

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

1 Thursday, 23 September 2021

2 [Open session]

3 [The accused entered court]

4 --- Upon commencing at 11.31 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 case
8 KSC-BC-2020-05, The Specialist Prosecutor versus Salih Mustafa.

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

10 We will now introduce -- we now have the parties, the
11 Victims' Counsel and the Registry introduce themselves.

12 Mr. Prosecutor, you may start.

13 MR. MICHALCZUK: Good morning, Your Honours. Good morning,
14 everyone. The Prosecution is represented today by myself,
15 Cezary Michalczuk; with me, on my left, is Silvia D'Ascoli,
16 Associate Prosecutor for the SPO; this is Filippo de Minicis,
17 Associate Prosecutor from the SPO; and the Case Manager for today is
18 Julie Mann. Thank you, Your Honours.

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

20 Victims' Counsel, you have the floor.

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

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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1 Defence counsel, you have the floor.

2 MR. VON BONE: Good morning, Your Honours. Defence is
3 represented by myself, Julius von Bone, lead counsel. My co-counsel
4 is Mr. Betim Shala. Investigator and our interpreter, as always,
5 Mr. Fatmir Pelaj, and also present in the courtroom today is
6 Mr. Mustafa.

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

8 Mr. Mustafa, I recall that you have the right to remain silent
9 and that such silence shall not be considered in the determination of
10 your innocence or guilt.

11 Okay. Now I turn to the Registry, please.

12 MR. ROCHE: Good morning, Madam President, Your Honours. Ralph
13 Roche from the Registry. Thank you.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

15 For the record, my colleagues are Judge Roland Dekkers, Judge
16 Gilbert Bitti, and Judge Vladimir Mikula, Reserve Judge, and I am
17 Mappie Veldt-Foglia, Presiding Judge for Trial Panel I.

18 There seems to be an issue with the transcript. I was requested
19 to give the technicians a moment to see if they can fix it, so we
20 will wait a few minutes.

21 I was informed that it might take five or ten minutes, because
22 they have to reboot the system. What I will do is now that -- the
23 Judges will go back and wait for the moment that we can start again.
24 And until that moment, the hearing is adjourned.

25 --- Recess taken at 11.36 a.m.

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1 --- On resuming at 11.41 a.m.

2 PRESIDING JUDGE VELDT-FOGLIA: We resume the hearing. Let us --
3 Madam Court Officer, can we start?

4 THE COURT OFFICER: Your Honours, I'm just confirming with the
5 AV colleagues. Yes, it seems we are now back on track.

6 Yes, please continue.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
8 Good morning and welcome.

9 Court Officer, can you please call the case.

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

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

13 I will now call appearances. I kindly ask the parties, the
14 Victims' Counsel, and the Registry, to introduce themselves, starting
15 with the Specialist Prosecutor's Office.

16 You have the floor.

17 MR. MICHALCZUK: Your Honours, good morning. The Prosecution
18 today is represented by myself, Cezary Michalczuk, Prosecutor from
19 the SPO; Silvia D'Ascoli, Associate Prosecutor for the SPO;
20 Filippo de Minicis, another Associate Prosecutor for the SPO; and the
21 Case Manager with us is Julie Mann. Thank you very much.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 Victims' Counsel, you have the floor.

24 MS. PUES: Thank you very much. Good morning, Your Honours.
25 The Victims' Counsel team is represented by myself, Anni Pues,

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1 Victims' Counsel; and Marie-Pier Barbeau, Senior Legal Associate.

2 Thank you.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 Counsel for the Defence, you have the floor.

5 MR. VON BONE: Good morning, Your Honours. The Defence is
6 represented by myself, Julius von Bone, lead counsel; my co-counsel
7 is Mr. Betim Shala; investigator and interpreter is Mr. Fatmir Pelaj.
8 And also in the courtroom today is Mr. Mustafa, the accused.

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

10 Mr. Mustafa, I recall that you have the right to remain silent
11 and that such silence will not be considered in the determination of
12 your innocence or guilt.

13 And then now the Registry.

14 MR. ROCHE: Good morning, Madam President, Your Honours. I'm
15 Ralph Roche from the Registry. Thank you.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

17 For the record, my colleagues are Judge Roland Dekkers,
18 Judge Gilbert Bitti and Judge Vladimir Mikula, and I am
19 Mappie Veldt-Foglia, Presiding Judge for Trial Panel I.

20 Let us now revert to the testimony of Witness 3593. Can we
21 please usher the witness into the courtroom. Thank you.

22 [The witness takes the stand]

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, welcome back. Good
24 morning.

25 THE WITNESS: [Interpretation] Good morning. Thank you.

Witness: W03593 (Resumed) (Open Session)

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1 PRESIDING JUDGE VELDT-FOGLIA: Did you have a good rest?

2 THE WITNESS: [Interpretation] Very good.

3 PRESIDING JUDGE VELDT-FOGLIA: Good.

4 Very well, Mr. Witness. Pursuant to Rule 127(3) of the Rules,
5 the Panel may at any stage pose you some questions. You have been
6 asked questions now by the Prosecution, by the Victims' Counsel and
7 by the Defence, and now the Judges will ask you some questions.

8 We hope, in that way, to gain some more clarity about what you
9 already have stated in your testimony, and your answers could be of
10 great value to better understand what happened.

11 So I understand that you already spent four days with us and
12 that it has been tiring and demanding, but please bear some more with
13 us and we will put you now some questions. Okay?

14 WITNESS: W03593 [Resumed]

15 [Witness answered through interpretation]

16 Questioned by the Trial Panel:

17 PRESIDING JUDGE VELDT-FOGLIA: Let me see. The first question.
18 We will start in public session and at a certain moment we will go
19 into private session.

20 Were the soldiers wearing masks in the place in Zllash where you
21 were detained?

22 A. No.

23 PRESIDING JUDGE VELDT-FOGLIA: No. I asked you that because at
24 a certain moment before UNMIK in [REDACTED] you -- you said, and I
25 will
give the reference right away, that there was a person wearing a mask

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1 that put a pistol on your head.

2 I will now, for the record, give the reference. That is
3 SPOE00127751 till the same number and at the end 69, RED4. And then
4 the specific page is SPOE00127752.

5 Could you explain why you said then, if you still remember, that
6 the person was wearing a mask?

7 A. I don't deny it. I could have said that. But, again, I'm
8 telling you that I don't think that he had a mask. I wasn't able to
9 look, but I don't think he had a mask.

10 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, I hear your answer.
11 It's just for me to understand that at a certain moment in time you
12 have said, positively, that the person was wearing a mask. And I am
13 here to try to understand why in that period of time you said that,
14 and now you say, "Now I don't think he is wearing a mask."

15 And I understand your answer, the following, that you say, "I
16 now think that he was not wearing it." And my question is: Why did
17 you say otherwise in that period?

18 A. I have forgotten. Maybe I said that. But now I'm saying, and
19 this is what I think now, that I didn't see him wearing a mask.

20 PRESIDING JUDGE VELDT-FOGLIA: I saw in your interview, Witness,
21 with number 061015-TR-ET, Part 2, Revised, page 5, line 6, that,
22 indeed, to the Specialist Prosecutor you said, when you were
23 interviewed by them, that their faces were uncovered. But if I
24 summarise you, you say, "I cannot recall exactly why I said that
25 then, but I tell you now that what I recall is that their faces were

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1 not covered." Is that a good summary?

2 A. Yes.

3 PRESIDING JUDGE VELDT-FOGLIA: And another question is in your
4 testimony in the last few days - and the reference is transcript
5 page 45, line 22 and 23 - you said that after a month after your
6 release from where you were held in Zllash, that you learned what the
7 name was of the commander of the place where you were held. You said
8 that.

9 A. Yes, that's correct.

10 PRESIDING JUDGE VELDT-FOGLIA: In the same statement I just
11 referred to, so SPOE00127751 till 69RED4, and then especially
12 page 127756, that's page 6 of the statement, you said in the
13 statement of [REDACTED]- so not one month after your release, but
14 several
15 years later - that you did not know who was the supervisor who was in
16 charge in the camp.

17 And can you explain that? That what you said yesterday -- I
18 will rephrase my question. Yesterday, or one of the last days, you
19 said, "After a month I learned who the person was." And before
20 UNMIK, you said, "I don't know who it was." Could you explain that?

21 A. After a month, I confirmed, verified who the main person was
22 there at the camp where I was.

23 PRESIDING JUDGE VELDT-FOGLIA: Yes. But then in [REDACTED] you
24 said,
25 "I don't know. I don't know who was the supervisor." My question is
why didn't you say then the name you had heard one month after your
release?

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1 A. Well, my God, I really don't know why I did not mention it,
2 whether I forgot it, because even if you ask me what I said yesterday
3 I might forget. I was asked 200 times about the same things. But as
4 I said, I learned the identity of the person who was there one month
5 after my release.

6 PRESIDING JUDGE VELDT-FOGLIA: But, Mr. Witness, in [REDACTED]
you
7 said that you didn't know. So does that mean that you were then not
8 saying everything you knew about it? Because apparently, you knew
9 but you told them that you didn't know. So I want to understand why.
10 Because somebody -- I'm not saying that I'm saying it. But you could
11 say that you then told them a lie that you didn't know it.

12 But I don't know. I'm just asking you. For me, it's not clear
13 why you state, "I knew it after one month," and then you are asked,
14 in an official setting who is it, and then you say, "I don't know."
15 Or maybe that's the truth, you didn't know. I don't know. I'm
16 asking you.

17 A. I'm not saying that I said at the time I don't know. That's
18 written there. But maybe I forgot, to tell you the truth, and
19 remembered later that I confirmed his identity a month afterwards.
20 This is the truth.

21 PRESIDING JUDGE VELDT-FOGLIA: I'm going to re-read what you
22 just said.

23 No, I don't see that --

24 THE INTERPRETER: Interpreter's correction. Line 8 should read:
25 I'm not saying that I didn't say at the time I don't know.

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1 PRESIDING JUDGE VELDT-FOGLIA: Maybe you forgot to tell them the
2 truth. Is that what you want to say? That you didn't tell the truth
3 to UNMIK in [REDACTED]

4 A. Yes, yes.

5 PRESIDING JUDGE VELDT-FOGLIA: And why didn't you tell them the
6 truth? Was there a reason, then? I'm just asking you whether there
7 was a reason not to say it.

8 A. There was no need for me not to tell the truth. But I'm saying
9 again, I forgot maybe then and then I remembered that I saw that --
10 that I verified the identity a month later.

11 PRESIDING JUDGE VELDT-FOGLIA: Well, let's not confuse what we
12 are saying to each other. If I understood you well, you knew already
13 in 1999 that apparently, according to your statement, that -- who the
14 commander was. That was in 1999. And now we are talking about
15 [REDACTED].

16 But if you don't want to -- I don't get it completely clear, what
17 you're saying. You say, "I have forgotten it, maybe, to tell them,"
18 is that what you're saying, in [REDACTED]?

19 A. Yes, maybe I forgot to mention that. I don't know.

20 PRESIDING JUDGE VELDT-FOGLIA: But you were --

21 A. I don't remember.

22 PRESIDING JUDGE VELDT-FOGLIA: But you were asked explicitly.
23 You were asked explicitly. And then you said, "No, I don't remember"
24 -- "I don't know." You didn't say, "I don't remember." Excuse me.
25 You said, "I don't know." Okay.

26 Could it be that you were afraid to tell them the truth?

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1 A. No, there was no need for me to be afraid of them. There was no
2 reason. I'm here to tell you the truth. Not to lie.

3 PRESIDING JUDGE VELDT-FOGLIA: I understand. And that's,
4 indeed, what we asked you to do, to tell the truth, and I'm trying to
5 understand why you now said something different than back then. That
6 is what I am trying to verify, and I have asked the question now
7 several times and I see that you cannot really give an answer to it
8 other than "I don't know why I didn't say it."

9 A. Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: But can you understand that, from
11 the view of the Panel, we are trying to understand why you, at a
12 certain moment in time, say one thing; at another moment in time, you
13 say another thing?

14 A. That can happen only when one forgets or when he or she doesn't
15 know or when he or she is mistaken.

16 PRESIDING JUDGE VELDT-FOGLIA: We will go to the next question.
17 Was it publicly known that in Zllash there was a place where people
18 were taken to to be interrogated and detained? Did people know that
19 amongst each other?

20 A. At the time, I didn't know that. I couldn't know that. And
21 nobody could know that.

22 PRESIDING JUDGE VELDT-FOGLIA: It was not a public secret at
23 that time?

24 A. I don't know who had knowledge about that. I was there myself
25 and still not aware why those things were being done there. I

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1 couldn't understand that.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

3 Then my next question. Madam Court Officer, could you put up
4 the following -- it's a line of pictures. The following picture:
5 ERN 082256.

6 Madam Court Officer, please don't proceed yet, I want to give
7 another number, and we will do this one afterward. Can that still be
8 done?

9 THE COURT OFFICER: Sure.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. SPOE00222559.

11 Mr. Witness, can you see this picture?

12 A. Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: Do you recognise somebody on this
14 picture?

15 A. I think I can recognise just one of them.

16 PRESIDING JUDGE VELDT-FOGLIA: Okay. And who is that?

17 A. He was on my -- he is on my right side. And I'm still not sure.
18 I think that that's the person.

19 PRESIDING JUDGE VELDT-FOGLIA: On your right side. I am --
20 let's make it more clear. Is he kneeling or standing?

21 A. Kneeling.

22 PRESIDING JUDGE VELDT-FOGLIA: And let me say, is it on your
23 left side?

24 A. To my right.

25 PRESIDING JUDGE VELDT-FOGLIA: It's difficult for me to

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1 understand then. To indicate, is he near the bookshelves or on the
2 other side?

3 A. This is the person, and on his insignia you can read KLA.

4 PRESIDING JUDGE VELDT-FOGLIA: Yes, but I see two. Is the
5 person next to the bookshelves or on the other side?

6 A. The person kneeling and the person who has on his chest KLA
7 insignia. I can't see the other one having such an insignia on his
8 chest.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay. So it's near the
10 bookshelves on the right side. Yes?

11 I would like to have in some way a kind of marking with a
12 pencil. I'm going to see how we can arrange for that, because then
13 it's clearer also for the record.

14 Mr. Prosecutor, I saw you standing.

15 MR. MICHALCZUK: Your Honour, it was just exactly this kind of
16 suggestion, that maybe it's easier for him simply to mark the
17 photograph because he might get confused. So maybe it's just clearer
18 to do it in this way.

19 PRESIDING JUDGE VELDT-FOGLIA: Yes, but I was wondering how we
20 then can see it all? Oh, we will see it.

21 [Trial Panel and Court Officer confers]

22 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please move on the
23 left screen and then please mark the person you think you recognise.

24 A. [Marks].

25 PRESIDING JUDGE VELDT-FOGLIA: We now see appear a green circle

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1 on the person. Thank you, Mr. Witness. That is clear for us.

2 And then I will show you another picture, and that is
3 SPOE00222547.

4 Thank you, Madam Court Officer.

5 Is there somebody you recognise on this picture, Mr. Witness?

6 A. No.

7 PRESIDING JUDGE VELDT-FOGLIA: And then the last picture.

8 Madam Court Officer, could you please bring the picture back for
9 me. Sorry. No, no, please make it smaller -- yes, okay. This was
10 547, good.

11 And then the last picture is ERN 082256. Could you please put
12 that on. Maybe you could make it a little bit bigger.

13 Do you recognise this person on the picture, Mr. Witness?

14 A. No, I cannot recognise him.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

16 Madam Court Officer, I would like to go now into private
17 session, please.

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

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

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

21 Mr. Witness, yesterday we discussed in the afternoon, and I will
22 give the reference soon, we discussed who told you the name of the --
23 what the name of the person was that did what happened to you. And
24 my question to you is, and we have insisted on it a lot, who were
25 those persons. And you didn't want to share with us the names.

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1 I want to ask you was it [REDACTED] who told you that it was
2 [REDACTED] who did to you what happened?

3 A. No.

4 PRESIDING JUDGE VELDT-FOGLIA: Then I would like to put up the
5 following document: 061015-TR-ET, Part 3, Revised, page 24, line 3.
6 And I realise that I don't have right away the Albanian version.

7 Madam Court Officer, is that possible for you to retrieve that?

8 THE COURT OFFICER: I will do my best.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 And for the record, the reference in the transcript is page 17,
11 lines 20 -- no, let me see. Excuse me, no. Page 22, lines 8 till
12 11; and 18 till 20, for the record, where the witness was asked with
13 regard to the person or persons who told him who was it that was
14 beating him or who was giving orders.

15 Okay. We have to find it before I can ask the question. I see
16 the Defence counsel standing -- oh.

17 MR. SHALA: [Microphone not activated].

18 PRESIDING JUDGE VELDT-FOGLIA: Okay. We are not finding the
19 Albanian translation, but what I will do is I will read out what is
20 in the English text. And in that way, Mr. Witness, and also the
21 accused -- very kind that you are assisting the Panel in this way.

22 MR. SHALA: [Microphone not activated].

23 PRESIDING JUDGE VELDT-FOGLIA: You have found it? And you sent
24 it to the --

25 MR. SHALA: [Microphone not activated].

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1 PRESIDING JUDGE VELDT-FOGLIA: Oh, she found it. And you
2 helped? Okay.

3 MR. SHALA: [Microphone not activated].

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you for assistance offered
5 and effort.

6 Madam Court Officer, did you find it?

7 THE COURT OFFICER: Yes, yes.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. And it's there? Thank
9 you.

10 Mr. Witness, it took a while to have the right text in front of
11 us. I will get back to my question.

12 I asked you if it was [REDACTED] who told you that it was
13 [REDACTED]

14 who did it to you, what happened. You said no, it was not him. And
15 then I want to read out to you page 24 -- it's not page 22. Page 24,
16 I think, that we will be needing. Yes, no, 24, it's okay, but I'm
17 looking at the Albanian translation that we are --

18 MR. MICHALCZUK: [Microphone not activated].

19 PRESIDING JUDGE VELDT-FOGLIA: It's 12, 12.

20 MR. MICHALCZUK: It's 28, Your Honours.

21 PRESIDING JUDGE VELDT-FOGLIA: No, 24.

22 MR. MICHALCZUK: Yes, but Albanian is 28.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay, sorry.

24 MR. SHALA: [Microphone not activated].

25 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

Mr. Witness, they are discussing in that interview with you who

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1 was responsible for what happened to you. And then they are talking
2 about [REDACTED] You are talking with the SPO about [REDACTED]

3 And then you said -- they asked you:

4 "Did he tell you who thought he was responsible?"

5 And then you said:

6 "Yes, of course. And I told you once. Please, don't tire me
7 any further. Of course he knew. I told you it was [REDACTED]
8 and this is the end of it."

9 And then you were asked again:

10 "But is that something that [REDACTED] told you?"

11 And then you say:

12 "Do you understand that [REDACTED] told me 500 times and this
13 is the truth. And for sure you know the truth better than me."

14 And then my question is again what you said then, is that true?

15 A. I forgot again. But if I said it that way there, of course it
16 is true.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay. This statement is not from
18 so long ago, relatively speaking. Are you afraid to say that it was
19 his name -- that it was him, that it was [REDACTED] who said to you?
20 We are here in a private session.

21 A. Judge, I'm finding this very curious. Where I live, all the
22 people knew that I was there, I was held there. And if I mention all
23 the names of the people I spoke to, all 500 names, I can't. I have
24 come here to give a statement, and you can't ask me questions, "Who
25 was that person?" or "Who was this person?" I have come here to

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1 speak on my behalf.

2 And, of course, I agree with the statements I gave then, because
3 I forget. I told you I had an operation six months later. I haven't
4 come here to lie. I have come here to declare publicly that I'm not
5 here to take revenge or to have this accused convicted.

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, we appreciate very
7 much that you are here, and we appreciate very much that you're
8 giving these days to give testimony in this court.

9 However, it is important that the Panel asks you the questions
10 that they think are relevant to be able, at a certain moment in time,
11 to reach a verdict. So I have to understand what you have said in a
12 certain moment of time. And if you now say, "I have forgotten it,"
13 that is an answer, but we have to explore that. We have to explore
14 that. I have to understand. And if you say, "I don't know," that's
15 good for me.

16 But we are in a position to ask you those questions, and we
17 should ask you those questions. We would not be doing our proper job
18 if we would not be asking you those questions to clarify. And I'm
19 not implying that you are lying. I'm here for clarification. I
20 don't have made my mind up, and I want to understand.

21 Then I will ask you some further -- a few further questions, and
22 they need to be done in a private session because they could identify
23 your -- who you are. So we will remain in private session.

24 It was discussed a little bit during your testimony, but do you
25 know why you were taken prisoner?

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1 A. I don't know why I was taken prisoner. I can't know that. They
2 know that. I don't.

3 PRESIDING JUDGE VELDT-FOGLIA: In the UNMIK statement where we
4 refer to already, and then specifically SPOE00127752, and that's
5 page 2, you said:

6 "He told me I'm going to break this finger because you were
7 cooperating with the Serbians."

8 Where did that come from?

9 A. Yes, that's correct.

10 PRESIDING JUDGE VELDT-FOGLIA: They said that to you? They
11 implied, they told you that they thought that you were cooperating
12 with the Serbians?

13 A. Yes, they thought I was collaborating with the Serbs and that I
14 was some sort of spy. I wasn't involved in anything. I was minding
15 my own business. But I was accused of collaborating with the Serbs,
16 yes.

17 PRESIDING JUDGE VELDT-FOGLIA: And do you have any idea why they
18 thought that?

19 A. I don't know. And I never owed anybody anything in my whole
20 life. I don't know whether they were trying to take revenge about
21 something. I have no idea why.

22 PRESIDING JUDGE VELDT-FOGLIA: Then I would like to ask you some
23 questions about a person, [REDACTED]

24 The day you left the place in Zllash where you were detained,
25 how [REDACTED] doing?

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1 A. I didn't understand the question.

2 PRESIDING JUDGE VELDT-FOGLIA: The day of the invasion, the day
3 you were told, "You can go, you are free," how [REDACTED] doing?

4 A. Well, [REDACTED] in a normal state. I don't know what to say. I
5 wasn't paying too much attention to him, to be honest, because I had
6 my own problems. There were three of us that remained there, two of
7 them left, and -- two of us left, and I was just trying to get away
8 from there as soon as possible.

9 PRESIDING JUDGE VELDT-FOGLIA: Could he stand?

10 A. Yes. Yes, he was able to stand.

11 PRESIDING JUDGE VELDT-FOGLIA: And could he walk?

12 A. Well, where could he walk to? Where could we walk to? That was
13 the place where we were staying. We couldn't go anywhere. We didn't
14 go -- didn't dare go anywhere.

15 PRESIDING JUDGE VELDT-FOGLIA: Sorry, Mr. Witness, my question
16 was not clear. I meant could he physically walk. Was he physically
17 in a state, because I have heard about the maltreatment, was he
18 physically -- could he physically walk?

19 A. I think that he was able to walk.

20 PRESIDING JUDGE VELDT-FOGLIA: And when you left, were [REDACTED]
21 [REDACTED]

22 A. Yes, [REDACTED] all the time.

23 PRESIDING JUDGE VELDT-FOGLIA: In your SPO interview with number
24 06105-TR-ET, Part 4, Revised, RED3, page 10, line 4, you said:
[REDACTED]

25 was killed," and you repeat that. How did you know that he was

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1 killed?

2 A. Of course I knew that [REDACTED] does not exist anymore. I don't
know

3 who killed him, but he's not here anymore. As to who killed him, I
4 don't know because I didn't ask who killed him.

5 PRESIDING JUDGE VELDT-FOGLIA: But could it not be that he died
6 of maybe his injuries, that he was not killed?

7 A. It is possible. I don't know. I don't know what happened to
8 him.

9 PRESIDING JUDGE VELDT-FOGLIA: That's my point. You said,
10 [REDACTED]
was killed," and I wondered how you know that.

11 A. Well, I assumed that he was killed because he doesn't exist
12 anymore. He's not alive anymore. But I don't know.

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

14 I look at my right-hand side. I will now give the floor to my
15 colleagues to pose some questions.

16 JUDGE DEKKERS: Thank you, Madam Presiding Judge.

17 Mr. Witness, I'm also one of the Judges of this Panel. My name
18 is Roland Dekkers. I also thank you for your patience, and I would
19 like to ask you a few additional questions for further clarification.

20 First, I would like to read you a passage from your interview
21 with the SPO on [REDACTED], document number 061015-TR-ET, Part 3,
22 Revised, page 17, line 10 and following.

23 The Presiding Judge reminded me and asked me if we had to remain
24 in private session, and that is not necessary for this part of my
25 questioning. So I would like to ask the Court Officer to go into

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1 public.

2 PRESIDING JUDGE VELDT-FOGLIA: I see counsel standing.

3 MR. VON BONE: Yes --

4 PRESIDING JUDGE VELDT-FOGLIA: Please, you have the floor.

5 MR. VON BONE: -- Your Honour. And just before we go into
6 public session I would like to bring up one issue, which I think is
7 relevant. But I think it may be better if the witness takes off the
8 microphone.

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, could you take off
10 your headset.

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

12 The issue is that when we show particular photographs,
13 obviously, these are broadcasted in Kosovo and anywhere. There is an
14 online channel which broadcasts all, everything. And we would not
15 like that if future witnesses are already aware of pictures, that
16 they can already deduct from that anything that might come up
17 whenever they have to become here a witness in trial. It might
18 influence them. And that's why I want to just bring up this subject,
19 because I think it would not -- it might be wise to -- not to do
20 that, basically.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 [Trial Panel and Court Officer confers]

23 PRESIDING JUDGE VELDT-FOGLIA: It was confirmed to me, Defence
24 counsel, that nothing has been broadcast and that no pictures have
25 been shown to the public.

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

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Court Usher, for
3 informing the witness to be able to put his headphones on.

4 Mr. Witness, I give the floor back to the Judge at my right-hand
5 side.

6 JUDGE DEKKERS: [Microphone not activated].

7 THE INTERPRETER: Microphone.

8 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, we want to
9 go into public session.

10 JUDGE DEKKERS: I will repeat it.

11 [Open session]

12 THE COURT OFFICER: Your Honours, we are now back in open
13 session.

14 JUDGE DEKKERS: I will repeat it to you, Mr. Witness.

15 I would like to read to you a passage from your interview with
16 the SPO on [REDACTED], document number 061015-TR-ET, Part 3,
17 Revised, page 17, line 10 and following.

18 You have been told by the interviewer:

19 Mr. Witness, "[REDACTED], you said you saw him twice at
20 Zllash, both times when you were being beaten up. Did you see ..."

21 And then you answered:

22 "He beat me."

23 "Yes."

24 The interviewer is telling you:

25 "Did you -- when you were in Zllash, did you see him apart from

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1 any other time apart from those two times?"

2 And then you answered:

3 "I think I saw him another time when he entered there in the
4 stable with some soldiers and then he went out."

5 Can you recall that you told this to the SPO?

6 A. Yes.

7 JUDGE DEKKERS: Did you then tell the truth to the SPO?

8 A. I think so, yes.

9 JUDGE DEKKERS: Could it be that you also saw [REDACTED] on
10 a previous occasion?

11 A. No, never in my life.

12 JUDGE DEKKERS: Then I would like to submit to you a passage
13 from your statement here in the court of [REDACTED] And I
14 would like to read you the transcript page 65, line 19 and following.

15 There was -- you have been asked:

16 "When I entered" --

17 No, you answered:

18 "When I entered the car," and that's referring to the car that
19 came and took you -- and was halfway from the place you were arrested
20 to Zllash.

21 "When I entered the car, he hit me with a fist on my mouth. I
22 started bleeding and then immediately he put a black sack over my
23 head."

24 The question is:

25 "And who is he that did that?"

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1 And then you answered:

2 "The person with a red hat."

3 And then the question is:

4 "Was that not the person who was driving in the car, that person
5 with the red hat?"

6 "No," you answered, "someone else was driving the car. The one
7 with the red hat was seated together with me."

8 My question is, Mr. Witness, do you refer in that perspective,
9 mentioning a person with a red hat, to the same person with a red hat
10 that has been beating you in Zllash when you were in the detention
11 facility?

12 A. Well, you are confusing me. I don't understand you. I said
13 that I didn't know who was the commander. I was taken, put in a car,
14 and there was a person wearing a red cap. And then they put a sack
15 over my head. I didn't know who the commander was.

16 JUDGE DEKKERS: But the person with the red you are referring to
17 in your statement here in the court, and that was the first time, as
18 far as I noticed, that you mention explicitly a person with a red hat
19 on, in the jeep, that's not -- you do not refer to [REDACTED]
20 That's a question.

21 A. Sir, the person in the red hat beat me twice. I didn't know who
22 he was, and I don't know him now. Even if I see him now, I wouldn't
23 be able to recognise him. I don't know who that person was, but I
24 learned later that the commander there was the person that is accused
25 here now. But I didn't know it then.

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1 JUDGE DEKKERS: And does that also concern the person with a red
2 hat who hit you in the car?

3 A. Yes.

4 JUDGE DEKKERS: I noticed that you had not mentioned this
5 before. Have you forgotten about this event in the car?

6 A. Perhaps I forgot. I don't know.

7 JUDGE DEKKERS: Okay. Thank you very much. I have one last
8 question.

9 You stated before - and I summarise several of your previous
10 statements to UNMIK, the SPO, and here in the courtroom - that you
11 have been severely beaten in Zllash and elsewhere and that as a
12 result of that you have been injured. Let us say [REDACTED] had been
13 [REDACTED], as well as [REDACTED]. And I
14 also noticed that you stated that you had severe injuries [REDACTED]
15 [REDACTED] and you had to undergo surgery for that. For [REDACTED]
16 you
17 went to [REDACTED]

18 Please, can you tell me what happened with [REDACTED] that had
19 [REDACTED], as you stated, on several [REDACTED]? Did you also go to a
20 doctor to have that fixed?

21 A. Yes, I went to the doctor later. But I couldn't go to the
22 doctor at the moment when I was detained. Yes, after I was released,
23 I went to the doctor. But it was later.

24 JUDGE DEKKERS: And the doctor fixed [REDACTED] again?

25 A. Yes.

JUDGE DEKKERS: And the same happened to your [REDACTED]?

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1 A. Yes.

2 JUDGE DEKKERS: I am asking you this, and I also look at the
3 SPO, because I haven't seen any medical documents in relation to
4 this, but maybe I'm mistaken.

5 Okay. Thank you very much. That answers my questions.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

7 I look at my left-hand side. Yes. I give the floor now to the
8 colleague at my left-hand side.

9 JUDGE BITTI: Mr. Witness, first, thank you for your patience.
10 I'm Judge Gilbert Bitti. And do not worry too much, because I think
11 your testimony will end soon now. I just have a few questions.

12 In your testimony here on Monday, you described that you were
13 beaten twice, and you said that it was by a man in a red hat. I
14 noticed that you said that this man was saying things at the moment
15 he was beating you or afterwards.

16 For example, during the first beating he said, after he --
17 apparently, according to what you said, put a revolver on your
18 forehead, "You know what? So let him be, because this man is lucky."

19 During the second beating, as you described, apparently he was
20 also saying things. He was asking you, for example, "Who were the
21 thieves?"

22 So I have a question for you: Did you eventually recognise the
23 voice of that person during the second beating? Was it the same
24 voice, according to you?

25 A. To tell you the truth, I did not stop and analyse the voices,

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1 but it was the same person who beat me twice. He was wearing a red
2 hat. The first time and the second time. However, as to the voices,
3 I don't know.

4 JUDGE BITTI: Thank you. According to you, the day you were
5 released you told us also in this courtroom that you were 17 in that
6 barn and that you were among the last ones to be released; is that
7 correct?

8 A. Yes.

9 JUDGE BITTI: You also told us, and apparently it was for the
10 first time, that they were calling you by your names. Did you
11 recognise those names, or one of them?

12 A. I didn't understand the question.

13 JUDGE BITTI: That day when you were released, they were calling
14 you and the others by your names. And actually, I noticed that it
15 was the first time that you said that they were calling you by your
16 names. Did you hear those names? Did you recognise some of those
17 names?

18 A. Well, I didn't pay attention to what names were being called. I
19 just heard my name and that's it.

20 JUDGE BITTI: Okay. Those who were calling you by your names,
21 were they addressing all of you in Albanian?

22 A. Of course, yes.

23 JUDGE BITTI: Do you think that the people detained with you
24 were all coming from your region?

25 A. I don't know.

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1 JUDGE BITTI: Okay. I have a few more questions only on -- to
2 pin the number of people who were with you. Could you tell me if all
3 of them stayed with you all the time or if some of them were detained
4 for a much shorter period of time?

5 A. The people I was there with stayed there. But now and then,
6 they would bring other people. I don't know how many.

7 JUDGE BITTI: Okay. Did your family know where you were
8 detained?

9 A. Yes.

10 JUDGE BITTI: Was it known in the region that KLA soldiers had a
11 place in Zllash where they were detaining people? I guess that if
12 your family knew, my question is did others know?

13 A. They did not know that there was a prison there, but they did
14 know that they took people there to question them. Even I
15 wouldn't -- didn't believe that there was such a place in Zllash.

16 JUDGE BITTI: So the day when they came for you and told you,
17 "We will go to Zllash," you did not know where you were going? You
18 did not know exactly where they were bringing you, or did you have
19 already an idea?

20 A. No, I didn't know. Two soldiers came, introduced themselves.
21 They said, "We're military police, and you have to come with us to
22 Zllash. We need to ask you something ." And I didn't want to
23 refuse. I thought they would ask me something, have a conversation.
24 I didn't know that they would reduce me to that state and beat me.

25 JUDGE BITTI: Madam Presiding Judge, I have one or two last

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1 questions, but I think we have to go into private session, because
2 that would be identifying.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 Madam Court Officer, could we please go into private.

5 And, for the record, I was informed that we have 15 minutes more
6 after 1.00 to continue with the questions.

7 ~~[Private session]~~ [Open session]

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

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

10 JUDGE BITTI: Thank you, Madam Presiding Judge.

11 The day you were released, Mr. Witness, you told us that on your
12 way to Prishtine you went [REDACTED] And
13 it's actually starting on page 104, line 20, on the transcript of
14 20 September. And you told us:

15 [REDACTED]

16 And you said [REDACTED] that you were staying at the same
17 room. And then [REDACTED] -- and then [REDACTED]
18 soon, and [REDACTED]:

19 [REDACTED]

20 According to you, how did he know that [REDACTED] would not be
21 released?

22 A. I wouldn't know that. [REDACTED]

23 That, I don't know. Because, as I said, we didn't discuss it at all.

24 [REDACTED]

25 [REDACTED]

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1 when he said, "I don't think so." So this was all that we talked
2 with him about on this matter. [REDACTED]
3 it.

4 JUDGE BITTI: Then you said:

5 [REDACTED]

6 Why did you say that? Did you also know that [REDACTED] would
not
7 come back?

8 A. I didn't know that. I wasn't a judge. I wasn't a policeman. I
9 was nothing there. All I know is that he remained there and I left.
10 I don't know anything else. And there are people who know about him,
11 of what happened to him. I personally don't know. And there was no
12 way I could know.

13 JUDGE BITTI: And you do not know those people?

14 A. Of course I don't.

15 JUDGE BITTI: Okay. Thank you very much, Mr. Witness.

16 Madam Presiding Judge, I have finished.

17 PRESIDING JUDGE VELDT-FOGLIA: Then, Mr. Witness, we reached the
18 end of your testimony. And you spent with us, like I said already
19 before, four days. And we have seen that it has been tiring and
20 demanding, and I would like to thank you, because I believe that your
21 testimony will help us in our effort to find the truth. Thank you
22 very much.

23 I ask the Court Officer to go back into public, because this
24 should be said in public. Please, Madam Court Officer, can you
25 revert us back.

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1 [Open session]

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

3 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, you said --
4 I didn't hear it well. We are back in public?

5 THE COURT OFFICER: We are back in public session, yes.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

7 Mr. Witness, I'm going to repeat what I already said. We have
8 reached the end of your testimony. And you spent with us four days,
9 and I imagine that it must have been tiring and demanding, and I
10 thank you for being with us here all those days. You've helped us a
11 lot in trying to find what happened back then and to find the truth,
12 and for now I wish you a safe journey home.

13 And I remind you not to talk to anybody about the statement you
14 have given here before the Kosovo Specialist Chambers. It's for you
15 done now.

16 Court Usher, could you please usher the witness out. Thank you.

17 THE WITNESS: [Interpretation] Thank you.

18 [The witness withdrew]

19 PRESIDING JUDGE VELDT-FOGLIA: Do parties and Victims' Counsel
20 have anything to raise?

21 MR. MICHALCZUK: Your Honours, no submission from the
22 Prosecution.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

24 MS. PUES: Nothing, thank you.

25 MR. VON BONE: Nothing.

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1 PRESIDING JUDGE VELDT-FOGLIA: Good. Then we will resume at
2 half past 2.00 with the testimony of the next SPO witness. So the
3 hearing is adjourned.

4 --- Luncheon recess taken at 1.03 p.m.

5 --- On resuming at 2.31 p.m.

6 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. I look if there
7 are any changes in composition.

8 I look at my right-hand side to the Specialist Prosecutor's
9 Office.

10 MR. DE MINICIS: Good afternoon, Your Honours. The Prosecution
11 has added to its team Ms. Deborah Osborn, our legal intern.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

13 And the Victims' Counsel, I see the same composition; yes. And
14 then the Defence is also the same composition. I see the Registry
15 also. And then I note the -- let me see. Oh, there, yes. I note
16 the presence of Mr. Hans van de Wal. He has been assigned
17 Duty Counsel to Witness 4600, who will be testifying this afternoon.
18 For the record, this is filing number F194.

19 Welcome to you, too.

20 Can we please usher the witness into the courtroom, please.

21 [The witness entered court]

22 PRESIDING JUDGE VELDT-FOGLIA: He can take his mask off.

23 Mr. Witness, good afternoon.

24 THE INTERPRETER: Microphone.

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, good afternoon.

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1 THE WITNESS: [Interpretation] Good afternoon.

2 PRESIDING JUDGE VELDT-FOGLIA: Welcome to the Specialist
3 Chambers. Can you hear me?

4 THE WITNESS: [Interpretation] Yes.

5 PRESIDING JUDGE VELDT-FOGLIA: To start with, how are you, first
6 of all?

7 THE WITNESS: [Interpretation] I am okay. Thank you.

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

9 Today we will start with your testimony. But before we begin, I
10 have several remarks I would like to make.

11 Let me first explain, in clear terms -- sorry for that. Let me
12 first explain to you, in clear terms, the protective measures that
13 have been assigned to you for your testimony.

14 You have been assigned a pseudonym. This means that we will
15 never mention your name, but we will refer to you as "Mr. Witness,"
16 to make sure that the public doesn't know who you are.

17 You also have face and voice distortion, which means that no one
18 outside the courtroom watching the broadcast can see your face or
19 hear your real voice during the testimony.

20 When you answer questions that will not reveal your identity, we
21 will do so in open session, which means that the public can hear and
22 see what is said in the courtroom.

23 When you are asked to describe anything that relates
24 specifically to you or to mention facts that might reveal your
25 identity, we will do so in private session. And that means that

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1 there is no broadcast and no one outside the courtroom can hear what
2 is said in this courtroom.

3 If anything is said in this courtroom that may identify you, we
4 will protect this information, and your testimony will be broadcasted
5 with a delay. And we can remove any such information from the
6 broadcast that will be seen and heard by the public and from the
7 public transcript of the proceedings.

8 Are the protective measures that I just explained to you, are
9 they clear to you? Mr. Witness?

10 THE WITNESS: [Interpretation] Yes, yes.

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

12 I request the parties and the Victims' Counsel, like for the
13 other time, to respect such protective measures and pay the utmost
14 attention in the course of their examination, avoiding the disclosure
15 of confidential information.

16 This hearing is held in open session unless otherwise requested
17 by the parties or the Victims' Counsel or decided by the Panel. In
18 this regard, I remind you to give me prior notice should you require
19 going into private session or closed session for the purpose of
20 questions or to make any submissions.

21 And I also remind the parties to adhere to the procedure for
22 requesting in-court redactions as set out in paragraphs 43 and 44 of
23 the Decision on the Conduct of Proceedings. And as I said before, if
24 we all act diligently respecting the protective measures granted for
25 this witness, there should be minimal requests for in-court

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1 redactions, or even none, which will help us focusing on the
2 testimony of the witness.

3 I would now like to move into private session in order to
4 discuss further matters with this witness.

5 Madam Court Officer, can you inform us when we are in private
6 session.

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

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

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

10 Mr. Witness, by means of an oral order dated 20 September of
11 this year, the Panel decided to grant your Duty Counsel's request to
12 provide you with assurances in accordance with Rule 151(3) of the
13 Rules.

14 I trust that your counsel has informed you of this?

15 THE WITNESS: [Interpretation] Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: And accordingly, I hereby inform
17 you of the following:

18 Any answers to questions put to you in this courtroom that may
19 incriminate you will be given in private session. As previously
20 noticed, this means that no one outside the courtroom can hear what
21 you are saying, and I ask the parties and the Victims' Counsel to be
22 mindful of this when asking questions.

23 Also you, Mr. Witness, and your Duty Counsel can indicate at any
24 time that you would like us to go into private session if deemed
25 necessary.

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1 Your testimony given in private, session, which may incriminate
2 you, will not be disclosed in any manner, either now or in the
3 future, to the public, Kosovo, or any Third State.

4 Your testimony given in private session, which may incriminate
5 you, will not be used either directly or indirectly against you in
6 any subsequent prosecution before the Specialist Chambers except
7 under Article 15(2) of the Law and Rule 65 of the Rules. This means
8 that it is very important that you tell us the truth about the past
9 events, even if they might incriminate you.

10 If you don't tell us the truth during your testimony here before
11 us, you can be prosecuted for providing false statements.

12 Do you understand all of this, Mr. Witness?

13 THE WITNESS: [Interpretation] Yes, I do.

14 PRESIDING JUDGE VELDT-FOGLIA: Good.

15 I now turn to the parties and to the Victims' Counsel. As noted
16 yesterday, it is important to have as much of these proceedings as
17 possible in public. However, with the current witness, we have to be
18 mindful of two matters: On the one hand, we have the protective
19 measures; and on the other hand, we have the questions that may
20 incriminate him, which also need to be gone into private session.

21 So I would like to ask the parties and the Victims' Counsel,
22 when asking their questions, to be particularly mindful as to whether
23 a certain question can be a potential answer in public or that we
24 should revert to private, but wait every answer -- excuse me, every
25 question in this regard. Should there be a need to go into private

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1 session and then back into the public session more often, that is
2 better than having an entirely private testimony. Although, I see
3 that there could be a little space for moving. But let's give it a
4 try in that respect.

5 Duty Counsel, you may request at any time going into private
6 session in your client's interest. Is that clear?

7 MR. VAN DE WAL: That's clear. Thank you.

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

10 [Open session]

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

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

13 Mr. Witness, I turn back to you.

14 You are called to testify before the Specialist Chambers in the
15 case of The Specialist Prosecutor versus Salih Mustafa to assist the
16 Panel of Judges, who are sitting here, to reach a verdict.

17 After you have taken your solemn declaration to tell the truth,
18 you will be asked questions by the Specialist Prosecutor, the lawyers
19 representing the victims admitted to participate in the case, the
20 Defence counsel, and by us, the Judges of the Panel. And I would
21 like to provide you with some guidance for answering the questions
22 that you will be asked.

23 Listen carefully to each question. If you do not understand,
24 feel free to ask for the question to be repeated. We want you to
25 tell the truth and to tell us what you saw, heard, sensed,

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1 experienced yourself. If you did not see or hear yourself but you
2 found it out some other ways, then you should say so to us.

3 You may not remember details of events and it's perfectly okay.
4 Do not guess. Do not make things up. There is nothing wrong in
5 saying, "I don't know."

6 Have you understood all that?

7 THE WITNESS: [Interpretation] Yes, everything is clear.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. Now, I would like to give
9 you some practical advice for your testimony, Mr. Witness.
10 Everything we say here is translated and recorded, so it's important
11 to speak into the microphone.

12 When a question is asked, please count to five before giving an
13 answer. This pause of five seconds is essential to hear, translate,
14 and record what you're saying.

15 If you have any questions, if you need a break at any time or
16 you need assistance at any time, please do not hesitate to raise your
17 hand so I know that you wish to say something.

18 Have you also understood all this, Mr. Witness?

19 THE WITNESS: [Interpretation] Yes.

20 PRESIDING JUDGE VELDT-FOGLIA: Very well. Thank you.

21 As we must do with every witness, I will now ask you to read the
22 solemn declaration to tell the truth. And I remind you that it is an
23 offence within the jurisdiction of the Specialist Chambers to give
24 false testimony. Do you understand that?

25 THE WITNESS: [Interpretation] Yes.

Witness: W04600 (Open Session)

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Procedural Matters

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1 PRESIDING JUDGE VELDT-FOGLIA: I see that the Court Usher is
2 already standing next to you with the solemn declaration to tell the
3 truth.

4 THE WITNESS: [Interpretation] Do I have to stand?

5 PRESIDING JUDGE VELDT-FOGLIA: You can remain seated. Please,
6 you can read the text.

7 THE WITNESS: [Interpretation] Thank you. From here?

8 Conscious of the significance of my testimony and my legal
9 responsibility, I solemnly declare that I will tell the truth, the
10 whole truth, and nothing but the truth, and that I shall not withhold
11 anything which has come to my knowledge.

12 WITNESS: W04600

13 [Witness answered through interpretation]

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness. You are
15 now under oath to tell the truth.

16 We can now begin with the testimony of Witness 4600, starting
17 with the questioning by the Specialist Prosecutor's Office. I have
18 decided not to start with the free narration.

19 MR. DE MINICIS: Thank you, Your Honour. Good afternoon,
20 Your Honours.

21 THE INTERPRETER: Interpreters kindly ask the witness to sit
22 closer to the microphone.

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, you have
24 estimated six hours for your questioning of this witness. And as we
25 have said before, we expect you to stick to this estimate and to

Examination by Mr. De Minicis

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1 inform us if you use less time for our planning purposes or you need
2 more time for your planning purposes.

3 You have the floor.

4 MR. DE MINICIS: Will do, Your Honour.

5 Examination by Mr. De Minicis:

6 Q. Good afternoon, Witness. My name is Filippo de Minicis. I'm an
7 Associate Prosecutor with the SPO, and we've actually briefly met in
8 a courtesy meeting facilitated by the Witness Protection and Support
9 Office a couple of days ago.

10 I will be leading your evidence today and tomorrow, and
11 Madam President has already amply and clearly advised you of how it
12 works, your rights, your assistance by counsel, so without further --

13 THE INTERPRETER: May the counsel speak closer to the
14 microphone, please. Thank you.

15 MR. DE MINICIS: I'm sorry.

16 Q. Are you ready to start?

17 A. Yes.

18 MR. DE MINICIS: Your Honour, for the initial personal details,
19 I'm going to have to ask to go into private session, please.

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

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

23 THE COURT OFFICER: We're in private session, Your Honours.

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

25 MR. DE MINICIS:

Examination by Mr. De Minicis

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1 Q. Could you please state your name and surname for the record?

2 A. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. Were you ever a member of the Kosovo Liberation Army?

10 A. Yes, I was a member of the Kosovo Liberation Army from its
11 foundation.

12 Q. And approximately - or precisely, if you can - what date would
13 that be?

14 A. Since 1998 until the end of the war in 1999.

15 Q. Which month of 1999?

16 A. I don't know the exact date.

17 Q. In which area of Kosovo did you join the KLA?

18 A. We were attached to the Llap operational zone, [REDACTED]
19 [REDACTED]

20 Q. Were you part of any specific brigade within the Llap
21 operational zone?

22 A. Yes, 153rd Brigade.

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness: W04600 (~~Private Session~~) (Open Session) *Reclassified pursuant to F493*

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Examination by Mr. De Minicis

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

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 MR. DE MINICIS: Perhaps it would be a good time to show a map
12 to the witness, which may assist Your Honours in visualising the area
13 where the witness was operating.

14 Could we please have -- this would be document 3 on the exhibit
15 list of this witness, with ERN SPOE00238090. And if I may request
16 the Court Officer to zoom the map to 150 per cent of its normal size.
17 Perhaps a bit more, because I think that it's a bit difficult to read
18 the names of the towns. If it can be moved a little further down,
19 scroll down. A bit more. Thank you. A bit more. With Prishtine in
20 sight. Thank you. That will do. A bit further up, sorry. That's
21 perfect. Thank you very much.

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q. Next to you, on your right, you have a device that will allow

Examination by Mr. De Minicis

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

1 you to mark this photograph digitally. I believe the Court Usher may
2 be able to assist you. Would it be possible for you to mark the
3 location of Buna 29?

4 A. It is not on the map, so I can't pinpoint it exactly. But I
5 could tell you approximately where it is.

6 Q. Yes, approximately will also suffice.

7 A. From here to here, in this part.

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 MR. DE MINICIS: Thank you. I'm finished with this document.

15 And, of course, Your Honour, I will be -- at some point want to
16 tender this into evidence which has now, with the marking, become a
17 different document. I trust that's done through the -- that would be
18 possible. Thank you.

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness: W04600 (~~Private Session~~) (Open Session) *Reclassified pursuant to F493*

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Examination by Mr. De Minicis

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1 A. Yes.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A. Yes.

10 MR. DE MINICIS: Your Honour, we may now move in public session.

11 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
12 revert us back into public session.

13 [Open session]

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

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
16 Please proceed, Mr. Prosecutor.

17 MR. DE MINICIS:

18 Q. Witness, we are now back in public session, so let's be careful
19 not to say your name or any other identifying detail.

20 I will be asking you some questions, just a few, about
21 Brigade 153, just to enable a better understanding and provide some
22 context on the testimony that is to come later.

23 You told us that you were part of [REDACTED] How many
24 brigades did the Llap zone have?

25 A. Three or four.

Witness: W04600 (Open Session)

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Examination by Mr. De Minicis

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1 Q. Do you recall their names or numbers, in addition to 153?

2 A. Initially, there were no brigades. But later they began to be
3 formed. I don't know the exact date when they were officially
4 announced as formed. But there were 153, 151. Then they were called
5 Hyzri Talla Brigade, so they were called by name. So they changed
6 over time.

7 Q. You told us that you don't recall the exact time when the
8 brigades were formed, and we don't need to know that, but do you
9 recall if it was in 1998 or 1999?

10 A. I believe it was 1999. However, I'm not sure whether it was
11 1998 or 1999. I told you I don't know the exact dates.

12 Q. It's okay.

13 MR. DE MINICIS: Your Honour, I apologise, but my computer seems
14 to have logged out, and I no longer have the screen in front. May I
15 log back in?

16 PRESIDING JUDGE VELDT-FOGLIA: Of course, Mr. Prosecutor. It
17 happened to me the other day. So please --

18 MR. DE MINICIS: Thank you.

19 PRESIDING JUDGE VELDT-FOGLIA: -- proceed.

20 MR. DE MINICIS: Apologies. I am back online.

21 Q. In February 1999 -- or in 1999 when the brigades were created,
22 who was the commander of the Llap zone?

23 A. It was Rustem Mustafa.

24 Q. And who was the commander of Brigade 153?

25 A. Until the end of 1998, the commander was Fatmir Sopi and

Examination by Mr. De Minicis

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1 Sejdi Veseli. Then the commander was Adem Shehu.

2 Q. Where did Brigade 153 have its headquarters?

3 A. First of all, the brigade was stationed at Fatmir Sopi's house,
4 and then they transferred to the school in Zllash.

5 MR. DE MINICIS: Your Honour, I would ask to move very briefly
6 into private session, to then go back into public after a couple of
7 questions.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

9 Madam Court Officer, can we revert into private session, please.

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

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

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

13 You may proceed, Mr. Prosecutor.

14 MR. DE MINICIS:

15 Q. Witness, you told us that the base of Brigade 153 was first in
16 Fatmir Sopi's house and then in the school of Zllash. In which town
17 or village is Fatmir Sopi's house?

18 A. Fatmir Sopi's house is in Zllash, about 5 to 600 metres away
19 from the school.

20 Q. Now, you told us that Brigade 153 had its headquarters in Zllash
21 in two different places but fairly close to one another. [REDACTED]
22 [REDACTED] did you ever go to Zllash in 1999?

23 A. Yes, I did.

24 Q. How many times would you say you went there, give or take? I
25 don't pretend that you give us any precise number.

Examination by Mr. De Minicis

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1 A. I went there several times, many times to the 153rd Brigade. I
2 went there before the formation of the brigade. So I would go to
3 Zllash, [REDACTED] We were moving around.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 MR. DE MINICIS: Your Honour, we may go back into public
8 session.

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

11 [Open session]

12 THE COURT OFFICER: We're back in open session, Your Honours.

13 MR. DE MINICIS:

14 Q. Mr. Witness, in addition to Brigade 153, was there any other KLA
15 unit which was based in Zllash?

16 A. Yes, there was.

17 Q. Which unit was based in Zllash in addition to -- or units in
18 addition to Brigade 153?

19 A. Apart from 153 Brigade, there was also the Karadak operational
20 zone and BIA unit, known as Skifterat. These two were also based
21 there.

22 Q. Who was the commander of the BIA unit?

23 A. The commander of BIA unit was Salih Mustafa.

24 Q. Was Salih Mustafa also known by any other name or nickname?

25 A. Yes, by the pseudonym of Cali.

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Examination by Mr. De Minicis

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

1 Q. When did the BIA unit start using this base in Zllash?

2 A. I don't know exactly.

3 Q. Do you know until when they were based there?

4 A. As to until when, to my knowledge until the bombardment by the
5 Serbian forces. Until then, they were stationed in Zllash.

6 Q. Now, you told us that Brigade 153 was in the Zllash school. You
7 told us that its previous location, Fatmir Sopi's house, was about
8 600 metres from there. Where in Zllash was the BIA unit base
9 located?

10 A. The BIA unit had its base at Sfarç neighbourhood, as we used to
11 call them. It was the Krasniqi neighbourhood.

12 Q. Witness, is Zllash a flat or hilly area?

13 A. The highest point in Gollak is Zllash.

14 Q. Was the BIA unit in Sfarç located downhill or uphill from the
15 school? In other words, to go from the school to the BIA unit, did
16 you have to walk uphill or downhill?

17 A. Uphill.

18 Q. By and large, are you able to tell us what distance was between
19 the school and the BIA unit in Sfarç?

20 A. Approximately 1 to 1 and a half kilometres.

21 Q. Now, I remind you that we are in public session at this moment,
22 so I'm going to ask you a question, and I just want you to tell me
23 just a "yes" or "no," if possible. And I will keep -- we will go
24 back to that topic later in private session. But for now, I would
25 just like to ask you: Did you ever go to the BIA unit's base in

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Examination by Mr. De Minicis

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1 Sfarç?

2 A. Yes, I did.

3 Q. Are you able to describe --

4 THE INTERPRETER: Microphone, please.

5 MR. DE MINICIS: I'm sorry.

6 PRESIDING JUDGE VELDT-FOGLIA: No, we all do it. So ...

7 MR. DE MINICIS:

8 Q. Are you able to describe for the Panel the layout of the BIA
9 unit's base in Sfarç? Perhaps -- I'm not asking anything too
10 specific. For now, just an approximate description of what it looked
11 like would suffice.

12 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor -- thank you.

13 THE WITNESS: [Interpretation] Yes, I will try to describe it in
14 approximate terms. I will start with Fatmir Sopi's house, where the
15 base was initially stationed. There is a school. The road goes
16 uphill up to their base.

17 MR. DE MINICIS:

18 Q. And the BIA unit's base --

19 THE INTERPRETER: Microphone, please.

20 MR. DE MINICIS:

21 Q. And the BIA unit's base, was it just one building or more than
22 one building?

23 A. There were many buildings there, not just one. It was a family
24 compound composed of several houses, which were old houses.

25 Q. Thank you. Are these buildings still there today? Are they

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Examination by Mr. De Minicis

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1 still standing?

2 A. After the shelling, I don't think they existed anymore.

3 Q. I forgot to ask you earlier, do you recall when the shell
4 bombardment took place? Which month?

5 A. In April.

6 Q. April 1999?

7 A. Yes.

8 Q. At the time when you were -- in 1999, was the BIA unit's base
9 guarded?

10 A. I don't know.

11 Q. Was there any guard, for instance, controlling access to its
12 perimeter?

13 A. Yes, when I was there, yes. But in general, I don't know
14 whether they had guards or not.

15 Q. I think you've explained quite clearly the location of the base
16 of the different -- at least of Brigade 153 and of the BIA unit in
17 Sfarç. Now, was any unit of Brigade 153 stationed in Sfarç?

18 A. Let's not take this Sfarç as a name of a village or a
19 neighbourhood or of a certain designated location. The villagers who
20 lived there, their surname is Krasniqi but they're called Sfarç.
21 That's why to avoid confusion, it's not the name of the neighbourhood
22 but it's the name referring to the family. And this is the reason
23 why that place was called Sfarç, nothing else.

24 The last name of the family that lived there was Krasniqi. So
25 to avoid any confusion that this is the name of a village, a town,

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1 city, it's just a family name. The Sfarç family. Nothing else.

2 Q. Thank you for clarifying that. So if I understand you
3 correctly, Sfarç - the location of the BIA unit's base - was in this
4 compound that belonged to this family; is that correct?

5 A. Yes.

6 Q. And in this compound, in addition to the BIA unit, was there any
7 other unit or was there any Brigade 153 unit using that as a base?

8 A. No, I don't think there was.

9 Q. You told us that some units of the Karadak zone also operated in
10 Zllash. Was any soldier of the Karadak zone based in this compound
11 used by the BIA unit as a base?

12 A. No, I don't know.

13 MR. DE MINICIS: Your Honours, if we could --

14 THE INTERPRETER: Microphone, please.

15 MR. DE MINICIS: If we could now please move into private
16 session.

17 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could we
18 please go into in private session, please.

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

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

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
22 You have the floor, Mr. Prosecutor.

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

24 Q. Mr. Witness, you told us earlier that on one occasion you did go
25 to the BIA unit's base in this place which I'll refer to as Sfarç for

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

1 ease of reference. Do you remember what time, which months, and the
2 date approximate -- approximately the period when you went there?

3 A. Yes, I was there sometime in April 1999.

4 Q. What was the reason for your trip there?

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. Was he fighting for the Serb forces?

24 A. No.

25 THE INTERPRETER: Microphone.

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1 MR. DE MINICIS:

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 A. No, he didn't explain it to me.

8 Q. Now, Mr. Witness, I would like to take this step by step, and I
9 will ask you questions aimed at ascertaining exactly how this came
10 about.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 A. Yes. We didn't move without weapons, because 2 kilometres away
24 from us was where the Serbian forces moved on a daily basis. So we
25 were armed at all times.

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 A. Yes.

25 Q. What was his name?

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1 A. His pseudonym was [REDACTED] I didn't know his real name.

2 Q. What unit was he a member of?

3 A. The BIA unit.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 A. Yes.

8 MR. DE MINICIS: Your Honour, I would ask that document in tab 4
9 of the exhibit list for this witness be put on the screen. Page 2 of
10 document 072908-072914RED1, please. The next page, please.

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

12 MR. DE MINICIS:

13 Q. Mr. Witness, do you recognise this drawing?

14 A. Yes.

15 Q. Is that -- do you recognise the signature on the bottom right
16 corner of this drawing?

17 A. Yes.

18 Q. Whose signature is it?

19 A. Mine.

20 Q. Now, do you remember sketching this during your SPO interview
21 that took place on 21 January 2020?

22 A. Yes, I remember it.

23 Q. Now, in the bottom slightly left side of the sketch, there is an
24 arrow. Can you see that?

25 A. Yes.

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

1 Q. Can you tell us what it depicts, that part of your drawing?

2 A. There are two arrows here: The arrow from the road to the gate,
3 and then the other one going inside into the yard.

4 Q. Yes, I believe that's a number 1, but it does look like an
5 arrow. But could you tell us --

6 A. No, no. No, that's an arrow.

7 Q. That's okay. Could you tell us what that drawing represents?
8 What part of -- what is it that you drew there?

9 A. I tried to depict here that when you come from the left side on
10 this road and you stop in front of the gate, that's what the first
11 arrow depicts. And then when -- the second arrow depicts going
12 inside, and that's why I put that arrow there.

13 Q. Thank you. And I apologise for mischaracterising your sketch.
14 Now, you see what appears to me to be a number 2 next to a
15 rectangle -- rectangular drawing on the right-hand side -- it's on
16 the centre, actually, of that sketch. Do you see that?

17 A. Yes.

18 Q. And can you tell the Panel what that represents there?

19 A. This was a building, single-storey building, an old one. Up to
20 these lines that you can see in the sketch, there was a sort of a
21 porch there. And then there were rooms, one, two, three, four. I
22 don't know how many rooms there were. And all the rooms had doors
23 that came out to this porch.

24 [REDACTED]

25 [REDACTED]

Witness: W04600 (~~Private Session~~) (Open Session) *Reclassified pursuant to F493*

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

1 A. Yes.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 A. I said this before. I don't know exactly. But about 20 to

13 30 metres. I'm not sure. So, yes, 20 to 30 metres.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness: W04600 (~~Private Session~~) (Open Session) *Reclassified pursuant to F493*

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

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 MR. DE MINICIS: Your Honours, I'm looking at the time. And I
18 know that we still have five minutes, but for me this would be a
19 comfortable place to stop for today, with Your Honours' permission.

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

21 MR. DE MINICIS: And we ...

22 [Trial Panel confers]

23 PRESIDING JUDGE VELDT-FOGLIA: Please finish your sentence,
24 Mr. Prosecutor.

25 MR. DE MINICIS: Thank you, Madam President. No, I was saying

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1 that we may go back to that. I have finished with private session
2 questions, so I no longer need to be in private session.

3 PRESIDING JUDGE VELDT-FOGLIA: What I was going to suggest, that
4 I could also ask the interpreters to see if we could go along a
5 little bit more, maybe a quarter of an hour, and that would give you
6 20 minutes to continue the examination, but I leave that up to you.

7 MR. DE MINICIS: Well, Your Honours, I do have still -- if
8 Your Honours would like to go on a little longer, I for sure can. I
9 would ask, though, for a five-minute break before we restarting, if
10 that's possible.

11 PRESIDING JUDGE VELDT-FOGLIA: I first have to ask our
12 interpreters if it's possible.

13 Yes, my question to the interpreter booth is could we go on for
14 another 15, 20 minutes?

15 THE INTERPRETER: I think that's possible, Your Honour. Yes.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you for that. In this
17 case, we take a five-minute break, and then we -- okay, yes, I see
18 the [Microphone not activated].

19 Madam Court Officer, can we please revert to public session,
20 please.

21 [Open session]

22 THE COURT OFFICER: We are now back in public session.

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

24 We have now still some time because we have the possibility that
25 the interpreters assist us some more. We will adjourn now for five

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1 minutes and then continue another 15 minutes.

2 So the hearing is adjourned for five minutes.

3 [The witness stands down]

4 --- Recess taken at 3.57 p.m.

5 --- On resuming at 4.07 p.m.

6 PRESIDING JUDGE VELDT-FOGLIA: We resume. Our system is kind of
7 heavy, so that means when we take a break of five minutes it's always
8 a little bit more. Good.

9 Before we usher the witness in again, I would like to call
10 appearances, very quickly, just to see if nothing has changed on this
11 side.

12 SPO?

13 MR. DE MINICIS: Your Honour, nothing has changed for the SPO.

14 PRESIDING JUDGE VELDT-FOGLIA: Okay, very good. That's for the
15 record.

16 I see the same faces for the Victims' Counsel.

17 MR. VON BONE: No changes.

18 PRESIDING JUDGE VELDT-FOGLIA: And for the Defence, nothing
19 changed.

20 And there I note that the Registry is not represented anymore.

21 We can now usher the witness in, please.

22 [The witness takes the stand]

23 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness.

24 THE WITNESS: [Interpretation] Thank you.

25 PRESIDING JUDGE VELDT-FOGLIA: I now address the interpreters.

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1 Till what time are we allowed to continue?

2 THE INTERPRETER: We have to consult each other --

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 THE INTERPRETER: -- Your Honour.

5 MR. DE MINICIS: Your Honour, if I may. It may be of assistance
6 at this point to say that we don't plan to go on for too long. We
7 just have two or three questions to ask some more precise information
8 about evidence already given by the witness, and we plan to continue
9 tomorrow with new questions.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. So what is your
11 estimation, ten minutes, quarter --

12 MR. DE MINICIS: Ten minutes, tops.

13 PRESIDING JUDGE VELDT-FOGLIA: Okay. For the interpretation,
14 ten minutes is what we are asking for.

15 THE INTERPRETER: We can go on until 4.30, Your Honour.

16 PRESIDING JUDGE VELDT-FOGLIA: I thank you. We were informed
17 that there will be only ten minutes needed for further examination
18 for today. Thank you for your availability.

19 Mr. Prosecutor, you have the floor.

20 MR. DE MINICIS: Your Honour, while I'm -- we can start in a
21 public session for a couple of questions, but then I will need to go
22 back into private just for caution, because even if I'm careful, the
23 answer elicited may be revealing.

24 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

25 MR. DE MINICIS:

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1 Q. Mr. Witness, [REDACTED]

2 [REDACTED] what brigade was he part of? I don't think we've
3 put that on the record.

4 A. Agron Xhemajli was part of 153rd Brigade. And to my knowledge,
5 he was chief of intelligence service of this brigade.

6 Q. What | 153?

7 A. I don't know what his role was precisely. But when you say
8 "intelligence service," you know, you can imagine what sort of
9 services are carried out. It's a matter of organisation, supervision
10 of different position points, brigade information. So to my
11 knowledge, these are the tasks that were included.

12 Q. You said "information." Was that gathering of information for
13 intelligence purposes?

14 A. Yes, of course.

15 Q. Did Agron Xhemajli have the power to order arrests?

16 A. As far as I know, he got his orders from the zone staff, the
17 operational zone staff, not from the brigade staff. So he did not
18 take orders from the brigade staff. And, to my knowledge, he got his
19 orders directly from the operational zone staff.

20 Q. Was it within his authority to order that somebody be arrested?

21 A. Probably, yes.

22 MR. DE MINICIS: Your Honour, can we please move into private
23 session now.

24 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can we go

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1 into private session, please.

2 ~~[Private session]~~ [Open session]

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

4 MR. MICHALCZUK: Thank you, Madam Court Officer.

5 Mr. Prosecutor, when you have finalised your questions, we might
6 try again to have the sketch shown to the witness and -- because I
7 was informed that apparently the witness was touching the screen with
8 his hand while using the pen. Maybe if we try it again and then
9 insisting on only touching the screen with the pen and not with the
10 hand, we might receive the letters on the screen in a more visible
11 way.

12 MR. DE MINICIS: By all means, Your Honour. I'm happy to go
13 there right now if that --

14 PRESIDING JUDGE VELDT-FOGLIA: Okay, maybe then you can repeat
15 the questioning on this specific part. And if it doesn't work out,
16 we have the sketch printed out, and then we could have Mr. Witness
17 put the letters, if he wants to write anything on it, on the sketch,
18 and then put it into the custody of our colleagues from CMU. But let
19 us first try to do it digitally.

20 MR. DE MINICIS: Absolutely, Your Honours.

21 So we're now in private session. The sketch is back up.

22 THE WITNESS: [Interpretation] I can't improve --

23 PRESIDING JUDGE VELDT-FOGLIA: Which letter is this --

24 THE WITNESS: [Interpretation] B, I think, here. I'll leave it
25 this way.

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1 PRESIDING JUDGE VELDT-FOGLIA: Okay. What are you pointing --
2 what are you writing there? Which letter?

3 THE WITNESS: [Interpretation] I was trying to write letter A.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay. But that's good for the
5 record, because then at the -- at the --

6 THE WITNESS: [Interpretation] I understand you --

7 PRESIDING JUDGE VELDT-FOGLIA: -- at the rectangular --

8 THE WITNESS: [Interpretation] -- but it's a bit difficult to
9 write with this pen.

10 PRESIDING JUDGE VELDT-FOGLIA: I understand. But at the
11 rectangular on the picture at the right side, Mr. Witness has made a
12 sign and he says that is A.

13 THE WITNESS: [Interpretation] On the left side, down here, at
14 this part below is letter B.

15 PRESIDING JUDGE VELDT-FOGLIA: For the record, is that clear
16 enough? It's on the left side from the arrow at the bottom part of
17 the picture, the sign there is B. Thank you, Mr. Witness.

18 MR. DE MINICIS: Now, with Your Honour's permission, I would
19 like to ask the Court Officer to move to the following page of this
20 document.

21 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, thank you.

22 MR. DE MINICIS: Thank you.

23 Q. Mr. Witness, do you also recognise this sketch?

24 A. Yes, it was drawn by me.

25 Q. Thank you very much. [REDACTED]

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1 [REDACTED]

2 A. Yes.

3 Q. Could you, to the best of your abilities, and to what the
4 technology at our disposal allows, perhaps draw a number 1 next to
5 the gate?

6 A. [Marks].

7 Q. Thank you, Mr. Witness. Now, what does that building there
8 represent in the drawing?

9 A. It represents the base, the BIA base.

10 [REDACTED]

11 [REDACTED]

12 A. Yes.

13 Q. Could you please, to the best of your ability, mark that place
14 with number 2?

15 A. [Marks].

16 MR. DE MINICIS: Your Honour, it kind of looks like a 3, but I
17 think if it's okay for Your Honours --

18 PRESIDING JUDGE VELDT-FOGLIA: It should be a 2.

19 MR. DE MINICIS: It should be a 2, yes. I'm hesitant to
20 scribble over further onto the thing.

21 PRESIDING JUDGE VELDT-FOGLIA: I will, for the record, say that
22 in -- I will say, for the record, for the transcript, that in the
23 house we see drawn on this sketch, that there is a sign, and the
24 witness has indicated that it is number 2.

25 MR. DE MINICIS: Your Honours, I'm done with this document for

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1 now.

2 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, you can take
3 the document away. Thank you.

4 MR. DE MINICIS:

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Q. You're right. That's my bad. You said that it was on the way
13 and you dropped him off there, but thank you for clarifying that.

14 A. Yes.

15 Q. [REDACTED]

16 [REDACTED] had you seen him before then or was it the first time
17 you met [REDACTED]

18 A. I had seen him many times before. [REDACTED]

19 [REDACTED] In

20 general, it was not the first time I saw Cali. We were [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 Q. Thanks, that's clear. I know a long time has passed, but do you
2 recall how Commander Cali was dressed by any chance?

3 A. Although quite a long time has passed, he always wore camouflage
4 uniform.

5 Q. Again, maybe a long shot, but do you remember any other detail
6 of his attire?

7 A. Oh, what else? Sometimes a hat, sometimes not. Sometimes
8 armed, sometimes not armed. He wouldn't wear anything else.

9 Q. I understand. I have one last question for you today. Was
10 there any fencing or walling around the BIA unit's base that you
11 recall?

12 A. I don't remember seeing one. I don't know.

13 MR. DE MINICIS: Your Honours, this would be all for me for
14 today. Thank you for the extra time we were given, and thank you to
15 the interpreters as well.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Prosecutor.
17 Madam Court Officer, can we go 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.

21 We are now in public session.

22 Mr. Witness, thank you very much for your time today. Let me
23 remind you that, until tomorrow, you shall not discuss your testimony
24 with anyone. You will be assisted by the Registry staff now. Try to
25 rest and we will see you again tomorrow. Is that clear for you? I

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1 see you --

2 THE WITNESS: [Interpretation] Yes, thank you.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness, for
4 today.

5 Can we please assist the witness leaving the courtroom? Thank
6 you.

7 [The witness stands down]

8 PRESIDING JUDGE VELDT-FOGLIA: Now, if the parties and the
9 Victims' Counsel do not have anything to raise anymore today - I see
10 nodding - then we will resume tomorrow. And I thank the parties and
11 the Victims' Counsel for their attendance. I also wish to thank the
12 interpreters especially for also the extra time, the stenographer,
13 the audio-visual booth, and the security personnel for their
14 assistance today.

15 We will resume tomorrow at 9.30, and I adjourn the hearing.

16 --- Whereupon the hearing adjourned at 4.28 p.m.

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