 A. Yes.

9 Q. And was that during the night?

10 A. During the night.

11 Q. And you do not recall anymore how many people beat you?

12 A. No.

13 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, I have a question.

14 MR. VON BONE: Yes.

15 PRESIDING JUDGE VELDT-FOGLIA: Are the questions still need to
16 be posed in a private session? Because now he is declaring about
17 himself.

18 MR. VON BONE: Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: And it might be leading up, I
20 don't know, to something that you think he might be saying --

21 MR. VON BONE: We can go into public session.

22 PRESIDING JUDGE VELDT-FOGLIA: Yes, can we do that?

23 MR. VON BONE: And I'll see how --

24 PRESIDING JUDGE VELDT-FOGLIA: No, yes --

25 MR. VON BONE: -- it will work.

1 PRESIDING JUDGE VELDT-FOGLIA: I leave to your judgement but --

2 MR. VON BONE: No, that is ...

3 PRESIDING JUDGE VELDT-FOGLIA: -- I'm just reminding if it's
4 really necessary.

5 Okay, Madam Court Officer. Can we go into public session.

6 [Open session]

7 THE COURT OFFICER: Your Honours, we are now in open session.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay, please proceed.

9 MR. VON BONE:

10 Q. And did you have during that second beating also a bag over your
11 head?

12 A. At the time that I was beaten, the sack was removed from my
13 head. And once I was standing, the sack was again placed over my
14 head.

15 Q. I understood that you said that during that second beating you
16 also fainted a number of times, that you lost conscious; is that
17 correct?

18 A. Yes.

19 Q. At that beating, were you able to see any of the perpetrators?

20 A. No, because it was night-time, it was dark, and I couldn't see
21 anyone. I was beaten up during the darkness.

22 Q. So did you actually, for example, could see whether somebody had
23 a beard or glasses on or something else?

24 A. Yes, I saw one who had a big beard.

25 Q. And did anybody wear glasses that you know?

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1 A. I think so, but I'm not sure. I have forgotten, because it's a
2 long time ago when this happened.

3 Q. I understand. Now, nobody -- when you were being questioned by
4 the Prosecutor, he asked you whether any names were mentioned among
5 themselves. And you said --

6 A. I do not remember.

7 Q. [Previous translation continues] ... well, I can refresh your
8 mind in that perspective, and I'm reading from the transcript,
9 page 31 of the very first day. And you said:

10 "During that beating of yours that you have just described, did
11 the perpetrators call each other by any names?

12 And then your answer was:

13 "No, they didn't."

14 A. No.

15 Q. You mean that is correct, that, indeed, they did not call each
16 other by names at that time?

17 A. No.

18 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, Mr. von Bone, I just
19 want to make clear that I understand what the witness has just said,
20 but I see also the Prosecutor standing.

21 MR. MICHALCZUK: Yes, Your Honour, two very brief remarks, if I
22 may. I don't want to interrupt. I hate to interrupt my learned
23 colleague.

24 Just two things. So if my learned colleague is making reference
25 to the transcript, I will be very -- we would be very pleased to see

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1 precisely which part of the transcript he is referring to.

2 MR. VON BONE: Yes.

3 MR. MICHALCZUK: He said just yesterday or two days ago, but it
4 was a 110-paged transcript. So we would be very happy to be able to
5 follow.

6 MR. VON BONE: Sure.

7 MR. MICHALCZUK: So this is the first issue.

8 The second one is that yesterday, and also on Monday, the
9 witness told us about two distinctive times during which he was
10 beaten, and we would be very happy to know which beating precisely my
11 learned colleague is referring to. Because from the description of
12 the situation, it seems that it's the first beating, but the question
13 is what happened during that second beating. But the description of
14 that, given by my learned colleague, suggests the first one clearly.

15 I'm making this intervention only because I would like to
16 prevent the witness getting confused in the remainder of his
17 cross-examination.

18 Thank you, Your Honour.

19 MR. VON BONE: Well, I read from page 31 of the transcript.
20 That's the raw transcript of [REDACTED].

21 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, I would like to
22 rephrase the question just to be sure that I understood and the
23 witness has given the answer he wanted to give.

24 And that is: Mr. Witness, did the perpetrators call each other
25 by their names? Did they say names to each other?

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1 Did you hear my question?

2 THE WITNESS: [Interpretation] I did not understand.

3 PRESIDING JUDGE VELDT-FOGLIA: Okay.

4 THE WITNESS: [Interpretation] No.

5 PRESIDING JUDGE VELDT-FOGLIA: Did the persons -- did the -- I
6 don't want to use other words than used by the --

7 MR. VON BONE: Perpetrators?

8 PRESIDING JUDGE VELDT-FOGLIA: Perpetrators. That were the
9 words you were using. Did they call each other by their names or by
10 names?

11 THE WITNESS: [Interpretation] No. Just once in one occasion I
12 have heard one addressing another person that was a strange name, and
13 the name was Tabut, and that's all I've heard. I haven't heard
14 anything else later on.

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

16 MR. VON BONE: Thank you very much, Your Honour.

17 Are you with me, Mr. Prosecutor, regarding the transcript? I
18 see you nodding.

19 Q. Now, Mr. Witness, do you know if the person with the red hat
20 that you have said, whether he actually participated in that beating
21 in which at some point also a firearm was pointed to your head?

22 A. Yes.

23 Q. And can you describe that person? Other than the person with
24 the red hat?

25 A. I don't know how to describe him, because it was night and I

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1 don't know how to describe him.

2 Q. So you can't describe him? Okay.

3 A. I do not know how to.

4 Q. Thank you very much. Mr. Witness, how do you, in fact, know
5 that it was the accused who was among the perpetrators? The accused,
6 my client.

7 A. From the appearance? I do not understand the question.

8 Q. Let me put it different: Do you know if the person who is
9 standing here on trial was, in fact, among the perpetrators?

10 A. I do not know. I am not still understanding you. So, no, I
11 don't understand.

12 Q. There is a person on trial in this case. That person is my
13 client. And I am asking you whether you know if my client, the
14 accused, was among the people who were beating you.

15 A. Yes, it is for sure he was.

16 Q. And how do you know that?

17 A. I know that because later, later on I got to know that the main
18 person was that person. I have never seen him again in my life. But
19 when they put the torching light sometimes there, I saw that person.
20 But I don't remember it exactly, because it was dark.

21 And logically speaking, there could not be any other person
22 other than him to beat me, because he was the main person there and
23 everything he said was what was done in that place.

24 Q. But you did not know that person ever before; correct?

25 A. No. So it's only there that I've seen him and these two days in

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1 the courtroom.

2 Q. And he never told you his name?

3 A. No. No, there has been no introduction.

4 Q. So, once again, I ask you: How do you know that the accused is
5 the person who was beating you? Because I just want to know how you
6 know that. You didn't know the person by yourself, so could you
7 explain me how you know that person then to be the accused?

8 A. [Overlapping speakers].

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please wait until
10 the counsel stops talking because the interpretation, if not, gets
11 mixed up.

12 THE WITNESS: Okay.

13 PRESIDING JUDGE VELDT-FOGLIA: Yes.

14 THE WITNESS: [Interpretation] Can I speak?

15 PRESIDING JUDGE VELDT-FOGLIA: Yes. Yes, you can.

16 THE WITNESS: [Interpretation] Gentleman, so that person that you
17 are mentioning a hundred different times to me, there is no reason
18 for you to mention him that frequently, to tell you the truth. And I
19 have told you that I have not known the man. I didn't know anything
20 about him, what the problem was. And at the end, I was not a fool.

21 So I knew where he was. The person that you defend is this
22 person. So that's the person.

23 And please don't ask any other questions of this nature, because
24 it seems like irrelevant to me.

25 MR. VON BONE:

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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

1 Q. Well, Mr. Witness --

2 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, I just want to
3 address the witness.

4 Mr. Witness, the Defence counsel is here to ask questions to
5 you, and these are relevant questions for the Defence. So they must
6 be posed to you. And you answer as you deem proper, but they have to
7 be asked to you if the Defence lawyer wants to do that.

8 Please proceed.

9 MR. VON BONE:

10 Q. So I ask you again: How do you know it was the accused that was
11 beating you?

12 A. I think I told you how I know. I told you.

13 Q. So would you say that again, how you know that? How you know
14 the accused being the person that is beating you?

15 A. I know because when I left the prison, I knew it. I got to know
16 it, who the main person was at that place over there. And the only
17 person that can be, it's only him. There can't be another person.
18 It's only him.

19 Q. So you didn't know at the time yourself, but you heard it from
20 others. Is that what you are saying?

21 A. Yes.

22 Q. And from who did you hear that? From who.

23 A. It's not of importance to tell you on who did I hear it from.
24 So there were too many people.

25 Q. I think it is of importance, Mr. Witness, and I want you to

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 587

Cross-examination by Mr. von Bone (Continued)

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1 answer that question too. Who said to you --

2 A. I do not remember. So I'm not here to give the names of other
3 persons. I am here to give a testimony on behalf of myself but not
4 mention other names.

5 MR. VON BONE: But I want to go in private session then,
6 Your Honour.

7 PRESIDING JUDGE VELDT-FOGLIA: And then you will give an
8 explanation for the reason when we are in private session.

9 Madam Court Officer, let us go into private session, please.

10 ~~[Private session]~~ [Open session]

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

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
13 Defence counsel, could you --

14 MR. VON BONE:

15 Q. Mr. Witness --

16 PRESIDING JUDGE VELDT-FOGLIA: No, I'm directing to you.

17 MR. VON BONE: Oh, sorry.

18 PRESIDING JUDGE VELDT-FOGLIA: No, no, no. Sorry, I was not
19 clear. Could you give an explanation why you want to go into private
20 session?

21 MR. VON BONE: Well, maybe the witness will feel more
22 comfortable to name names if, indeed, we are in private session, and
23 maybe that would be a reason why he is not giving the names.

24 PRESIDING JUDGE VELDT-FOGLIA: We will --

25 MR. VON BONE: So I just want to make sure that the witness is

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 588

Cross-examination by Mr. von Bone (Continued)

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

1 completely comfortable.

2 PRESIDING JUDGE VELDT-FOGLIA: Okay, but it's important that
3 you --

4 MR. VON BONE: And especially for himself.

5 PRESIDING JUDGE VELDT-FOGLIA: Thank you for your explanation.

6 I will be asking to the parties and the Victims' Counsel when we
7 go into private session to explain it to me.

8 MR. VON BONE: Okay.

9 PRESIDING JUDGE VELDT-FOGLIA: So it's not only to you.

10 MR. VON BONE: Yes.

11 PRESIDING JUDGE VELDT-FOGLIA: Because I realise that it will
12 help me in thinking through if we do it or not, because I really want
13 the public to participate by watching this trial.

14 So please proceed.

15 MR. VON BONE:

16 Q. So, Mr. Witness, we are in private session. It means nobody can
17 hear you outside this courtroom. Do you understand that?

18 A. Yes.

19 Q. So I'm asking you again, Mr. Witness: Can you tell us the names
20 of the people who told you that it is the accused who is the one who
21 was beating you or who was the main person there? Who are those
22 people that told you that?

23 A. I cannot tell a single person to you, because there is no need
24 for me to tell anyone to you.

25 Q. Mr. Witness, is it actually true whether people actually told

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 589

Cross-examination by Mr. von Bone (Continued)

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

1 you that, or is that maybe not true?

2 A. It is true. [REDACTED]

3 [REDACTED]

4 Q. And my question is to you, once again, why is it that you cannot
5 tell us who told you that the accused was the main person? Why is it
6 that you cannot tell us?

7 A. I don't know why. So probably I've forgotten. So -- and I was
8 not very clear, absolutely clear back then, and I'm not very clear
9 here now either. So that's the reason why.

10 Q. Are you saying that you have forgotten the names of the people
11 who told you?

12 A. That too. Plus, I don't want to mention any of them here. So I
13 am not here to mention the names of other people. I am here just for
14 myself.

15 Q. Well, you're here as a witness, Mr. Witness, and you are under
16 oath, and we think it is a very relevant question how and who told
17 you. So I'm asking you again: Who told you?

18 A. [REDACTED]

19 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, sorry to
20 interrupt you, but I want to address the witness.

21 Mr. Witness, yes, it's now me talking to you. You are under
22 oath to tell the truth, and you should not withhold information. If
23 you have forgotten, you say, "I have forgotten." But if you have
24 relevant information at your disposition, you should share.

25 So I give now the floor back to the Defence counsel.

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 590

Cross-examination by Mr. von Bone (Continued)

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

1 MR. VON BONE:

2 Q. Mr. Witness, I repeat my question to you: Who told you that it
3 was the accused who was the main person there and that participated
4 in the beatings of you? Who told you that?

5 A. I do not know. I do not remember.

6 Q. Mr. Witness, at what occasion was it that the people that you do
7 not remember told you that? At what occasion was that?

8 A. When the war finished, when it was over, I spent time with all
9 different types of persons. I spent time with my fellow villagers.
10 And I got convinced, 100 per cent, that this was the person that was
11 the main person there in Zllash.

12 Q. My question is: On what kind of occasion was it that you spoke
13 to somebody? Was it in your house, or was it at a person's house, or
14 was it in a bar, or what was it? Where was that, that it was told to
15 you?

16 A. I have discussed [REDACTED] I have talked to
17 others as well, which is normal. And when it comes to where, when --
18 I mean, it's 20 years ago, and I don't even remember what I had for
19 dinner last night.

20 Q. Do you know, Mr. Witness - do you know - if any of the people
21 that you spoke to had ever any contact with the accused, my client?

22 A. I do not know.

23 Q. Of none of the people that you spoke to?

24 A. None.

25 PRESIDING JUDGE VELDT-FOGLIA: Counsel?

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 591

Cross-examination by Mr. von Bone (Continued)

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

1 MR. VON BONE: Yes.

2 PRESIDING JUDGE VELDT-FOGLIA: I just re-read the answer of the
3 witness. You have asked him:

4 "Of none of the people that you spoke to?"

5 But I see that he has answered:

6 "I do not know" if any of the people that you have spoke to has
7 ever had any contact with the accused. And his answer is "I do not
8 know."

9 MR. VON BONE: [Microphone not activated].

10 PRESIDING JUDGE VELDT-FOGLIA: Yes, but his answer is "none," he
11 was just repeating what you said. But I think that the answer is
12 already before that.

13 MR. VON BONE: [Microphone not activated].

14 PRESIDING JUDGE VELDT-FOGLIA: Okay. Let us not confuse the
15 witness with a question like that.

16 MR. VON BONE:

17 Q. You say you have discussed it in your family. Did anybody of
18 your family ever meet the accused?

19 A. No.

20 Q. Did anybody of your friends or whoever you went to when you
21 discussed that ever met the accused?

22 A. No.

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Defence Counsel, I would like
24 to go into public, if that is okay for you.

25 MR. VON BONE: Okay.

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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1 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can we go
2 back into public.

3 [Open session]

4 THE COURT OFFICER: Your Honours, we are back in open session.

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

6 Mr. von Bone, you have the floor.

7 MR. VON BONE:

8 Q. So you heard of other people that told you that. You don't want
9 to tell their names or you don't know their names anymore. You don't
10 know whether they had any contact with them. So it could have been
11 completely somebody else who did that to you?

12 A. No.

13 Q. Why not?

14 A. No. Just can't be.

15 Q. Why not?

16 A. Sir, do you have any other questions? You're keeping me the
17 whole day here on one single question.

18 Q. And I want you to answer that question. Why could it not be
19 anybody else?

20 A. I'm answering your question. I'm telling you that I don't know,
21 and then you keep asking me again.

22 Q. No, you did not say "I don't know." I just said why can it not
23 be somebody else, and now you say "I don't know."

24 A. Listen, I've had an [REDACTED]. I forget. So ...

25 Q. It's no problem. When you forget things or if you don't know

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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1 things, then you just say that. That is not the problem. But my
2 question to you is simple: Why could it not have been somebody else?

3 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, I see two -- I
4 see the SPO and the Victims' Counsel standing up. But the Judges
5 also want to go back to discuss a matter.

6 So I will first give you the floor to both of you, and then,
7 anyhow, we will go back into deliberation.

8 Prosecutor, Mr. Prosecutor, please, you have the floor.

9 MR. MICHALCZUK: Yes, thank you very much.

10 Just a very brief point. The witness has been asked several
11 times the same question, and he gave, two or three times, the same
12 coherent answer. And I think we should not waste time and just move
13 on.

14 Thank you.

15 PRESIDING JUDGE VELDT-FOGLIA: I heard your observation.

16 Victims' Counsel, please.

17 MS. PUES: Thank you. Yes, indeed, it's Rule 143, we are -- I
18 am looking at, and I don't see that either any further questions
19 would help us in ascertaining the truth any further, and avoidance of
20 repetition is a key point here. And we are, in my view, not with
21 spending any more time we'll be able to shed further light on this.

22 Thank you. So I would object to any further questions along
23 this line.

24 PRESIDING JUDGE VELDT-FOGLIA: Yes, thank you.

25 MR. VON BONE: Your Honour, may I briefly?

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Cross-examination by Mr. von Bone (Continued)

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1 PRESIDING JUDGE VELDT-FOGLIA: Yes, of course. Of course.

2 MR. VON BONE: Well, the witness sometimes simply refuses to
3 answer or says, "I cannot tell," that is an answer; or, "I don't
4 know," that is an answer. But simply saying that "I do not want to
5 say any other names" clearly indicates that he knows names and he
6 doesn't want to share that. We do that in public session, we do it
7 in private session, any kind of session that he might feel
8 comfortable in.

9 But I think it is important when we, in this court, are trying
10 to determine the truth of what happens, that, indeed, also difficult
11 questions have to be answered by a witness, and a witness is here
12 under oath and he must answer questions. And if he's unwilling to
13 answer a question, then we need to make -- have measures that he will
14 ultimately answer the questions.

15 And it's not at the random of the witness that we are going to
16 have, "Oh, I'm just not willing to tell you" or "I'm not going to
17 tell you." It is clear that he indicated that. And that is why I'm
18 persistent and insisting on it, and I think that is the right of the
19 Defence. It is also in order to establish the truth of whether the
20 witness actually speaks the truth or not. That is what is to be
21 determined.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you for your observation.
23 I see the Victims' Counsel standing.

24 And, indeed, it is better to stand up than to raise the hand.
25 Then it's clear for me what's happening.

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Cross-examination by Mr. von Bone (Continued)

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1 But, yes, please, you have the floor.

2 MS. PUES: Yes, thank you, Your Honours.

3 As a quick response to my learned colleague here. I do not
4 think that it accurately reflects what we have heard so far in this
5 court, that we have a witness who doesn't try, who simply refuses.
6 He has offered explanations of why it is so difficult for him to
7 provide us with any further information. We are looking back at a
8 situation 22 years ago. He has described how he has spoken to a
9 multitude of different people in a situation in which nothing was
10 normal.

11 Recall that this was, as he was saying himself, a situation in
12 which they were in the upheaval of war. It wasn't returning back to
13 normal. And, therefore, I do not -- or I object to any suggestions
14 on the part of the Defence counsel that this victim doesn't try --
15 I'm sorry. This witness doesn't try his best to provide us with the
16 knowledge that is still present.

17 Thank you.

18 MR. VON BONE: Your Honour, if I may.

19 The witness already on the first day said to the Prosecutor, "I
20 just know it for a fact." And then the Prosecutor just took that as
21 an answer. He did not go on to it. How do you, in fact, know
22 something? How can we, in fact, establish the truth about some
23 particular fact, whether it is a fact or whether that is, in fact,
24 not a fact? Whether it is a belief of a witness or whether he takes
25 it as a fact from somebody else rather than that saying, "I know it

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Cross-examination by Mr. von Bone (Continued)

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1 as a fact."

2 When somebody says "I know it as a fact," then I think it is
3 important to establish how that fact is established by a witness.
4 That is nothing -- and that is exactly what it is all about in a
5 criminal case, rather than saying when the -- as the Prosecutor did:
6 Well, you know, I appreciate the answer, but I would like to state
7 something further than that and who keeps it like that. I want to
8 insist on this point, because I think it is very relevant for our
9 case, when somebody -- an accused is being accused, in fact, by a
10 witness who says it is him, and he has no reasonable explanation of
11 how he was able to establish that.

12 Thank you. And I think that is what a criminal trial should be
13 about, rather than continuously saying, "Oh, you know --

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Defence --

15 MR. VON BONE: -- "it's a long time ago," and so on. We all
16 know that.

17 PRESIDING JUDGE VELDT-FOGLIA: Mr. Defence Counsel, now I
18 interrupt you. For the next time if we have this discussion, I will
19 ask the witness to take the headphones off.

20 But for now, I'm going to go -- I see your point, Defence
21 counsel. I've also heard the SPO and the Victims' Counsel. And to
22 tell you the truth, for me the question put to the witness:

23 "So it could have been completely somebody else who did that to
24 you?"

25 For me, it did not follow logically from what you were saying

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Cross-examination by Mr. von Bone (Continued)

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1 before.

2 So you can ask questions, of course, to the witness on what
3 happened then, who he saw, and who he says that has been beating him
4 or ordering to beat him or being in command there. But for me, I was
5 going to stop you when you said:

6 "So it could have been completely somebody else who did that to
7 you?"

8 I didn't see the logic coming from what you said before, so we
9 should be careful to phrase it like that.

10 MR. VON BONE: Because, Your Honour, it can be the personal
11 conviction of somebody that it is something like that. It can be
12 somebody's -- or that somebody takes it as a fact rather than --

13 PRESIDING JUDGE VELDT-FOGLIA: Wait --

14 MR. VON BONE: -- it being --

15 PRESIDING JUDGE VELDT-FOGLIA: Now --

16 MR. VON BONE: -- a fact.

17 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, can you take your
18 headphones off.

19 Yes, but I do tell you -- I see your point. I'm listening. And
20 you will be able to pose the questions you deem necessary. But what
21 I'm seeing, that the witness has given an explanation. And if you
22 have other questions on the same topic, I will allow them to you,
23 because it's necessary. But not to ask the same question if he has
24 given an explanation how he heard it. That's what he has -- he has
25 given that explanation.

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Cross-examination by Mr. von Bone (Continued)

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1 So if you want to verify in another way his knowledge, and I've
2 seen that you have been going through persons he talked to, his
3 family. I see all that. But not repeating it. Because except that
4 the fact that the witness doesn't want to answer the question is not
5 a reason not to answer. He's here to answer.

6 But I kindly ask you to refrain from repeating what he has
7 already tried to explain. But if there are other questions, and now
8 I'm repeating myself, you can ask them. But insisting, asking four
9 times, that will only make him nervous, but I don't think it will
10 bring him to a point that he will share with us information.

11 So you have the floor again. And I was going to deliberate with
12 the colleagues, but we will do that in another moment.

13 Please continue.

14 Mr. Witness, we will continue now with the interrogation, and
15 the floor is for the Defence counsel.

16 MR. VON BONE:

17 Q. Mr. Witness, did you ever verify for yourself the information
18 that you received from others regarding the accused?

19 A. Yes.

20 Q. How?

21 A. The army, all of them who were in Zllash, know that this person
22 was the main person there. It's not only one person who knows this.
23 Everybody knows. And you know even better than I know who the main
24 person was.

25 I am just saying here that I'm here to answer questions that

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1 relate to my circumstances; who beat me, who did these things to me.

2 Q. I understand that, but I was asking you how you verified, in
3 fact, whether the people that told you something, whether they were
4 right or wrong about something. How you verified that.

5 A. I don't know how I can answer this question in a different way.
6 I already gave you my answer.

7 Q. Okay. You never met the accused anymore in your life. If I put
8 to you that the accused says that he has never ever met you in his
9 life, what is your reaction?

10 A. I wouldn't know whether he met me or I met him. I never saw him
11 in my life again, and I was not interested in him at all.

12 Q. And what would be your reaction if I tell you that my client
13 says that he has never ever been beating you in Zllash?

14 A. Then it's you who beat me in Zllash. Who else?

15 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, it is not the place
16 here to make jokes, and certainly not to say something like that to
17 the Defence counsel.

18 Do we understand each other?

19 THE WITNESS: [Interpretation] May I speak?

20 PRESIDING JUDGE VELDT-FOGLIA: You may speak. But have you
21 understood me that you cannot say that to the Defence counsel?

22 THE WITNESS: [Interpretation] Yes, yes.

23 MR. VON BONE: I had a next question, actually. And my question
24 was answered.

25 PRESIDING JUDGE VELDT-FOGLIA: Excuse me?

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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1 MR. VON BONE: I had a next question, but ...

2 PRESIDING JUDGE VELDT-FOGLIA: Yes, but I don't want the witness
3 to say these kind of things.

4 MR. VON BONE: No, I understand.

5 PRESIDING JUDGE VELDT-FOGLIA: You have the floor.

6 MR. VON BONE:

7 Q. Mr. Witness, I put it to you that my client tells me that he has
8 never ever beaten you in Zllash or anywhere else. What is your
9 reaction?

10 A. He can say whatever he wants. That's his business. I cannot
11 tell him what to say. That's his job.

12 Q. Mr. Witness, you said to the Prosecutor, upon his question, that
13 it was about a month after the war that you heard from others.

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, could you tell us
15 where you saw that in the script, in the transcript?

16 MR. VON BONE: Oh.

17 PRESIDING JUDGE VELDT-FOGLIA: That's a request --

18 MR. VON BONE: That is --

19 PRESIDING JUDGE VELDT-FOGLIA: But it's important that --

20 MR. VON BONE: It's --

21 PRESIDING JUDGE VELDT-FOGLIA: -- we have --

22 MR. VON BONE: It's -- I can --

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. But then I can look at --

24 MR. VON BONE: I can tell you --

25 PRESIDING JUDGE VELDT-FOGLIA: No, you cannot re -- you don't

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Cross-examination by Mr. von Bone (Continued)

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1 have the reference?

2 MR. VON BONE: Just a minute.

3 PRESIDING JUDGE VELDT-FOGLIA: Yes.

4 Mr. von Bone --

5 MR. VON BONE: We'll look into it.

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, I don't want to
7 keep it too much.

8 MR. VON BONE: Yes.

9 PRESIDING JUDGE VELDT-FOGLIA: You can give the reference
10 afterwards for the use of parties, the other party and the
11 Victims' Counsel and the Panel. Yes?

12 MR. VON BONE: Yes, I will, Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

14 MR. VON BONE: Page 45, I hear. Line 22. If we look it up,
15 it's on the screen, page 46. And the number under it is page 45, and
16 it's line 22.

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

18 MR. VON BONE: That is where it is.

19 Q. Mr. Witness, upon a question of the Prosecutor you answered that
20 you learned about a month after the date of your release about that.
21 Do you recall where that was when you heard that for the first time?
22 Do you remember?

23 A. In [REDACTED].

24 Q. In [REDACTED].

25 A. I heard in [REDACTED]

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 602

Cross-examination by Mr. von Bone (Continued)

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

1 Q. And who told you then?

2 A. My wife.

3 Q. Your wife told you?

4 A. Yes.

5 Q. And did your wife meet any time -- any point in time in her life
6 the accused?

7 A. No, never.

8 Q. Did you ever ask your wife whether she had verified that?

9 A. Yes.

10 Q. And how did she do that? Can you tell me?

11 A. [REDACTED]

12 PRESIDING JUDGE VELDT-FOGLIA: Stop, stop [Overlapping
13 speakers] ...

14 THE WITNESS: [Interpretation] -- [Overlapping speakers] ... the
15 [REDACTED]

16 PRESIDING JUDGE VELDT-FOGLIA: No, stop. We are now in public
17 session. We have to revert to private session. We cannot. Sorry to
18 interrupt you, Mr. Witness. Sorry to interrupt you, Defence counsel.
19 But we have to go into private session.

20 Madam Court Officer, can we please go into private session.

21 ~~[Private session]~~ [Open session]

22 THE COURT OFFICER: Your Honours, we are in private session now.

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

24 Defence counsel, you may proceed.

25 Mr. Witness, you were saying?

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 603

Cross-examination by Mr. von Bone (Continued)

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

1 MR. VON BONE: I believe my question was, Your Honour, whether
2 he asked his wife if she had verified that, and then it was how she
3 had done that. And then we are about to receive the answer.

4 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please proceed.

5 THE WITNESS: [Interpretation] This is how my wife verified it.

6 [REDACTED]

7 [REDACTED]

8 person.

9 MR. VON BONE:

10 Q. So I understand, Mr. Witness, that your wife was told by
11 somebody else. Is that what I understand clear?

12 A. Yes.

13 Q. And do you know if that somebody else ever actually met the
14 accused? Do you know?

15 A. I don't know.

16 Q. Thank you.

17 MR. VON BONE: Maybe this is the best time to take a break,
18 Your Honour. I would go into another topic, and I think this topic
19 has been covered. So I think this is maybe the natural moment to
20 have a break, and then afterwards we continue with some other
21 questions.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 MR. VON BONE: I'm not sure what time I still have left.

24 PRESIDING JUDGE VELDT-FOGLIA: No, no, it's one -- we have three
25 minutes to go, so it's the perfect timing. Thank you for that.

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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

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

2 [Open session]

3 THE COURT OFFICER: Your Honours, we are back in public session.

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

5 So it's now time for the first break. I see, Defence Counsel,
6 that you have used one minute and 42 -- no, one hour, 42 minutes, and
7 65 seconds up till now from the time allocated to you.

8 Mr. Witness, we are now having a break. I will ask the
9 Court Usher to accompany you out of the courtroom, and we will see
10 each other again in 30 minutes.

11 I adjourn the hearing.

12 [The witness stands down]

13 --- Recess taken at 10.59 a.m.

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

15 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. Before we usher
16 the witness into the courtroom, Mr. von Bone, I shared with you how
17 much time you still had. It's about half an hour. But the Panel
18 wants to inform you that if you need more time, you can ask, of
19 course, the Panel. It's not the grocery store waiting the
20 strawberry.

21 Okay, yes, let us start.

22 Court Usher, could you please bring the witness back.

23 Before the witness comes in, I would like to call appearances.

24 I am looking at the right-hand side, I see that the same persons
25 are present. Thank you. For the Victims' Counsel, the same. The

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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

1 Defence counsel, the same.

2 Mr. Mustafa, I see that you are there too. Good. And then I
3 see that the Registry is not there anymore, so, for the record. And
4 the Trial Panel, of course, is there too. Good.

5 [The witness takes the stand]

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, welcome back.

7 THE WITNESS: [Interpretation] [No interpretation].

8 PRESIDING JUDGE VELDT-FOGLIA: I didn't hear a translation of
9 what Mr. Witness said. Is it working properly? Because I heard the
10 witness say something, but I didn't hear a translation.

11 What did you say, Mr. Witness?

12 THE INTERPRETER: The interpreter didn't hear what the witness
13 said.

14 PRESIDING JUDGE VELDT-FOGLIA: Oh, thank you.

15 Mr. Witness, what did you say?

16 THE WITNESS: [Interpretation] Thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

18 We will resume with the posing questions by the Defence counsel.

19 Mr. von Bone, you have the floor.

20 MR. VON BONE: Thank you very much, Your Honour.

21 Q. Thank you very much, Mr. Witness. Here we go again.

22 MR. VON BONE: I will go briefly in open session -- sorry, no.
23 I will be now in open session, then I go briefly in a closed session
24 to just explain something to the witness, and then we can go into
25 open session as I will be referring to something.

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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

1 PRESIDING JUDGE VELDT-FOGLIA: Okay, in private session, you
2 mean?

3 MR. VON BONE: Excuse me, yes, sorry.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

5 MR. VON BONE:

6 Q. Mr. Witness, you were released from the location where you had
7 been detained, and --

8 A. The sound in my headset is low.

9 Q. Is it better? Yes?

10 A. Yes, thank you.

11 Q. Okay. Mr. Witness, you were released from the place where you
12 had been detained at some point, and that is what I would like to
13 discuss with you.

14 At the moment that you were released, do you recall when you
15 came outside, actually? Could you share with us what you then
16 actually saw?

17 A. Yes. On the 18th -- and I know of the date after I was released
18 from prison because I didn't know what the date was, or what the
19 night was, what the month was. It was about 11.00, I think, when the
20 door was opened and we were released.

21 Q. And when you were actually the door went open, I think you said
22 earlier that you were one of the last ones to leave that particular
23 room. Where did you come into? Where did you go and where did you
24 come into? Can you describe that for us?

25 A. I left. We were called by our names. So, like I said, there

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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

1 were two people left behind. When I got in the yard from the barn I
2 was into, I saw many people because it was the offensive and people
3 were leaving and people -- I mean, everyone was looking after their
4 own hands.

5 Q. And could you give us an estimate of the amount of people that
6 you saw? I mean, approximately.

7 A. I saw all different sorts of people. I saw people in civilian
8 clothing. I saw people in military uniforms. There were a lot of
9 people there.

10 Q. And can you give an estimate of the amount of people that you
11 saw? It's obviously that anything that it is approximately.

12 A. In the yard, I didn't have the time -- I didn't have the need
13 to. But I would say that there were at least 60 people there.

14 Q. And, Mr. Witness, did you see any other buildings there,
15 actually, or not?

16 A. I didn't even look for that. I don't know whether there were
17 any or not.

18 Q. And these people, were they just standing there or what were
19 they doing there?

20 A. Yes, they had come from all over the place. They had gathered
21 there and they sent us a person. One person told us where the road
22 was so that we could go to Prishtine. He pointed the road at us so
23 that we could go to Prishtine.

24 Q. And what was the weather like? Do you recall that, whether it
25 was cold or was it clear sky? What, in your -- how do you remember

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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

1 that?

2 A. It was an average weather. It was not cold. It was normal
3 weather.

4 Q. And did you have any idea whether there were any other buildings
5 than the building in which you had been detained?

6 A. Yes, yes, there were others.

7 Q. And would it be possible for you to describe what you saw, as
8 far as buildings is concerned, structures, or ...?

9 A. Well, there were the buildings where I stood. I don't know how
10 many buildings there were. I was not interested to see them. But
11 while I was released from there, I was just interested to know where
12 I was heading for. So they pointed the road to us towards Prishtine,
13 and I was lost and I didn't even know what direction to take. But I
14 followed all the other people. So I followed many other people.

15 Q. Just I want to remain a little bit at that moment that you are
16 released and you look around and you see people. But I'm interested
17 in what -- whether you see any other buildings around you other than
18 the building from which you were released.

19 A. I have seen -- I don't know whether there were one or two or
20 three. They were not very far away from where I was. So they were
21 about, I don't know, probably 50, 60 metres away.

22 Q. And did you walk on a level field, or were you going uphill, or
23 were you going downhill? Could you explain that to us.

24 A. No. Where I was, starting from the building I was kept, it was
25 kind of a path. It was not a good road, a good path. It was

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 609

Cross-examination by Mr. von Bone (Continued)

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

1 usually -- I mean, it was mainly a meadow. So then we went towards
2 another road which was of a better quality, and it was that road that
3 took us to Prishtine.

4 Q. Before your arrest, had you ever been there before?

5 A. It might happen that I have passed by that place, because
[REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. Mr. Witness --

9 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, this is something that
10 needs to be redacted. It's just for the Legal Officers, so they
11 know.

12 Mr. Witness, we are in open session. Please be careful when you
13 say things that can relate to where you live.

14 MR. VON BONE: And I ask, Your Honour, now to go into private
15 session. I will then explain a couple of things to the witness. And
16 then we can go back into open session, and I will warn the witness
17 how to go about.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Defence Counsel.

19 Madam Court Officer, could we please go into private session.

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

21 THE COURT OFFICER: Your Honours, we are now in private session.

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

23 Mr. Defence Counsel, you have the floor.

24 MR. VON BONE: Thank you very much.

25 Q. Mr. Witness, I want to speak later on a little bit about
[REDACTED]

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 610

Cross-examination by Mr. von Bone (Continued)

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

1 I will call him "the man you left" or "the man that was left behind,"
2 okay, later on, if we are in open session, then I will refer to him
3 like that. Can you understand that? I will say "the man that had
4 been left behind."

5 A. Two men were left behind, myself.

6 Q. Yes, but I will speak about [REDACTED]

7 PRESIDING JUDGE VELDT-FOGLIA: Yes. Defence Counsel, I will
8 explain it again to the witness --

9 MR. VON BONE: Sure.

10 PRESIDING JUDGE VELDT-FOGLIA: -- in order to be sure.

11 Mr. Witness, Mr. Witness, it's me who is talking to you. The
12 Defence counsel will speak -- will ask you some questions [REDACTED]
13 but he will refer to him, he will refer to him as "the man you left
14 behind" or "the man who was left behind." So he will not say the
15 [REDACTED] because we cannot say the name because we don't want the
16 general public to hear this name.

17 Do you understand me?

18 THE WITNESS: [Interpretation] Yes, okay.

19 PRESIDING JUDGE VELDT-FOGLIA: Okay.

20 THE WITNESS: [Interpretation] Very good.

21 MR. VON BONE:

22 Q. And if I speak about the same, I will also speak about the
23 village where the man who was left behind lived and the parents of
24 the man who was left behind.

25 MR. VON BONE: Should we do it in private session?

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 611

Cross-examination by Mr. von Bone (Continued)

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

1 PRESIDING JUDGE VELDT-FOGLIA: Yes, Defence Counsel, I see your
2 effort, but I am afraid that this --

3 MR. VON BONE: It goes wrong.

4 PRESIDING JUDGE VELDT-FOGLIA: -- can go wrong.

5 MR. VON BONE: Okay.

6 PRESIDING JUDGE VELDT-FOGLIA: And this is too important and too
7 crucial.

8 MR. VON BONE: Okay.

9 PRESIDING JUDGE VELDT-FOGLIA: So --

10 MR. VON BONE: I just thought I would give it a try.

11 PRESIDING JUDGE VELDT-FOGLIA: I would prefer to have this and
12 all the questions with regard to [REDACTED] in private session or --
13 yes. I just think that the risk is too high.

14 MR. VON BONE: Okay, okay. So let's then go briefly in open
15 session. And then when I really start about that, I will go into
16 private session again. So rather than going back and forth --

17 PRESIDING JUDGE VELDT-FOGLIA: No, but, I don't mind. I see a
18 very merit in doing this --

19 MR. VON BONE: No, no --

20 PRESIDING JUDGE VELDT-FOGLIA: -- rather than doing
21 everything --

22 MR. VON BONE: -- I understand.

23 PRESIDING JUDGE VELDT-FOGLIA: -- in private session.

24 Madam Court Officer, can we revert back to public, please.

25 [Open session]

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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

1 THE COURT OFFICER: Your Honours, we are back in open session.

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

3 You have the floor.

4 MR. VON BONE:

5 Q. Mr. Witness, can you first tell us, because when you were
6 released you went to Prishtine. And could you tell us which road you
7 went to, which villages you passed through to get to Prishtine? So
8 if you went all along the road?

9 A. Yes. Well, I started the journey from the place I was. And
10 then I went through a village. I can't remember the name now. The
11 village is called Crvadik.

12 Q. Okay.

13 A. Then I went through another village that is called Ugrali.
14 There, the main road that connects that village to Prishtine is
15 located. Afterwards, the village of Makovc follows and it heads
16 towards Prishtine. When I was in that road, there were thousands and
17 thousands of refugees that were heading towards Prishtine.

18 Q. Thank you very much.

19 MR. VON BONE: And then I would like now to go into private
20 session.

21 PRESIDING JUDGE VELDT-FOGLIA: And you will explain to us why it
22 [Microphone not activated].

23 Madam Court Officer, can we go into private session, please.

24 ~~[Private session]~~ [Open session]

25 THE COURT OFFICER: Your Honours, we are now in private session.

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 613

Cross-examination by Mr. von Bone (Continued)

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

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

2 MR. VON BONE: Yes, I will speak about [REDACTED] and the visit to
the

3 family.

4 Q. Mr. Witness, I understood that [REDACTED] was left behind. He was
5 still in the place where you were released from? And you went
6 towards Prishtine?

7 A. Yes.

8 Q. And you -- I think you said -- well, I know you said, you also
9 said in your statements, that you actually went [REDACTED]

10 [REDACTED]

11 A. Yes.

12 Q. Where did [REDACTED] live?

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone --

20 MR. VON BONE: We are --

21 PRESIDING JUDGE VELDT-FOGLIA: -- could you please ask an open
22 question, where did you go, because it has now been for three times
23 that you have really asked a closed question.

24 MR. VON BONE: [Microphone not activated].

25 PRESIDING JUDGE VELDT-FOGLIA: Please, mic.

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 614

Cross-examination by Mr. von Bone (Continued)

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

1 MR. VON BONE: I didn't realise it. I just sometimes go to what
2 did he say. So I understand --

3 PRESIDING JUDGE VELDT-FOGLIA: No, I --

4 MR. VON BONE: I understand. I understand.

5 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

6 MR. VON BONE:

7 Q. Sir, is it correct that you went [REDACTED]

8 A. Yes.

9 Q. And, tell me --

10 PRESIDING JUDGE VELDT-FOGLIA: You did it again.

11 MR. VON BONE: Sorry.

12 PRESIDING JUDGE VELDT-FOGLIA: Whom did you go to visit.

13 MR. VON BONE: Yes, no, I understand. I just ...

14 PRESIDING JUDGE VELDT-FOGLIA: Okay.

15 THE WITNESS: [Interpretation] To tell you the truth [REDACTED]

16 [REDACTED], because I was thinking, and my colleague was joining me,

17 so we were very hungry. We couldn't even walk. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 MR. VON BONE:

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 615

Cross-examination by Mr. von Bone (Continued)

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

1 Q. I understand. You said [REDACTED] he would be released.

2 Was that correct, actually?

3 A. Yes, because this is what I thought.

4 Q. Okay. And did you [REDACTED]

5 [REDACTED]

6 A. No, no. No, I didn't want to say a single word [REDACTED].

7 No.

8 Q. Why not? What was the problem to say that?

9 A. Why did I [REDACTED]? It was not necessary, indispensable

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. And did you not discuss with them what had happened to you, the
16 beatings, arrest?

17 A. No, no, no, not at all.

18 Q. Why not?

19 A. Because I didn't want to. It was not indispensable for me to

20 [REDACTED] It was not necessary for me to do that.

21 Q. But was [REDACTED]

22 A. Of course, [REDACTED]

23 them after some time. Like I said, we were there for about one hour

24 and a half, [REDACTED]

25 Q. [REDACTED]

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 616

Cross-examination by Mr. von Bone (Continued)

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

1 [REDACTED]

2 A. No, sir. Like I said, I want to say it again, that we didn't

3 enter that kind of a conversation at all. [REDACTED] of course,

4 [REDACTED] He didn't ask a thing out of me. He

5 [REDACTED]

6 [REDACTED]

7 That's all I know.

8 Q. And did [REDACTED] say anything about that?

9 A. No, no. So we were very tired, sir. We needed to eat

10 something, and we didn't have that type of a discussion at all.

11 Q. So if I may, what was the discussion about? Is it just, like, a

12 [REDACTED]

13 A. No. So we were exchanging with one another, "How are you?" "Is

14 everything okay?" "Thank you very much for that." [REDACTED]

15 [REDACTED]

16 So we didn't say anything about that at all.

17 Q. Was it not visible that you were not okay? Because I understood

18 that you had been beaten, [REDACTED]

19 [REDACTED] All kinds of other things, injuries.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 So, like I said, we were very tired. We could hardly walk to go

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 617

Cross-examination by Mr. von Bone (Continued)

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

1 [REDACTED]

2 Q. Where did you go to in Prishtine?

3 A. In Prishtine, I went -- I was together with [REDACTED] We

4 went [REDACTED], and I didn't stay for more than

5 15 minutes there. [REDACTED]. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. And did you tell your family what had happened to you?

10 A. Of course. Everyone tells their family what has happened.

11 Q. And you [REDACTED] Did you meet

12 [REDACTED]

13 A. No, I didn't see a single soul there. So it was only him. His

14 [REDACTED] I don't know where.

15 Q. And what was the purpose, actually, [REDACTED]

16 What was the purpose to go there?

17 A. I did not understand you.

18 Q. Well, you first went to [REDACTED] What was the reason

19 to go there?

20 A. I already told you. So what's the point into giving an answer

21 [REDACTED]

22 [REDACTED]

23 PRESIDING JUDGE VELDT-FOGLIA: Yes, that's what I heard.

24 THE WITNESS: [Interpretation] So it's three times that I'm

25 telling you the same answer.

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 618

Cross-examination by Mr. von Bone (Continued)

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

1 MR. VON BONE:

2 Q. Okay. Mr. Witness, [REDACTED] and then at some
3 point [REDACTED]. And when did
4 you [REDACTED]?

5 A. I don't know exactly. After one month probably, or three weeks,
6 because there was still the offensive going on. Therefore, we didn't
7 dare leave the place.

8 Q. Did you ever, after the war, go to the -- to maybe the police or
9 a humanitarian organisation to explain your story, what had happened
10 to you?

11 A. I didn't go anywhere.

12 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, the time
13 allocated to you is now used. But, of course, you can proceed. I
14 would just like to have an indication of you, without putting too
15 much pressure, because you need your time for examination of the
16 witness?

17 MR. VON BONE: I think there will be two topics, and it will
18 last maybe 15 to 20 minutes maximum.

19 PRESIDING JUDGE VELDT-FOGLIA: Very well. And my second
20 question would be: Are we now arriving at a point that we can revert
21 back to public session, the questions you are posing now to
22 Mr. Witness?

23 MR. VON BONE: No, the -- no, then I'll --

24 PRESIDING JUDGE VELDT-FOGLIA: Please, the mic. Mic.

25 MR. VON BONE: I will just start on one topic now in order to

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 619

Cross-examination by Mr. von Bone (Continued)

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

1 continue.

2 PRESIDING JUDGE VELDT-FOGLIA: In private.

3 MR. VON BONE: In private. That would be the --

4 PRESIDING JUDGE VELDT-FOGLIA: The idea.

5 MR. VON BONE: -- most logical.

6 PRESIDING JUDGE VELDT-FOGLIA: And the second -- and then I want

7 to make --

8 MR. VON BONE: Yes?

9 PRESIDING JUDGE VELDT-FOGLIA: Not for you but in general for
10 the record that the Registry is present since 11.43. So that's on
11 record now.

12 Please proceed.

13 MR. VON BONE:

14 Q. Mr. Witness, before your arrival here at the Kosovo Specialist
15 Chambers, I understood the Prosecutor asked you a couple of questions
16 about that you were called by somebody or that there was a particular
17 [REDACTED]. And the name of
18 that person is [REDACTED] is that correct?

19 A. Yes.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. And what did he actually tell you? What was the conversation
25 about?

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 620

Cross-examination by Mr. von Bone (Continued)

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

1 A. We greeted each other, as usual. And he said, "Were you called
2 by the Court?" I said, "No." He said, "You're my friend. I wish
3 you well. And if you listen to me, don't go to the Court."

4 Q. Did you ask why he told that to you?

5 A. No.

6 Q. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. And when this person said to you, "Don't go there," was there
11 anything else that he said?

12 A. It was just a -- three, five minutes that we talked to each
13 other. Not more than that.

14 Q. And [REDACTED], do you know anything about his background?

15 A. I don't understand you.

16 Q. Do you know each other from work, or do you know each other in
17 any other relation?

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 There's nothing more to it.

22 Q. You did not take it as a threat?

23 A. No, no, no.

24 Q. And this person, [REDACTED] did he have any connection to the
25 accused?

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 621

Cross-examination by Mr. von Bone (Continued)

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

1 A. Yes, because he also was in the war.

2 Q. And in which context was he then in the war; do you know that?

3 A. He was [REDACTED]

4 Q. And how do you know that?

5 A. I know because [REDACTED]

6 Q. Where?

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. And when did he come then? When did you see him there in
11 Zllash?

12 A. The day I arrived, it was the following day that I saw him. One
13 or two days after the day I arrived. I saw this person coming in and
14 he was quite surprised to see me there. And he said, "What are you
15 doing here?" and that was it. He didn't say anything else.

16 Q. And did you know what he was doing there, actually?

17 A. I don't know. I wasn't their leader there. I was inside the
18 barn. I don't know what his position was, what his job was, what he
19 was doing there. I have no idea.

20 MR. VON BONE: Just a minute, Your Honour.

21 [Specialist Counsel confers]

22 MR. VON BONE:

23 Q. Is this the first time that you tell us [REDACTED] that he was
24 in Zllash, or did you tell any other time before about him?

25 A. Well, I don't know whether this is the first time I've mentioned

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 622

Cross-examination by Mr. von Bone (Continued)

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

1 this or not.

2 Q. As you said, [REDACTED] And even when you met
3 him there, were you afraid of him in any way? I mean there in
4 Zllash.

5 A. No. No, [REDACTED]
6 [REDACTED] And to tell you the truth, after he saw me there
7 he tried to help, and he helped as much as he could. He helped me.

8 Q. And how did he help you there?

9 A. Afterwards. The way I was beaten before I saw him. Now, I
10 don't know whether he spoke with someone or not, because I did not
11 deserve the treatment I received. So I don't know what he told them,
12 but he probably told them something.

13 Q. And how do you know then he helped you? In which manner did he
14 help you? Because you said "He helped me." In which manner did he
15 help you?

16 A. This is what I think. This is my opinion, how. I don't know
17 what else it could be.

18 MR. VON BONE: Thank you very much, Your Honour. We can go into
19 public session.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you, counsel for the
21 Defence.

22 Can we revert to public session please, Madam Court Officer.

23 [Open session]

24 THE COURT OFFICER: Your Honours, we are back in public session.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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1 Defence counsel, you have the floor.

2 MR. VON BONE: Mr. Witness --

3 PRESIDING JUDGE VELDT-FOGLIA: Please, mic.

4 MR. VON BONE: Excuse me.

5 Q. Mr. Witness, we have some last questions. You are asking for
6 compensation, to get some kind of compensation. Did you ever ask
7 anywhere else to get compensation for the injuries that you had
8 suffered?

9 A. No, because I don't know of any other court besides this court.

10 Q. But there have been -- I mean, there is legal possibilities in
11 Kosovo too. So why did you not seek any possibility to do that?

12 A. I wasn't interested. I cannot ask for compensation in 100
13 different places. There is one place.

14 Q. And that place would be maybe Kosovo. So why would it not be a
15 good option for you to ask for compensation in Kosovo during all
16 these years?

17 A. To tell you the truth, I didn't look for a place because I
18 wasn't aware. I didn't know.

19 Q. And could you not seek any help in order to find that in Kosovo?

20 A. No, never. I wasn't interested.

21 Q. And why are you suddenly now interested in it then? Because
22 here you ask for compensation, so what -- could you explain why are
23 you suddenly now interested in that?

24 A. Sir, I'm mostly interested in compensation because I have
25 suffered injuries. [REDACTED] I'm not a judge, I'm not

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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1 an investigator, and I'm not the one who decides whether one will be
2 convicted or not. I'm here for my compensation because I do need
3 compensation.

4 Q. And how much compensation are you seeking, actually?

5 A. As I said, I don't know to what I'm entitled. I just want to
6 get what I'm entitled to. I'm not a judge here, as I said.

7 Q. And in which --

8 PRESIDING JUDGE VELDT-FOGLIA: Mr. Defence Counsel, please. I
9 see the Victims' Counsel standing.

10 MS. PUES: Yes, thank you very much.

11 Could I perhaps remind the Defence that it's the ascertainment
12 of the truth that should be the focus of your questions. Questions
13 on why someone seeks to exercise a human right, and the right to
14 reparations is among those is, in my view, beyond the point here.
15 Also, assessments as to what kind of compensation, possible amounts,
16 is something that the witness won't possibly be able to ask.

17 The Court itself issued expert -- is seeking expert advice of
18 three different experts on questions linked to reparations. And,
19 therefore, asking here, this specific witness on something that he
20 cannot possibly give an appropriate answer to is, therefore, in my
21 view, objectionable.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 Mr. Defence Counsel, you have put your question, and Mr. Witness
24 has given an answer to that.

25 MR. VON BONE: Yes.

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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1 PRESIDING JUDGE VELDT-FOGLIA: I would not --

2 MR. VON BONE: I had one final question on it.

3 PRESIDING JUDGE VELDT-FOGLIA: You can --

4 MR. VON BONE: It's not about the amounts or anything.

5 PRESIDING JUDGE VELDT-FOGLIA: You can say it and then we will
6 see if you can proceed.

7 MR. VON BONE: Yes.

8 Q. In which manner do you expect any compensation?

9 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, where are you
10 going to with this question?

11 MR. VON BONE: I just want to know what is the expectation
12 around -- as far as compensation is concerned of this -- of the
13 witness. Is he seeking for compensation.

14 PRESIDING JUDGE VELDT-FOGLIA: But are you asking him what is
15 compensation for him? Is that what you are asking?

16 MR. VON BONE: Which --

17 PRESIDING JUDGE VELDT-FOGLIA: No, no --

18 MR. VON BONE: Whether it's in funds or whether it's in any
19 other manner that can contribute to compensate injuries or anything
20 that could help him, benefit him in any kind of manner. So rather
21 than focusing on whether it is money-wise or any other kind of thing,
22 what are the expectations of this gentleman.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. But you -- because the
24 question needed, for me, some --

25 MR. VON BONE: Verification, yes.

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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1 PRESIDING JUDGE VELDT-FOGLIA: -- explanation too. So I would
2 say you might want to explain some more what you are -- what you're
3 trying to ask.

4 Yes, I saw it. I saw it. And I saw in the corner of my eye
5 that you were standing. So, please, you have the floor.

6 MS. PUES: Yes, just briefly to refer to Rule 143 where we are,
7 under (3), having a clear provision that "the cross-examination shall
8 be limited to the subject matter of direct examination and matters
9 affecting the credibility of the witness," I cannot see how any
10 questions on what kind of reparations -- which is, actually, a
11 question that is very difficult even to answer for legal experts
12 themselves, given what -- that reparations are still something in the
13 development of the Law, how this can, therefore, under the rule I
14 just cited be a contribute here.

15 MR. VON BONE: Your Honour --

16 PRESIDING JUDGE VELDT-FOGLIA: No, no, wait.

17 At this point, I will also give the floor to the SPO, because
18 now we have a real point that we should decide on.

19 Please, Mr. Prosecutor.

20 MR. MICHALCZUK: Your Honours, this is the cross-examination
21 of -- by the Defence counsel of the witness of the opposing party,
22 and we believe that the counsel should be allowed to explore all the
23 matters that he believes could go into the credibility of the
24 witness.

25 So maybe Mr. von Bone could be given a chance to explain why his

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Cross-examination by Mr. von Bone (Continued)

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1 question goes into the credibility issue. And if he convinces the
2 Panel that those questions, indeed, go into the heart of the
3 credibility of this witness or on matters that he was testifying
4 about before, he should be allowed those questions. Because it's a
5 question of his cross-examination leeway given by the Panel. And I
6 think we are in the discussion what is allowed, what is not allowed.

7 It will also impact, later on, the Prosecution powers to
8 cross-examine and the extent to which Prosecution could cross-examine
9 the witnesses of --

10 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor --

11 MR. MICHALCZUK: -- the Defence.

12 PRESIDING JUDGE VELDT-FOGLIA: -- excuse me, I want to say
13 something to the witness.

14 Mr. Witness, could you take your headphones off. Thank you.

15 Please. Sorry that I interrupted you, but I think this was
16 better.

17 MR. MICHALCZUK: Your Honour, so what I have just said stands.
18 We believe that if these questions go into the credibility of this
19 witness, they should be allowed to ask. However, perhaps
20 Mr. von Bone could explain a little bit more why these questions are,
21 indeed, relevant. They might be relevant. So, maybe, let's give him
22 an opportunity to explain.

23 And as I said before, we have to have a level playing field in
24 this regard, because later on the Prosecution might be in a similar
25 position talking about the credibility of a witness of the Defence.

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Cross-examination by Mr. von Bone (Continued)

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1 So maybe it's good to have a clear line on this.

2 But perhaps Mr. von Bone could clarify this a bit further.

3 PRESIDING JUDGE VELDT-FOGLIA: Yes, I will continue to make
4 rounds then in order to have everybody say its view on this.

5 I saw movement also at the right side again, but you are fine
6 with the comments you made.

7 Mr. von Bone --

8 MR. VON BONE: Yes --

9 PRESIDING JUDGE VELDT-FOGLIA: As --

10 MR. VON BONE: -- I can explain.

11 PRESIDING JUDGE VELDT-FOGLIA: Yes. As with regard to the
12 credibility, would you like to comment on that?

13 MR. VON BONE: Well, there is -- let me first address the issues
14 that I want to explain to you about this.

15 The SPO, obviously, asks about the health of the person and
16 the -- what kind of injuries he suffered. And, obviously, a part of
17 that is also that he's seeking compensation. And these issues will
18 be, at some point, also be addressed at some point in the proceedings
19 by the Defence.

20 And without being able to pose any kind of question to the
21 witness -- and it has nothing to do about the fact whether I need to
22 know how much, or what, just what is, in fact, the compensation that
23 he might be looking for and for what, in particular; if that is the
24 head injuries, or mental aspects.

25 And, as I said, I earlier explored why did he not did that in

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Cross-examination by Mr. von Bone (Continued)

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1 Kosovo itself.

2 Now, as to the credibility. I mean, the credibility, of course,
3 also is about the fact if somebody seeks compensation about for
4 anything, then that -- that, I mean -- let me put it like this: I
5 will test it lightly whether that is, in effect, related to any of
6 the issues that we are dealing with in the course of the Defence.
7 And in that perspective, I think, that it can be a part of his
8 credibility on that issue.

9 We cannot just have a case in which we say, "Well, okay, these
10 are the medical records of somebody. This is what he suffered." And
11 then afterwards, we would not be able to ask any kind of question
12 about that. And that relates also to the issue of the compensation.
13 Without it being a prime topic, but it's just something that I want
14 to cover.

15 And, equally, I mean, people are fine - with Defence witnesses,
16 or whatever - to do the same.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you. I think there is a
18 question here with regard to the witness.

19 [Trial Panel and Court Officer confers]

20 PRESIDING JUDGE VELDT-FOGLIA: The witness will be excused for a
21 moment.

22 [The witness stands down]

23 PRESIDING JUDGE VELDT-FOGLIA: I would like to ask -- I will
24 give you the floor, but I would also like to ask the SPO to comment
25 on the point raised by the Defence counsel, that it's not only about

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1 the credibility that questions should be posed, but also in general
2 about - if I summarise you well, Mr. von Bone - about compensation as
3 such, because it is an issue in -- it could be an issue in these
4 proceedings.

5 So I will first give the floor to the Specialist Prosecutor, and
6 then I will come to you, and then you can also comment on that.

7 MR. MICHALCZUK: Your Honours, thank you very much.

8 We have two issues here. First is the credibility issue, and we
9 believe that, also according to the rules, and according to the
10 practice of most courts and many tribunals around the world, in
11 cross-examination - I am talking about systems who allow
12 cross-examination, of course - more leeway should be given to explore
13 credibility.

14 The rules also talk about the cross-examination, that one of the
15 purposes of cross-examination is, indeed, to challenge, or attack
16 even, credibility of the witnesses of the opposing party. So this is
17 one thing.

18 The second issue is cross-examination in general as a process.
19 So, of course, it varies from jurisdiction to jurisdiction. In many
20 jurisdictions who prefer the adversarial model, cross-examination is
21 much more robust, and judges usually give the cross-examining party
22 more leeway to ask some more questions, because they should be -- the
23 counsel should be given leeway and more possibilities to effectively
24 challenge the witness and the story of that witness.

25 It's not only about credibility. It's about inconsistencies and

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1 other issues. I'm saying all that in the context -- in the broader
2 context as I mentioned before when I was given the floor. At some
3 point, there will be a moment when also the Prosecution will be
4 posing questions to the witnesses put forward by the Defence, and I
5 think it's a discussion we should probably have with regard to how
6 much leeway should be given in cross-examination and whether, for
7 example, leading questions are allowed or not. In some
8 jurisdictions, indeed, in cross-examination leading questions are
9 allowed. In some, it can be only open-ended questions.

10 So as we are having this situation for the first time, maybe you
11 should give it a little bit of more consideration. The Panel, maybe
12 all of us, could contribute to that discussion, maybe on paper, maybe
13 during the next session when we -- also internally, and also the
14 Defence, discuss this issue. And we can come back before Your
15 Honours with some more comprehensive position on this.

16 Cross-examination in general - this is my point - what is the
17 scope of it? What is the allowed scope of it?

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you for your comments,
19 observations on this.

20 MR. MICHALCZUK: Thank you, Your Honours.

21 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, you have the
22 floor.

23 MS. PUES: Thank you very much.

24 Yes, we've got to distinguish two different things here: The
25 one is the criminal trial in which we have the task to establish

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1 specific facts that happened, and for that this witness sits here and
2 has to testify and has to explain his recollection of his experiences
3 and those facts that he can recall. And this is what we need to test
4 in this cross-examination or what the different parties need to test.

5 The question of the legal consequences is a different one, and
6 there can be different legal consequences to this -- to the facts
7 that we, at the end of this trial, might have established, and that
8 you, Your Honours, of course, are called to establish.

9 Those legal consequences can be a conviction. In that case,
10 would we ever ask a witness here how long do you expect the accused
11 to go to jail for? Not exactly a question that, to me, occurs as one
12 that the Defence might want to pose or anyone else, and not one where
13 we would think this actually helps us in ascertaining the truth.

14 And the same is true, in my view, for what kind of compensation
15 does someone expect, because it is the question of reparations as
16 another legal consequence that may flow from -- depending on the
17 facts that have been established. And this is what we are doing here
18 at the moment.

19 And this second question on the legal consequences with regard
20 to reparations is one where we - and as lawyers, I am sure we all are
21 capable of doing so - need to think basically along two different
22 tracks that run alongside and that is ultimately this reparations
23 claim which is of a different nature. And we are in uncharted
24 territories here because it is the first case before the KSC and
25 because different courts before us have done it slightly differently.

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1 ICC, for example, therefore separates out the reparations proceedings
2 as such.

3 While we don't do that, this doesn't mean that this would be the
4 appropriate point to discuss with someone who hasn't had the chance
5 yet to have the full legal consultation on this matter and could have
6 had the full legal advice -- and we're actually getting to a point
7 here where we might need redactions because it might occur that the
8 witness is someone who may be among those participating, yes?

9 So this is something to think about. And I try to speak more in
10 the abstract.

11 So every victim participating in the proceedings who may seek
12 reparations, and we've made clear that this is the case, can only
13 over time fully understand the nature of this and the possibilities.
14 For example, for that, all the expert reports, that have been asked
15 for still need to be heard, and only then can ultimate legal advice
16 be given which would inform the victims participating to form their
17 opinions, and only then do we actually have a sort of a solid ground
18 on which we can stand.

19 This would be absolutely premature to discuss here at this point
20 with this particular witness. And, therefore, I think this is under
21 no circumstances anything that -- where that cross-examination is the
22 right place for this.

23 Thanks.

24 MR. VON BONE: I would like to ask the floor for one issue about
25 this again, but I think it is better to do that in private session.

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1 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, for the next
2 time, I was going to refer to you --

3 MR. VON BONE: Oh, sorry.

4 PRESIDING JUDGE VELDT-FOGLIA: I will not forget you.

5 MR. VON BONE: Sorry about that.

6 PRESIDING JUDGE VELDT-FOGLIA: We have all our parties and the
7 Victims' Counsel here.

8 MR. VON BONE: Yes, sorry.

9 PRESIDING JUDGE VELDT-FOGLIA: So I will give you the floor now.
10 Please, Madam Court Officer, can you bring us into private
11 session.

12 ~~[Private session]~~ [Open session]

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

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

15 Defence Counsel --

16 MR. VON BONE: Your Honour --

17 PRESIDING JUDGE VELDT-FOGLIA: -- you have the floor.

18 MR. VON BONE: -- the last issue I wanted to raise, and I do
19 that in private session, but we have health documents of this witness
20 in the case, and those health documents we are supposed to rely on in
21 some way or another.

22 So if somebody says, you know, [REDACTED]

23 [REDACTED] then what is the value of such document if

24 we cannot at all raise any kind of issue? And I have touched very
25 lightly - very lightly - on this entire issue. But I would say it

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1 might go into the credibility of a particular witness regarding an
2 issue.

3 [REDACTED]

4 [REDACTED]

5 fine. But, I mean, that goes to the credibility and also relates to
6 a form of any kind of compensation that he is seeking for some kind
7 of injury. And it is just a matter that it goes into -- it is in one
8 part credibility, which I hardly touched upon, but I want to know a
9 little bit, okay, if you seek some kind of compensation, what kind of
10 compensation are you seeking for. I'm not asking him for a legal
11 thing or amounts or to what that would help. But if he can make any
12 suggestions on that, it might benefit, actually, the entire process.

13 And that's all I wanted to say regarding this issue. I haven't
14 touched upon it. I won't touch upon it. But at some point, those
15 things can be addressed, of course. And it's not because it is
16 somebody because -- who is seeking compensation or who is -- who
17 might have a dual status that the Defence could absolutely ask no
18 questions about that, because that would be out of order.

19 If the Prosecution is able to ask questions about it, and the
20 Victims' Counsel does, at some point it is relevant in the entire
21 proceedings.

22 PRESIDING JUDGE VELDT-FOGLIA: Okay. We get your point.

23 MR. VON BONE: Thank you very much.

24 PRESIDING JUDGE VELDT-FOGLIA: You made your point, Defence
25 Counsel. And for me, it's clear what you seek.

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1 [Trial Panel and Court Officer confers]

2 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, I see you
3 standing again.

4 MS. PUES: Yes, I will be very brief.

5 Exactly this last point confirms what I said earlier. If you
6 have any doubts on [REDACTED] that this witness has had, ask
7 about those. Test the credibility on those. Those are facts, facts
8 we need to establish, and that's exactly where you need to
9 distinguish. But that is a different question to the question of
10 compensation, as such.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 MR. WHITING: Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: Please, Mr. Prosecutor.

14 MR. WHITING: Thank you, if you might -- yes.

15 Thank you. I'm sorry to interject, but since this implicates an
16 office policy, I would like to just address it briefly.

17 I just want to be clear that we have some difference with the
18 Victims' Counsel on this point. Our view is that there is some --
19 there is room to explore credibility issues with respect to issues of
20 compensation or benefits.

21 However, I think that it would benefit the process and the
22 fairness of the proceedings if they were done with some directness
23 and specificity; that is, if the questions were put to the witness,
24 if it were directly put to the witness if his motivation is affected
25 by the compensation, if that's the reason he is here. Dancing around

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1 the compensation issue I don't think is particularly fair to the
2 witness, and it raises these questions about whether we're really in
3 credibility or motivation.

4 Our position is that there's room for these questions. However,
5 they should be asked directly and pertinently, and the witness should
6 have a chance to address whether, in fact, his motivation -- he is
7 motivated and he is here testifying in this courtroom about these
8 charges and in this case because he expects to receive compensation.

9 So that's the position of our office. Thank you.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Deputy
11 Specialist Prosecutor. Good.

12 Are all views been brought sufficiently before the Panel? Yes.

13 Now, what the Panel will do: We will go back. We will have a
14 short deliberation just to see where we stand on this, and then we
15 will come back, and I don't think it will take us very long.

16 The Court is adjourned for five minutes.

17 For the translators: The Court is adjourned for five minutes.

18 --- Recess taken at 12.42 p.m.

19 --- On resuming at 1.01 p.m.

20 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could we
21 please go back into public session.

22 [Open session]

23 THE COURT OFFICER: Your Honours, we are back in open session.

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

25 I have a look at the time, and I have an answer to the specific

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1 question you wanted to pose, but we have decided to give some more --
2 general guidance will not be -- I do not think it will be an oral
3 order, but some general guidance after the break on this issue.

4 We already said in our Conduct of Proceedings that we were not
5 going to issue a decision on specific questions. But as the matter
6 has been raised now, we can give some guidance on that.

7 The witness is already outside. We will leave him there till
8 after the break.

9 There is a question for the Defence counsel with regard to his
10 client. Has the connection been for so far good?

11 [Specialist Counsel confers]

12 MR. VON BONE: Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: Yes. And that went fine?

14 MR. VON BONE: [Microphone not activated].

15 PRESIDING JUDGE VELDT-FOGLIA: And, Mr. Mustafa, I did not say
16 this morning, but I will say it now to you: You have the right to
17 remain silent and no consideration will be made in the determination
18 of your innocence or guilt. That I have to say always to you before
19 I talk to you.

20 Can I ask you if the connection has been fine?

21 THE ACCUSED: [via videolink] [Interpretation] Yes, Your Honour.
22 Very good.

23 PRESIDING JUDGE VELDT-FOGLIA: Sorry, Madam Interpreter, could
24 you repeat the last -- what the accused said, because I was without
25 my headphones.

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1 THE INTERPRETER: "Yes, Your Honour. Very good."

2 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mustafa, was the connection
3 fine? Could you follow the proceedings well?

4 THE ACCUSED: [via videolink] [Interpretation] Yes, Your Honour.

5 PRESIDING JUDGE VELDT-FOGLIA: Have you been able to consult
6 with your lawyer?

7 THE ACCUSED: [via videolink] [Interpretation] Yes, Your Honour.

8 PRESIDING JUDGE VELDT-FOGLIA: Just to assure ourselves that you
9 can effectively follow these proceedings and participate.

10 Then it's now 1.00. We break until 2.30. The hearing is
11 adjourned.

12 --- Luncheon recess taken at 1.05 p.m.

13 --- On resuming at 2.39 p.m.

14 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, everyone.

15 First, I have a general remark. I would like to ask the parties
16 and the Victims' Counsel that when discussing, you direct to me and
17 not to each other. I think that will be a good thing to do.

18 And then I promised to give some guidance with regard to the
19 types of admissible questions to put to the witness when it comes to
20 compensation issues.

21 Without schooling you, but there are two procedures ongoing
22 before this Panel: On the one hand, we have the criminal proceedings
23 regarding the establishment of the truth within the confines of the
24 Confirmed Indictment; and, on the other hand, we have the reparation
25 proceedings in case a conviction is entered and the Panel does not

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1 decide to refer the victims to the Kosovo courts. And I refer to
2 Filing 144, paragraphs 14 and 15.

3 In cross-examination, the Defence counsel can, in principle, ask
4 questions regarding both proceedings. According to Rule 143(3) of
5 the Rules:

6 "In cross-examination, questions as to the credibility of the
7 witness can be asked, including by exploring the witness's reasons
8 for giving testimony."

9 It is not allowed to ask the witness why he or she wants
10 compensation. Witnesses who are also victims participating in the
11 proceedings are entitled to compensation under the legal framework of
12 the KSC if they meet the conditions.

13 The witness can be asked about the motives or motivations behind
14 their testimony to the extent that this may affect their credibility.

15 Furthermore, it's important to keep in mind that the purpose of
16 the questions put to the witnesses should be to establish the facts.
17 Admissible questions include, for example, the kind of harm that the
18 witness has allegedly suffered as a consequence of the crimes charged
19 in the Confirmed Indictment, the medical costs incurred, the nexus
20 between that harm and the alleged facts in the Confirmed Indictment.

21 No questions to the witnesses are allowed that aim at eliciting
22 his or her views on the type or amount of compensation that he or she
23 wants to receive.

24 Scope and modalities of the reparations, if any, shall only be
25 discussed at a later stage.

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1 So then with regard to your question, Defence Counsel. You were
2 saying what kind of compensation do you seek - those are my words,
3 Defence Counsel. But was that what you asked for?

4 MR. VON BONE: Yes, Your Honour. So not why.

5 PRESIDING JUDGE VELDT-FOGLIA: So not why but what.

6 MR. VON BONE: What.

7 PRESIDING JUDGE VELDT-FOGLIA: So this question we will not
8 allow.

9 MR. VON BONE: Okay.

10 PRESIDING JUDGE VELDT-FOGLIA: You have some more questions for
11 the witness?

12 MR. VON BONE: Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: Your microphone.

14 MR. VON BONE: Yes.

15 PRESIDING JUDGE VELDT-FOGLIA: Before I let the witness in, I
16 will call appearances.

17 I look at my right-hand side and I see the same faces.

18 MR. MICHALCZUK: No changes, Your Honour, in the composition.

19 PRESIDING JUDGE VELDT-FOGLIA: And the Victims' Counsel, the
20 same.

21 Defence Counsel, you are the same team. And I see Mr. Mustafa,
22 who is present.

23 And I see the representative for the Registry.

24 And the Panel is there, too, in its completeness, like this
25 morning.

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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

1 Now, Court Usher, could you please usher the witness in again.

2 Thank you.

3 [The witness takes the stand]

4 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, welcome.

5 THE WITNESS: [Interpretation] Hello.

6 PRESIDING JUDGE VELDT-FOGLIA: We will continue now with
7 examination by the Defence counsel.

8 Defence Counsel, could you indicate how much time you think you
9 will be needing still?

10 MR. VON BONE: I think not more than ten minutes.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you. You have the floor.

12 MR. VON BONE:

13 Q. Good afternoon, Mr. Witness.

14 A. Good afternoon.

15 Q. Mr. Witness, I have a question regarding a medical document that
16 [REDACTED]

17 [REDACTED]

18 MR. VON BONE: Should I read the number for the Court? It's
19 SITF00296103 until SITF00296121. And it is the English translation.
20 And the document that I am specifically asking about is the document
21 with -- it's the first page, 103. Nothing else.

22 Q. Mr. Witness, you went [REDACTED] to a medical centre. And the
23 document says that you suffered a [REDACTED]

24 [REDACTED] and two weeks ago you complained of persistent
25 headaches and in the last two days of total fatigue in the limbs.

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Cross-examination by Mr. von Bone (Continued)

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

1 Is it correct that you went to that [REDACTED]?

2 A. Yes.

3 Q. And is it correct what I'm reading here?

4 A. To tell you the truth, back then I was ashamed to go to the
5 doctor and tell the doctor that I was beaten up by the KLA. I said I
6 was sick and I told the doctor that I don't know what I'm sick of.

7 Q. And for what reason were you ashamed? Did you know that doctor
8 or was there any particular reason to be ashamed?

9 A. So I'm ashamed to mention it even here, let alone to mention
10 that before the doctor. It's not good to beat somebody up. And for
11 that reason, I didn't tell him.

12 Q. It's not good to beat somebody up. But at the same time, it's
13 also not good to tell something that is not the truth.

14 PRESIDING JUDGE VELDT-FOGLIA: Where is the question?

15 MR. VON BONE:

16 Q. Would you agree with that?

17 A. Myself? No.

18 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I don't think
19 the --

20 MR. VON BONE: I understand.

21 PRESIDING JUDGE VELDT-FOGLIA: -- victim has understood your
22 question.

23 MR. VON BONE:

24 Q. It is not good to lie to your doctor. Would you agree with
25 that?

Witness: W03593 (Resumed) (Open Session)

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Cross-examination by Mr. von Bone (Continued)

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

1 A. Yes.

2 Q. And once again, could you explain why you, as a person who was a
3 victim of beating, would need to be ashamed to a doctor of a
4 hospital?

5 A. I don't know. Probably I'm stupid, but I was afraid. And this
6 is what I said. So when I went to the doctor, he had the surgery
7 upon me, and he knows why and what. And so it came from something,
8 but that is what it is.

9 Q. And did you ever go back to that doctor?

10 A. Yes.

11 Q. And did you tell him later on what had happened?

12 A. No. No, man. I didn't. He did his job. He asked me what's
13 the cause of that, and I told him I don't know. And so he had the
14 operation on me, and he knows that I don't know anything.

15 Q. Okay.

16 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I see the
17 Specialist Prosecutor standing.

18 Please.

19 MR. MICHALCZUK: Your Honour, I hate to interrupt. But as this
20 is a public session, as we understand, yesterday we were asked by
21 Madam Court Officer to switch off the microphone after posing each
22 and every question. So perhaps also my learned colleague could do
23 the same.

24 It's the security issue of the witness. That's why I'm
25 intervening.

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Cross-examination by Mr. von Bone (Continued)

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1 MR. VON BONE: Sorry.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Prosecutor, for making
3 us notice that.

4 MR. VON BONE:

5 Q. In the next document, which reads 104. It's the following page
6 of the same set of documents. It's a discharge list.

7 MR. VON BONE: So that is SITF00296104.

8 Q. Mr. Witness, it reads as follows, and this document is dated --
9 that is, it is not completely clear. But it says: "Medical
10 assistance received from [REDACTED]"

11 Mr. Witness, this document says that the complaints that you
12 have for [REDACTED], and numerous
13 [REDACTED]. And these complaints stretch over a period of
14 one year.

15 Is that correct, Mr. Witness, what this document says?

16 A. Yes, because I had problems with [REDACTED] all the time.

17 Q. And did those [REDACTED], as it says here, stretch over a period
18 of one year?

19 A. It was longer than that. It lasted for longer than that.

20 Q. So could you explain why the doctor or the ward head would write
21 down that it would stretch over a period of only one year?

22 A. It was then that I started having the [REDACTED].

23 Q. You started having the headaches in the period of [REDACTED]
24 [REDACTED]

25 A. I haven't seen the date. I was not interested in the date. I

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Cross-examination by Mr. von Bone (Continued)

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1 was not concerned about that. But I was just worried about my

2 [REDACTED]

3 Q. Thank you, Mr. Witness.

4 MR. VON BONE: We would like to show one document in private
5 session, Your Honour. Or maybe in public session. However, the
6 document, as it was displayed yesterday, was not to be seen by the
7 public. So I don't know exactly how that works, but whether we
8 are -- we can be in public session as long as the document is not
9 being shown in to the public.

10 PRESIDING JUDGE VELDT-FOGLIA: I look at the Court Officer. I
11 think that instruction is clear.

12 THE COURT OFFICER: Understood.

13 MR. VON BONE: And the ERN number is 061012 until 061015.

14 Now, let me see what would be the tab. Most probably --

15 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, just a moment.

16 [Trial Panel and Court Officer confers]

17 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel --

18 MR. VON BONE: Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: -- I was informed by
20 Madam Court Officer that if we are in public session but not showing
21 the document in public -- not showing the document, then Mr. Mustafa
22 will not be able to see the document.

23 [Trial Panel and Court Officer confers]

24 PRESIDING JUDGE VELDT-FOGLIA: It doesn't -- we were searching
25 for a way to have your client see the document too, but that is not

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Cross-examination by Mr. von Bone (Continued)

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

1 possible.

2 Do you agree with that?

3 MR. VON BONE: Yes, I agree with that, Your Honour.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay.

5 MR. VON BONE: I think the tab is most probably tab 11 of the
6 Prosecution.

7 [Microphone not activated]. Are we now in private session or
8 are we in public?

9 PRESIDING JUDGE VELDT-FOGLIA: No, we are in public session but
10 the document is not shown to the public.

11 THE INTERPRETER: Microphone, please.

12 PRESIDING JUDGE VELDT-FOGLIA: Excuse me. We are in public
13 session. But for the public, this document is not visible.

14 MR. VON BONE:

15 Q. Mr. Witness, can you see this document?

16 A. Yes.

17 Q. Yes. Mr. Witness, on the right bottom corner, could you please
18 say what is written there? In the right bottom corner.

19 A. It says the KLA.

20 Q. Right. And on the left side, if --

21 A. On the left side, it writes the military police.

22 Q. Right. Could you please indicate why the word UCK is written on
23 the right side and the military police is written on the left side of
24 that document?

25 A. How to write it otherwise? I don't know how.

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Cross-examination by Mr. von Bone (Continued)

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1 Q. No, you -- I don't think we understand each other, Mr. Witness.

2 I will explain better to you. In between there is also something
3 written above a horizontal line. Can you see that?

4 A. Yes.

5 Q. And what is written there?

6 A. It reads -- so it says about 1 kilometre the military police was
7 away from the army of Kosovo.

8 Q. Thank you very much. And on the top right, I believe there is
9 also written a name, is that correct, above the circle on the right
10 side of this document? What is that name?

11 A. So the name is Fatmir Sopi. He is the commander of the KLA.

12 Q. And why did you write down his name there?

13 A. I was asked who was the commander there and who was the
14 commander here, so now I don't know why I have said that name. Why
15 I've written that down.

16 Q. There seems to be on this sketch two parts: The UCK and the
17 military police.

18 A. Yes.

19 Q. So with this sketch and the 1 kilometre, what did you try to
20 indicate?

21 A. I was asked what was the distance, just like you are asking me
22 now. And I indicated on this drawing that the distance was
23 1 kilometre, approximately.

24 Q. That is the distance between the military police and the army,
25 UCK?

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Cross-examination by Mr. von Bone (Continued)

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1 A. Yes.

2 Q. And was Fatmir Sopi the head of the UCK, the army, there?

3 A. Yes.

4 Q. Had you ever been to his house?

5 A. No, never.

6 Q. And do you know who was the head of the military police?

7 A. Yes, that was your client.

8 Q. That is what you were trying to explain in this sketch. I
9 understand. Okay. I have no questions on anything else on this
10 document.

11 MR. VON BONE: Let me just briefly check.

12 [Specialist Counsel confers]

13 MR. VON BONE:

14 Q. How did you actually get to know that the distance between the
15 army and the military police was 1 kilometre? How did you get that
16 information?

17 A. I knew approximately the distance. I'm not a geologist to
18 measure distances.

19 Q. No, that is not the problem, Mr. Witness. The question is just
20 how did you know that these were separated from each other?

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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Cross-examination by Mr. von Bone (Continued)

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

1 Q. But was this information that you received after the war or was
2 it during the war -- no, sorry. Was this information information
3 that you received after your detention or during your detention or
4 before your detention?

5 A. Sir, how could I know such things in war? These questions that
6 you're asking me about distances and everything, when once -- and not
7 just once, I mentioned here that I was kept inside. I stayed all the
8 time in the barn.

9 Q. So how could you make this sketch then if you didn't know and if
10 you couldn't know? How could you make this sketch?

11 A. I'm telling you, sir, that was what I thought the distance was.
12 I didn't measure it. I'm not an expert. It was just my assumption
13 that that was the distance.

14 MR. VON BONE: Your Honour, I think we have finished. I thank
15 the Court.

16 Q. And I thank the witness, at this moment.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

18 Pursuant to Rule 127(3) of the Rules, and our Decision on the
19 Conduct of Proceedings, the Panel may allow redirect examination as
20 deemed necessary.

21 Mr. Prosecutor, do you wish to proceed with the redirect
22 examination of the witness; and, if so, how much time do you think
23 you will need?

24 MR. MICHALCZUK: Your Honours, I would be indeed willing to
25 proceed with redirect examination. We are going to explore just two

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1 issues that could still raise doubts, perhaps. We have got to just
2 clarify those. And I envisage that the total time that we would need
3 for that would be around 15 minutes. I hope not more than that.

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you for that information.

5 I will try for today, and I am informing you of that, try to --
6 I already asked CMU to add one extra session of an hour for this
7 afternoon in order to see that we finish the examination of the
8 witness today. That would be what I hope to be able to do.

9 Mr. Prosecutor, you have the floor.

10 MR. MICHALCZUK: Thank you very much, Your Honours.

11 Re-examination by Mr. Michalczuk:

12 Q. Mr. Witness, I know you are tired. I'm going to just take a few
13 more minutes of your precious time. Please focus within these few
14 minutes, and I'll have later on no further questions.

15 Today you have been asked a few questions by the Defence
16 concerning whether you heard the name of the accused at any point
17 when you were held in Zllash, and I would like to clarify this issue
18 because there might be some confusion on this matter.

19 In this regard, I would like to refer you to your statement you
20 gave on [REDACTED], in this
21 court.

22 MR. MICHALCZUK: And, for the record, it would be the transcript
23 of that session; again, [REDACTED]. And I would like to read
24 a very short passage that is an exchange between myself and the
25 witness, starting from line 18.

1 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, which page?

2 MR. MICHALCZUK: This is page 54 of the transcript and line 18.

3 Q. Mr. Witness, listen to me carefully. I'm going to read an
4 exchange that we had just on Monday - my questions, your answers -
5 and listen to this. The question of the Prosecutor --

6 MR. MICHALCZUK: And this is, by the way, Your Honours, just to
7 be very clear. This is the moment when I was referring the witness
8 to his own statement given in the pre-trial proceedings to the SPO.
9 This is the statement from [REDACTED], Part 2, Revised. And we
10 referred to page 28 of that statement.

11 Q. So coming back to the minutes of the trial from Monday, the
12 Prosecutor asked you the question, and I was reading from your
13 previous statement:

14 "'Right. But was this person on that second occasion,'"
15 referring to the accused, "'was this person the same person as on the
16 first time, the person who was wearing the red military hat or
17 someone else?'"

18 Your answer was:

19 "'Yes, that person, [REDACTED] He was the person that put the
20 revolver there. It was that person.'"

21 Then the Prosecutor asked you:

22 "'Right. And at any stage, did you hear the other KLA calling
23 this person by his name or by any name at all?'"

24 And your answer was:

25 "'Yes. I've heard one once. I remember one person saying once,

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1 Here, here, here, [REDACTED] And I heard that.'" "

2 And then there is the next question of the Prosecutor to you:

3 "'But you heard one referred to him as [REDACTED]'" "

4 And your answer is:

5 "'When I entered the room, [REDACTED] asked him what to do.

6 So I knew that this was [REDACTED].'" "

7 My question to you on Monday, in relation to this exchange, was:

8 "... is that true what you stated in that statement to the

9 Prosecutor in [REDACTED]?"

10 And you said:

11 "Yes."

12 And my question was:

13 "So you indeed heard somebody mention the name of [REDACTED] is
that

14 correct?"

15 And you said:

16 "Of course, yes."

17 So after having hearing this whole exchange that I have just
18 read back to you, do you confirm again that while you were in Zllash,
19 you indeed heard the name [REDACTED]?

20 A. Yes.

21 MR. MICHALCZUK: Your Honours, I have another part of the
22 statement -- of the same statement that I quoted before, from
23 [REDACTED] but this time during the session - either on Monday or
24 Tuesday - I did not make any reference to it. However, I would like
25 to put it to the witness. And this is the statement which is -- on

1 this part is contained on page 18 of this -- of that statement. And
2 this was the interview of the witness by the Prosecutor. It's the
3 same time, the same date. And I would like to start referring the
4 witness to a very short exchange. Just one question by the
5 Prosecutor and one short answer.

6 It starts on page 18 from line 8 and it goes on to line 14.

7 Q. So, Mr. Witness, just you said before the Prosecutor [REDACTED]
8 [REDACTED] something on the following question. He asked you this
9 question. The question goes like this:

10 "Just tell me, when did you first connect that the person who
11 beat you twice, two occasions, the person with the red hat who you
12 call [REDACTED] when did you first find out? When did you first
13 connect that person with that name, with the name [REDACTED]?"

14 And your answer to that question was:

15 "But I heard that there. There, when one of them said
16 ' [REDACTED] ' "

17 Do you confirm that, indeed, one of the persons in Zllash named
18 his [REDACTED]?

19 A. Yes.

20 Q. Mr. Witness, I don't want you right now to say any names.
21 Yesterday, as you recall, we saw the document, the sketch that you
22 drew at some point, and you put the name there underneath. Also, my
23 learned colleague, a few minutes ago, showed you the same sketch, and
24 there was that name. I don't want to -- I don't want you to mention
25 that name. We all saw it on our respective screens.

My question to you is the following: Was hearing the name of

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1 the accused at Zllash one of the reasons that you are saying that he
2 was the one who beat you on those two occasions?

3 A. Yes. Yes, yes.

4 MR. VON BONE: Your Honour.

5 PRESIDING JUDGE VELDT-FOGLIA: I see the Defence counsel
6 standing.

7 Please.

8 MR. VON BONE: Yes, Your Honour, indeed, because the question,
9 as it is being asked, I believe it is not correct. And it is
10 improper to say that it was the name of the accused that was, in
11 fact, told. The question that my learned counsel said was:

12 "My question is to you, is the following: Was hearing the name
13 of the accused at Zllash one of the reasons that you are saying that
14 he was the one who beat you?"

15 Maybe - maybe, Your Honour - the witness should not hear this.

16 PRESIDING JUDGE VELDT-FOGLIA: No, wait, wait, wait, Defence
17 Counsel. I'm going to first do something else.

18 Could we please -- Mr. Witness, could you please take off your
19 headphones. That's better for now for the discussion we are going to
20 have. Thank you for that.

21 Please proceed.

22 MR. VON BONE: Yes, Your Honour.

23 The name of the accused is here being merged with the name that
24 the person -- the witness heard. And that's why I am objecting to
25 the question. I think it is not correct to say that it was the name

1 of the accused. It is a name that he heard, that he does not want to
2 pronounce, but that is not the name of the accused.

3 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, could you
4 reformulate that.

5 MR. MICHALCZUK: Of course, Your Honour, I will.

6 PRESIDING JUDGE VELDT-FOGLIA: And if you could wait a moment,
7 then the witness will ...

8 Please, could you help the witness to put on his headphones
9 again.

10 MR. MICHALCZUK:

11 Q. Mr. Witness, I was given an instruction to pose this question in
12 a slightly different manner, so if I can pose this question again.

13 The question would be: Was hearing the name, the name [REDACTED]
14 the
15 name that was mentioned before by yourself, at Zllash, was it one of
16 the reasons why you are saying that he was the one who beat you on
17 those two occasions?

18 A. Yes.

19 Q. You also said at some point that you learned that that person,
20 [REDACTED] at Zllash. Now, I want you to listen to this
21 question carefully. And before you answer my question, give yourself
22 time to think about how you're going to answer.

23 When you think back about the beatings, two beatings that you
24 received in Zllash, and you testified about them [REDACTED] and also
25 on [REDACTED] was there anything about the person who was beating you
or
how he acted that made you think that he was [REDACTED] at Zllash?

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1 Was there anything about his behaviour, the way he treated you, the
2 way he was saying things, the way he was carrying himself that made
3 you think that he was, indeed, the [REDACTED] there?

4 A. Well, to tell you truth, I didn't know who that person was. But
5 from time to time, I heard him mentioned as [REDACTED]

6 And based on his uniform and the [REDACTED] I knew that that was the
7 person. And I was beaten the second time by that very person. He
8 [REDACTED] and then I was brought to the

9 room where he was, and that's where he beat me with a [REDACTED]

10 MR. MICHALCZUK: Your Honours, I'm going to close this very
11 issue, and I'm going to move on to another one. But for this one, I
12 would appreciate if you went into private session no more than five
13 minutes, Your Honours.

14 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
15 please revert us to private session, please.

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

17 THE COURT OFFICER: Your Honours, we are now in private session.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

19 Mr. Prosecutor, please proceed.

20 MR. MICHALCZUK: Thank you.

21 Q. Mr. Witness, just very briefly a last few questions and that
22 will be all on my part for today.

23 Yesterday, upon my questions, and today upon the questions of my
24 learned colleague, the Defence counsel, you spoke briefly about a
25 certain meeting with a person whom today you identified as

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1 [REDACTED] I would like to ask you two, three
2 questions about that whole situation and about that person.

3 [REDACTED] at Zllash at that time, 1999?

4 A. Yes.

5 Q. You told us that at some point he entered the barn where you
6 were held, and he asked you how you were doing. Do you remember how
7 he was dressed when you saw him on that occasion?

8 A. Yes.

9 Q. How was he dressed?

10 A. He had -- he didn't have a hat. He had a jacket, a camouflage
11 KLA jacket.

12 Q. Do you remember any insignia on his uniform?

13 A. No, I didn't see.

14 Q. I believe yesterday, and also today in the answers to the
15 questions posed by my learned colleague, you said that several people
16 told you that that person, Cali, was in Zllash and that he was
17 commander there. [REDACTED] one of the persons - one of the
18 persons - who also told you that Cali was the commander at Zllash?

19 A. I don't know. I don't -- I can't remember whether I spoke with
20 [REDACTED]

21 [REDACTED]

22 Q. I understand that. And you said it was a very short meeting.
23 My question does not deal with that meeting only, that short
24 encounter that you had in barn. My question -- because you told us
25 that he was a KLA soldier. [REDACTED] at any point, even

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1 later, told you -- sorry, was one of the persons who told you that
2 Cali was the commander at Zllash?

3 A. Yes, yes.

4 Q. One very general question: I believe you told us yesterday, and
5 also today earlier, that there were -- that you spoke with many
6 people who told you that Cali was commander at Zllash. Could you
7 more or less tell us the number of people who told you about it? You
8 don't have to give us any precise estimation. A rough number would
9 suffice for an answer.

10 A. Let's say five persons, for example.

11 Q. To conclude this line of questioning about that person,

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Let me, very briefly, read you back what you told us about that
16 encounter just yesterday.

17 MR. MICHALCZUK: And, Your Honours, I am referring to the
18 transcript from yesterday, 21 September 2021, and I would like to
19 refer the witness and Your Honours to page 39, and we should start
20 from line 18 and continue to line 5 on the following page, page 40.

21 Q. So, Mr. Witness, this is the exchange that we both had yesterday
22 - you and me - on this issue. Without mentioning any names, my
23 question, the relevant part of it, was as follows:

24 "Did anybody approach you in relation to today's testimony
25 telling you what could happen to you in case you decide to testify

Witness: W03593 (Resumed) ~~(Private Session)~~ (Open Session) Reclassified pursuant to F493 Page 660

Re-examination by Mr. Michalczuk

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

1 before this Court?"

2 And I said:

3 "No names, no places, but do you confirm that that fact had,
4 indeed, happened?"

5 And you said:

6 "Yes."

7 And my question was to you:

8 "Again, don't mention the name of that person. Don't mention
9 the place. But tell us, what did that person tell you?"

10 Your answer to that was:

11 "He said," and I quote, "'I'm addressing you [REDACTED]
12 [REDACTED] I don't know whether you were called to
13 testify or not. But if you would take my advice, don't go.' And to
14 tell you the truth, I got the same advice from my family as well. He
15 said that 'In that case, you would be killed.'"

16 Do you confirm that that person, [REDACTED] as you said
17 today, indeed told you not to testify in this case otherwise you
18 would be killed?

19 A. Mr. Prosecutor, I spoke to you personally, and I told you not to
20 mention [REDACTED] in these proceedings, because he was outside
21 everything. Now you've exaggerated all this. And I told you in
22 person that this person spoke to me privately. He said, "Listen, we
23 [REDACTED] and now we are speaking
24 about this for hours.

25 My head is this big at this moment. I really -- I really cannot

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1 take this. If I knew that you would keep me here for three days
2 here, I would never come to testify. I thought it would just take
3 one day. I was not here to be maltreated. I'm not an accused here.
4 I really don't know -- I really cannot live any longer. I'm sick and
5 I want this issue to be over and done with.

6 You are asking me 10, 15 times the same question. I cannot take
7 it anymore.

8 Q. Mr. Witness, I'm finishing my questioning. Just one last on
9 this: Do you confirm what you told us yesterday on this meeting with
10 that person -- and that will be my last question.

11 A. I really cannot follow this anymore. I really can -- I'm upset
12 and I just can't listen to anything anymore.

13 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, I will ask the
14 Prosecutor not to continue with this point. I think you have made
15 clear what your answer.

16 THE WITNESS: [Interpretation] I think it has been exaggerated.
17 You've called me here to take me to the hospital afterwards. You
18 haven't called me here for any other reason. And this other side was
19 even worse. They were asking me 10, 15 times for the same - same -
20 question. It's a shame. It's embarrassing. I haven't seen such a
21 court with my eyes before.

22 They're asking me 30 times what, what, what, what, what for the
23 same thing. I'm really fed up.

24 MR. MICHALCZUK:

25 Q. Very quickly. Mr. Witness, thank you very much. I don't have

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1 any further questions then.

2 MR. MICHALCZUK: This will conclude my redirect examination
3 then. Thank you.

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

5 Mr. Witness, I understand that these three days have been very
6 tiring and very long, but your --

7 THE WITNESS: [Interpretation] Very long.

8 PRESIDING JUDGE VELDT-FOGLIA: But your participation as a
9 witness is really important, and everybody should be in the position
10 to ask you questions about a very serious allegation that is made to
11 the accused in this case. So I ask you bear with us a little bit
12 more, and then I hope it will be over.

13 Victims' Counsel, is there something you would examine the
14 witness -- is there something you would like to ask the witness, and
15 how long do you need, taking also into account how Mr. Witness is
16 feeling? Although that should not preclude you from asking
17 questions.

18 MS. PUES: Thank you, Your Honours.

19 Q. And thank you, Mr. Witness.

20 MS. PUES: I don't have any further questions at all. There is
21 maybe one small thought. I think what Mr. Witness just said affirms
22 the need to avoid repetition.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay. But should we discuss that
24 at a later stage --

25 MS. PUES: Yes, absolutely.

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Further cross-examination by Mr. von Bone

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

1 PRESIDING JUDGE VELDT-FOGLIA: -- and not now.

2 MS. PUES: Yes. But no questions for myself. Thank you very
3 much.

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can we
5 revert to public session.

6 [Open session]

7 THE COURT OFFICER: Your Honours, we are back in open session.

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

9 I turn now to the Defence. Do you wish to proceed with a
10 rejoinder examination of the witness; and, if so, how long will you
11 need?

12 MR. VON BONE: Yes, I wish to. And I wish to do that in private
13 session. And it would take about seven minutes, depending on the
14 answers of the witness.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

16 Madam Court Officer, can we revert back to private session,
17 please.

18 ~~[Private session]~~ [Open session]

19 THE COURT OFFICER: We are back in private, Your Honours.

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

21 Defence counsel, you have the floor.

22 Further cross-examination by Mr. von Bone:

23 Q. Mr. Witness, thank you very much for your patience and your
24 answers today. I have a couple of last questions, and they are
25 [REDACTED]

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1 The first thing is, Mr. Witness, could you explain why in none
2 of your statements you have ever mentioned the [REDACTED] or what
3 he did for you?

4 A. I didn't want to mention. I didn't have the need to mention,
5 because I can see, like, 1.000 persons in a day, and I can't mention
6 every single one. And when I talked to the Prosecutor that day, I
7 told him, "Don't put that as part of the procedure, because I don't
8 want to mention the name of anyone," and I don't want to mention his
9 [REDACTED] And he hasn't done anything bad on
10 me.

11 So I'm not here to tell you what I know about everyone. I'm not
12 here to tell you for the entire world what they do, but I'm here
13 instead just to talk about myself and what I have done myself. And,
14 so, therefore, it would be good to ask the questions related to me in
15 person.

16 Q. And the question that I have is: Why did you then suddenly come
17 up now in 2021 --

18 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel --

19 MR. VON BONE:

20 Q. -- and never before --

21 PRESIDING JUDGE VELDT-FOGLIA: -- Defence Counsel, that question
22 you have just put to him. And he has answered very clearly, the
23 witness has answered very clearly the reasons, and I'm not going to
24 read them out for you. And so now you're repeating.

25 MR. VON BONE: Yes.

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Further cross-examination by Mr. von Bone

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

1 PRESIDING JUDGE VELDT-FOGLIA: And you can see the witness is
2 upset. And as I've told you before, you have the possibility to ask
3 questions, but please refrain from repeating what you just asked. He
4 gave an answer. And it's up to us to evaluate the probative value of
5 what he has said. But, please.

6 MR. VON BONE: I understand, but the question is not why he did
7 not mention him. The question is why would you keep him outside.

8 Q. Why didn't you -- did you not want this to be recorded?

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Defence Counsel, that, for
10 me, is the same question, and I will not allow it.

11 MR. VON BONE:

12 Q. Did you answer my questions truthfully?

13 A. Yes.

14 Q. So when I asked you whether you had actually come to know that
15 the name of the person that you do not want to mention would be the
16 person with the red hat --

17 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, could you
18 rephrase the question?

19 MR. VON BONE: Yes.

20 PRESIDING JUDGE VELDT-FOGLIA: Also for my understanding --

21 MR. VON BONE: Yes.

22 PRESIDING JUDGE VELDT-FOGLIA: -- because I don't know --

23 MR. VON BONE: Yes.

24 PRESIDING JUDGE VELDT-FOGLIA: -- exactly what --

25 MR. VON BONE: Yes, yes.

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

1 PRESIDING JUDGE VELDT-FOGLIA: -- the question is.

2 MR. VON BONE:

3 Q. I asked you when you got to learn that the person with the red
4 hat that you indicated would be the person who would be -- who would
5 have beaten you, that that person would be the person whose name you
6 don't want to mention. And my question is: Did you at that time
7 answer my questions truthfully?

8 A. I don't understand. I have a headache. So you've been asking
9 the same question for 10 or 15 times, and there is no point for me to
10 speak any longer. So I don't understand. So you're just asking me
11 30 different times the same question. I don't know what kind of
12 persons you are.

13 So even if I were the accused, you shouldn't do this to me. So
14 I'm the witness. You can't ask me why have I spoke to someone and
15 why haven't I spoke to someone, because this --

16 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I ask you not --

17 THE WITNESS: [Interpretation] -- not --

18 PRESIDING JUDGE VELDT-FOGLIA: For me, this question is also not
19 very clear, so I would say go to a next question. Or you already
20 used up the seven minutes. So please go further to a new question,
21 if there is one.

22 MR. VON BONE:

23 Q. Mr. Witness, did you actually verify yourself [REDACTED] knew
24 the person called Cali or not?

25 A. Yes, I have asked him in person. I am not here to lie.

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1 Q. But I am asking whether you verified that; and if so, how did
2 you verify that.

3 A. Yes. How I knew it? That's how I verified it. I don't know
4 how to put it.

5 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I see the
6 Victims' Counsel is standing.

7 MS. PUES: Yes, maybe the witness should just take off his
8 earphones.

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, can you take off
10 your earphones? Thank you.

11 MS. PUES: I object to further repetition on the issue of
12 verification, which we have been discussing -- or which the Defence
13 counsel has been discussing --

14 PRESIDING JUDGE VELDT-FOGLIA: Victims --

15 MS. PUES: -- previously.

16 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, could you
17 address me. Because I have --

18 MS. PUES: [Overlapping speakers] -- yes.

19 PRESIDING JUDGE VELDT-FOGLIA: -- the feeling that you are --

20 MS. PUES: Yes, sorry --

21 PRESIDING JUDGE VELDT-FOGLIA: -- for the second time --

22 MS. PUES: This is why, this is why I've been turning to you
23 while I was speaking because I remembered why -- yes, instantly then.

24 So I am objecting to further questions on the issue of
25 verification because this is getting repetitive again. It has been

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Further cross-examination by Mr. von Bone

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1 addressed extensively before by Defence counsel, and I can't see
2 anything new in this line of questioning. And given the state the
3 witness is in, we should really exercise brevity now.

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Victims' Counsel.

5 Defence Counsel, the witness has answered your question. And I
6 would say this has been answered and has been sufficiently treated
7 now.

8 MR. VON BONE: Honestly, Your Honour, he provided an answer, but
9 the answer is as to did he do that, yes; but the question was how did
10 he do that.

11 PRESIDING JUDGE VELDT-FOGLIA: He said --

12 MR. VON BONE: -- that's a -- different.

13 PRESIDING JUDGE VELDT-FOGLIA: -- because he knew. And I think
14 that --

15 MR. VON BONE: Yes, because he knew. That's it exactly.

16 PRESIDING JUDGE VELDT-FOGLIA: If you don't -- the probative
17 value --

18 MR. VON BONE: Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: -- of how we should weigh his
20 answer, that's for another moment. He has said -- he has given his
21 answer, and we have to do with that.

22 So you can proceed to the next question, if you have one.

23 MR. VON BONE:

24 Q. Did you see ever [REDACTED] together with the person called Cali?

25 A. Never.

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1 MR. VON BONE: We have no further questions.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Defence Counsel.

3 Before we proceed, because I'm looking at the clock, and also I
4 was informed that we will not have a full session, full extra
5 session. So that would -- well, we will see how we are going to
6 proceed.

7 What I would like to do now is go into closed session, and then
8 we will see further.

9 Madam Court Officer, can we go into closed session.

10 ~~[Closed session]~~ Open session

11 THE COURT OFFICER: Your Honours, we are now in closed session.

12 PRESIDING JUDGE VELDT-FOGLIA: I would like the psychologist to
13 come to the Bench.

14 [Victims Psychologist confers with Trial Panel]

15 [Trial Panel and Legal Officer confer]

16 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can we go
17 back into public session.

18 [Open session]

19 THE COURT OFFICER: Your Honours, we are back in open session.

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

21 We will have a five-minute break and then we will meet each
22 other again in the courtroom.

23 The hearing is adjourned.

24 [The witness stands down]

25 --- Recess taken at 3.54 p.m.

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

1 --- On resuming at 4.07 p.m.

2 PRESIDING JUDGE VELDT-FOGLIA: What we will do now is not
3 continue the -- oh, I will put it on.

4 What we will do now is not continue the hearing. We will
5 continue tomorrow at 11.30 for reasons that are both of a logistic --
6 for logistic reasons that we cannot have the court longer than 4.30,
7 that means that we have another 20 minutes, and before we then get
8 started it would be 15 minutes, and I don't think that I want to do
9 that in that way. And also for reasons for the witness, so he can
10 have -- and that's the most important one, that he can have a rest.
11 So that is for now.

12 I look at the Specialist Prosecutor's Office, if there are
13 any -- anything you want to raise in general? Not ...

14 MR. MICHALCZUK: Your Honours, no submission on our part for
15 now.

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

17 MR. MICHALCZUK: Thank you.

18 PRESIDING JUDGE VELDT-FOGLIA: And the Victims' Counsel?

19 MS. PUES: No, thank you.

20 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel?

21 MR. VON BONE: Nothing, Your Honour.

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

23 Then we will resume tomorrow, and I will thank the parties, of
24 course, and the Victims' Counsel, and the Registry for their
25 attendance.

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

1 I also wish to thank the interpreters, the stenographer, and the
2 audio-visual technicians, and the security personnel for their
3 assistance today.

4 The hearing is adjourned and we meet tomorrow at 11.30.

5 --- Whereupon the hearing adjourned at 4.09 p.m.

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