

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

1 Wednesday, 1 June 2022

2 [Open session]

3 [The accused appeared via videolink]

4 --- Upon commencing at 9.32 a.m.

5 PRESIDING JUDGE VELDT-FOGLIA: Good morning.

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 Yes, let me call the appearances.

11 Mr. Prosecutor, you have the floor.

12 MR. MICHALCZUK: Good morning, Your Honours. Good morning,  
13 everyone. The Prosecution is represented today by Silvia D'Ascoli,  
14 Associate Prosecutor; Julie Mann, the SPO Case Manager; and myself,  
15 Cezary Michalczuk, the SPO Prosecutor.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

17 Victims' Counsel, you're sitting a little bit more in the back,  
18 but you have the floor.

19 MS. PUES: Yes. Good morning, Your Honours. Good morning,  
20 everybody. The seating isn't our choice, but the conditions today  
21 require it, I understand. The participating victims are today  
22 represented by Brechtje Vossenbergh, my co-counsel, and by myself,  
23 Anni Pues, as counsel. Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

25 Defence Counsel, you have the floor.

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

1 MR. VON BONE: Good morning, Your Honours. Defence is  
2 represented by myself, Julius von Bone. Joining us via remote is  
3 Mr. Mustafa. Thank you very much.

4 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mustafa, does the connection  
5 work okay? Can you hear us fine?

6 THE ACCUSED: [Interpretation] [via videolink] I can hear you.

7 PRESIDING JUDGE VELDT-FOGLIA: Very well.

8 THE ACCUSED: [Interpretation] [via videolink] But I don't see  
9 any -- I don't have video. I can't see the courtroom.

10 PRESIDING JUDGE VELDT-FOGLIA: That should be resolved,  
11 Mr. Mustafa, because you should be able to see us. I will ask to  
12 look into that before we proceed.

13 Please, Mr. Mustafa.

14 THE ACCUSED: [Interpretation] [via videolink] Now I can see you,  
15 Your Honour. I have video now, video footage.

16 PRESIDING JUDGE VELDT-FOGLIA: Very well. Then we can proceed.

17 And, for the record, you are appearing in front of  
18 Trial Panel I.

19 Pursuant to the Panel's decision on Prosecution request to  
20 present evidence in rebuttal, which is filing 424, we will hear the  
21 witness authorised by the Panel, and due to the protective measures  
22 in place for this witness, and the fact that he has already testified  
23 before the Panel, we shall refrain from mentioning his pseudonym, but  
24 we shall refer to him only as "Mr. Witness."

25 Before we begin with today's testimony, the Panel would like to

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1 give an oral order for the SPO.

2 The Panel notes that the SPO has translated some pages of the  
3 book written by Defence Witness 1600, which is -- the pages are  
4 DSM00236 and 00299.

5 Such excerpts have been disclosed by the SPO on 10 May of this  
6 year, at 9.18, in disclosure batch number 139. And the Panel notes  
7 that item DSM00257-DSM00266-ET is a translation of pages 266 till 275  
8 of the book. However, we noted that the first page of such item -  
9 which is DSM00257 - indicates the date of 18 April 1999, and that is  
10 an element which does not appear in the original version of the book.  
11 The Panel requests the SPO to resubmit a corrected version of item  
12 DSM00257-DSM00266-ET by Tuesday, 7 June 2022.

13 And this concludes the oral order.

14 Very well. Then we will proceed what is on the agenda for  
15 today. Can we please usher the witness into the courtroom.

16 Yes, I see. Madam Court Usher -- sorry. I see that the SPO is  
17 standing.

18 Mr. Prosecutor, you have the floor.

19 MR. MICHALCZUK: Your Honours, could I kindly ask to go into  
20 private session.

21 PRESIDING JUDGE VELDT-FOGLIA: We can.

22 Madam Court Officer, could you bring us, please, into private  
23 session.

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

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

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

1 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor.

2 MR. MICHALCZUK: Your Honours, I would kindly ask you to proceed  
3 with this witness entirely in the private session and this is for  
4 three reasons.

5 The first one is that, pursuant to Your Honours' orders, this  
6 witness is a protected witness and I think he himself will express  
7 the wish to be examined only in the private session in its entirety  
8 due to personal fragility and fear that he might have.

9 The second reason is that today we will be asking several  
10 questions that concerns the [REDACTED]  
11 [REDACTED]

12 And the third reason, linked to the first one, is that just a  
13 few minutes ago, myself and Counsel Ms. D'Ascoli had a courtesy  
14 meeting with the witness and we simply greeted the witness and we  
15 proceeded with courtesy formalities. However, the witness  
16 spontaneously told us that on Monday, this Monday, [REDACTED]  
17 contacted him and said that on the same day, Monday, he had been  
18 contacted by someone who gave the name of [REDACTED] who started a  
19 very weird conversation making reference to the witness, saying a few  
20 things about witness being somewhere abroad and whether [REDACTED]  
21 could get a job at the [REDACTED] company. Apparently, the  
22 [REDACTED] got very upset. There was some kind of  
23 emotional exchange between himself and that person who called himself  
24 [REDACTED]. This exchange was initially apparently [REDACTED]  
25 [REDACTED] and later on also translated into a conversation via

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1 [REDACTED] application, there was an oral  
2 exchange.

3 So, apparently, that [REDACTED] said at some point that he knew  
4 that  
5 the witness was [REDACTED] in a certain location and that he would be  
6 very happy to [REDACTED] and in  
7 anticipation for [REDACTED], he would be happy to get the  
8 employment at [REDACTED] company.

9 The conversation was weird. I'm just trying to summarise what  
10 the witness told us just a few minutes ago. It's a full disclosure  
11 also for the Defence to know what happened. We did not ask for any  
12 information. It was spontaneously given by the witness.

13 So the witness, apparently after this conversation was relayed  
14 to him by [REDACTED], he got apparently emotional. Apparently, he  
15 could not sleep the whole night and he thinks it is -- it was in  
16 relation or in the connection with his testimony of today. We are  
17 not going -- as SPO, we are not going to ask questions about it. I'm  
18 just raising this issue for Your Honours' consideration. Maybe you  
19 would be willing to ask questions. We want to focus on one specific  
20 issue today, but [REDACTED] is relevant, we believe,  
21 for Your Honours' assessment, and also this is another argument for  
22 keeping the entirety of the testimony in the private session.

23 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. Thank  
24 you, Mr. Prosecutor.

25 And that would also include the instruction to the witness; is  
that what you are saying? Or could we start off, in your view, with

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1 the instruction to the witness in open session and then continue as  
2 soon as you start questioning the witness in private.

3 MR. MICHALCZUK: The instruction could be, I believe, in the  
4 open session, and the rest we could simply go into private session  
5 and we will start with his examination.

6 PRESIDING JUDGE VELDT-FOGLIA: Because that would be similar to  
7 what we have been doing in the past with SPO witnesses, with some of  
8 the SPO witnesses. And, of course, we have had cases where we went  
9 back and forward into open and closed session, but the majority was  
10 always in closed session so ...

11 MR. MICHALCZUK: Let's be consistent, then, and that's fine with  
12 us.

13 PRESIDING JUDGE VELDT-FOGLIA: But I'm going to give the floor  
14 to everybody to express his view. But thank you for this  
15 information.

16 MR. MICHALCZUK: Yes, thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, you have the  
18 floor if you want to submit anything to the Panel in this regard.

19 MS. PUES: Thank you, Your Honours. Only very briefly. First  
20 of all, I fully second the Prosecution's request and think that it is  
21 entirely appropriate. And also I can add that my own observations on  
22 this matter were that, indeed, the witness is [REDACTED]  
23 [REDACTED], possibly [REDACTED]. And,  
24 therefore, a fully private session seems appropriate. Thank you.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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1 Defence Counsel, you have the floor.

2 MR. VON BONE: Your Honour, I don't think that we need to go in  
3 private session for the entirety. I think if there is any particular  
4 question that would be posed that would show his identity or anything  
5 regarding that, I think for that matter it is appropriate to go into  
6 private session.

7 However, I do not see any relation between anything at all at  
8 this point why, first of all, at the request of a witness we should  
9 go into private session for the entirety. And as far as what the  
10 Prosecution brought about, I don't think that there is any particular  
11 reason or relation with this case, other than the imagination of the  
12 witness, that we should go into private session.

13 So I do not believe that it is necessary to go into private  
14 session for the entirety of it. If we move back and forth, I think  
15 that it is a fair balance as we have struck it over the time to do  
16 the questioning. And as far as the topics are concerned, I do not  
17 believe that there is anything in particular that could harm the  
18 testimony or the revelation of the identity of the witness. I think  
19 that is why these protective measures were in the first place meant  
20 to be.

21 So, in sum, I do not believe it is necessary to go for the  
22 entirety into private session. Thank you very much.

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

24 Mr. Prosecutor, is there something you would like to submit at  
25 this point? We make one extra round to see --

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1 MR. MICHALCZUK: No, Your Honours. I just stand by what I said  
2 before.

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

4 Same goes for Victims' Counsel?

5 MS. PUES: Your Honours, just briefly. Rule 120(3)(e), the  
6 interests of justice do include also victims' psychological state and  
7 well-being. And, therefore, that, certainly combined with security  
8 issues, under paragraph 3(b), would justify an entirely private  
9 session in my view. Thank you.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Victims' Counsel.

11 MR. MICHALCZUK: [Microphone not activated].

12 PRESIDING JUDGE VELDT-FOGLIA: Please, Mr. Prosecutor, you have  
13 the floor.

14 MR. MICHALCZUK: Your Honours, my sincere apologies. I should  
15 have said that before. As I said, the witness a few minutes ago  
16 mentioned this person whose name is [REDACTED]. And just to remind  
17 Your Honours, [REDACTED] mentioned in his statement a certain  
[REDACTED]  
18 as one of the persons whom he met in [REDACTED] when he was allegedly  
19 detained and mistreated. So maybe this is one of the reasons why  
20 with the name [REDACTED].

21 I'm just saying that for Your Honours' benefit if you choose,  
22 Your Honours, to proceed with some questions on this matter with this  
23 witness. Thank you.

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

25 Defence Counsel, is there something you would like to add?



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1 MR. VON BONE: No, Your Honour, not particularly. I do not  
2 think that the psychological state of mind of the witness cannot be  
3 determined by any of us. We have no further information about that  
4 [REDACTED] So I think there is no reason to do that. Therefore,  
5 I remain at the same position as I stated earlier.

6 Thank you very much.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you. We will resume five  
8 minutes in order for a short deliberation among the ...

9 [Trial Panel and Court Officer confer]

10 PRESIDING JUDGE VELDT-FOGLIA: Among the Judges and then we will  
11 come back.

12 Madam Court Officer, could you bring us back into public  
13 session, please.

14 [Open session]

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

16 PRESIDING JUDGE VELDT-FOGLIA: Very well. We will take five  
17 minutes' time for deliberation among the Judges. And I don't want to  
18 do that here in the courtroom. We will be back in a short while.

19 --- Recess taken at 9.48 a.m.

20 --- On resuming at 11.30 a.m.

21 PRESIDING JUDGE VELDT-FOGLIA: Good morning again, after this  
22 break that took some more time than foreseen.

23 We will now give a decision on the request made by the SPO. And  
24 this is our oral order pursuant to Article 23(1) of the Law and  
25 Rule 80 of the Rules.

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

1 The Panel shall provide for the protection of the psychological  
2 well-being of the witness. The measures for protection also include  
3 in that case the possibility for the Panel to order in camera  
4 proceedings, private or closed, as requested by the SPO.

5 Moreover, Rule 120(3)(e) of the Rules foresees that the Panel  
6 can order private or closed sessions in the interest of justice.

7 Based on the information provided to the Panel by the  
8 Witness Protection and Support Office, and having assessed that it is  
9 in the interest of justice to ensure that the witness can provide his  
10 testimony freely, the Panel grants the request of the SPO to proceed  
11 with the testimony of this witness fully in private session.

12 This is -- this concludes the oral order of the Panel.

13 So we will now proceed in private session, and I ask Madam Court  
14 Officer to bring us into private session.

15 ~~[Private session]~~ [Open session]

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

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

18 Yes. And for the record, we are in the same composition, so I  
19 note that. But we have to note that in public.

20 So, I'm sorry, Madam Court Officer, but we have to go back in  
21 public, then I will note that we are in the same composition, and  
22 then we will go into private again.

23 [Open session]

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

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

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

1 I note that we are in the same composition as before the break,  
2 so that is noted.

3 Madam Court Officer, please bring us back into private session.

4 ~~[Private session]~~ [Open session]

5 THE COURT OFFICER: Your Honours, we're in private session  
6 again.

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

8 Madam Court Usher, could you usher the witness in, please.

9 [The witness entered court]

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

11 THE WITNESS: [Interpretation] Good morning.

12 PRESIDING JUDGE VELDT-FOGLIA: And welcome to the  
13 Specialist Chambers. Can you hear me fine?

14 THE WITNESS: [Interpretation] Yes.

15 PRESIDING JUDGE VELDT-FOGLIA: Yes. You had to wait from 9.30  
16 on. I'm sorry for that. How are you, first of all?

17 THE WITNESS: [Interpretation] Good.

18 PRESIDING JUDGE VELDT-FOGLIA: Okay. Mr. Witness, we will start  
19 with your testimony today, but before we do that I have several  
20 remarks. And the most important is that in order to protect your  
21 well-being and in the interests of justice, we will do the  
22 complete -- your complete testimony in private session. We will not  
23 be going into public and private session, back and forward.

24 Do you understand that?

25 THE WITNESS: [Interpretation] Yes. Thank you.

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

1           PRESIDING JUDGE VELDT-FOGLIA: And I will go through some of the  
2           protective measures that you have been granted for your testimony.

3           We will never mention your name. We will refer to you as  
4           "Mr. Witness."

5           You have face distortion, which means that the accused cannot  
6           see your face. However, he can hear your voice, your real voice.  
7           Normally you have some other protective measures, but because we are  
8           in private session, I will not discuss them now because it's not  
9           relevant in this moment.

10           And in addition to the protective measures, upon request by the  
11           Witness Protection and Support Office, you were granted four special  
12           measures pursuant to Rule 80(4)(c)(i), (iii), and (5) of the Rules,  
13           and this is a communication of -- and there is a communication of the  
14           WPSO dated 30 May that no circumstances have changed since that date,  
15           and that the measures you were given the first time you came are  
16           still valid now. And these special measures are that the accused  
17           cannot directly see you so that you're shielded from him; that you  
18           are allowed to have breaks and -- on your request, if necessary; that  
19           is there a psychologist for you. When necessary, you can ask for it.  
20           And if you ask for it, there can also be in-court assistance by a  
21           staff member sitting next to you, but all that on your request.

22           And outside the courtroom, as you have been informed, there is a  
23           member of the staff and a psychologist waiting for you, sitting in  
24           case you need to talk to them.

25           Do you understand all that?

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1 THE WITNESS: [Interpretation] Yes. Thank you.

2 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, you are called to  
3 testify before the Specialist Chambers in the case of the Prosecutor  
4 versus Salih Mustafa to assist the Panel to reach a verdict. After  
5 you have taken your solemn declaration to tell the truth, you will be  
6 asked questions by the lawyers for the Specialist Prosecution Office,  
7 who are sitting over there; the Victims' Counsels who are  
8 representing the victims participating in the procedures; and the  
9 Defence Counsel, sitting on the other hand. Yeah? And at the end,  
10 the Judges might ask you some questions.

11 Yes? I see you nodding. You understood all that.

12 THE WITNESS: [Interpretation] Yes. Yes.

13 PRESIDING JUDGE VELDT-FOGLIA: Very well.

14 THE WITNESS: [Interpretation] Thank you.

15 PRESIDING JUDGE VELDT-FOGLIA: I would like to give you some  
16 practical advice for your testimony, Mr. Witness, and you might  
17 remember it from last time, but I will repeat it just to make sure  
18 that you are aware of it.

19 Everything that we say here is translated and recorded, so it's  
20 important to speak into the two microphones in front of you and to  
21 speak clearly and not to speak too quickly, so at a slow pace.

22 You should only start speaking when the person asking you a  
23 question has finished. That will give the interpreters the time to  
24 translate the question. And so my advice to you would be count till  
25 five in to your head after the person who asked you a question has

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

1 finished and only then start speaking, and that will avoid that the  
2 translation and what you are saying are overlapping. Yes?

3 If you have a question, you need a break, or there is something  
4 else you would like to ask the Panel, please raise your hand and I  
5 will give you the floor so that you can express what you need. Is  
6 also that clear for you?

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

8 PRESIDING JUDGE VELDT-FOGLIA: As we must do with every witness,  
9 I will ask you to read your solemn declaration to tell the truth, and  
10 I remind that you it is an offense within the jurisdiction of the  
11 Specialist Chambers to give a false testimony. Yes?

12 Madam Court Usher, could you assist the witness.

13 THE WITNESS: [Interpretation] Conscious of the significance of  
14 my testimony and my legal responsibility, I solemnly declare that I  
15 will tell the truth, the whole truth, and nothing but the truth, and  
16 that I shall not withhold anything which has come to my knowledge.

17 WITNESS: W01679 [Recalled]

18 [Witness answered through interpreter]

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

21 We can now begin with your testimony, Mr. Witness. And we will  
22 start with the questioning by the Specialist Prosecutor's Office.

23 Mr. Prosecutor, given the limited scope of this testimony as is  
24 foreseen, the Panel has allocated one hour for your questioning,  
25 subject to any leeway to be granted by the Panel if need be. And

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4443

Examination by Mr. Michalczuk

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

1 please inform us if any changes in this scheduling has taken place.

2 You have the floor.

3 MR. MICHALCZUK: Thank you, Your Honours. One hour should be  
4 enough.

5 PRESIDING JUDGE VELDT-FOGLIA: And excuse me, Mr. Prosecutor, we  
6 will continue till 1.00. That's also important, I think, for us all  
7 to know. And then we will go for the lunch break.

8 Examination by Mr. Michalczuk:

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

10 A. Good morning. Good.

11 Q. I'm the counsel for the Prosecution who will be examining you  
12 today. We are expecting a short session and a very focussed line of  
13 questions. Are you ready to start?

14 A. Yes. Yes, I am.

15 Q. Mr. Witness, have you been following these court proceedings?

16 A. Yes, I have followed them. Not all of them; but in general, I  
17 have.

18 Q. And how did you follow those court sessions?

19 A. I followed them through YouTube, [REDACTED], through  
20 television, RTK, that is Kosovo television.

21 Q. Do you remember watching a particular session in this case that  
22 took place on [REDACTED]?

23 A. I don't recall the exact date, but I do remember something  
24 related to a witness that was here.

25 Q. Could you tell us what witness are you talking about?

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4444

Examination by Mr. Michalczuk

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

1 A. Yes. I am talking about the third, I think, witness. It was  
2 [REDACTED].

3 Q. Do you remember on that day, when you were watching that  
4 session, what time you started watching that session?

5 A. It was something around 11.00. I think I have it -- I can see  
6 it on my telephone. It was 11.00 when I started watching.

7 Q. Do you remember whether you followed that session with that  
8 witness whom you named [REDACTED] from the beginning of his testimony?

9 A. No, it was not from the very beginning. It was a little later  
10 when I started watching that what he was saying, the session.

11 Q. Mr. Witness, are you aware of the fact that when you watch court  
12 sessions, via television or via social media, there is a 45-minute  
13 delay between what is happening in real time and what is broadcast?

14 A. Yes, I am aware that it is broadcast 45 minutes later. But as I  
15 said, it had begun when I started watching it.

16 Q. So do I understand correctly that while watching that session,  
17 you saw a person whom you referred to as [REDACTED]; is that correct?

18 A. Yes. I saw that it was [REDACTED], which -- to whom I have  
referred  
19 to in my statements as of [REDACTED]. And I felt very bad when I saw  
him  
20 here sitting on this chair, and I felt I had to do something to  
21 intervene, to tell you that this person is -- what is written there.  
22 I thought you don't know him and I felt I had to show you who he was.

23 Q. How did you come to believe that it was actually the same  
[REDACTED]  
24 who was with you in Zllash in April 1999?

25 A. There are many reasons. If I am not mistaken, I think he gave



Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4445

Examination by Mr. Michalczuk

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

1 an interview. I saw him also on television. He was a [REDACTED]  
2 [REDACTED]. I saw him there too. He is someone you cannot forget  
3 easily. [REDACTED], he [REDACTED], he [REDACTED],  
4 [REDACTED] me. He is someone that, at the end, [REDACTED]  
5 [REDACTED].

6 Q. But when you were watching that session, and we know from this  
7 case from the records that this session took place on [REDACTED],  
8 when you were watching that session, how did you recognise him?  
9 Could you tell the Court what was so specific about the way he  
10 looked, maybe the way he behaved, he spoke, anything to the fact that  
11 made you believe that it was actually that same [REDACTED] that you  
spoke  
12 about during your testimony, speaking about your time in Zllash in  
13 April 1999.

14 A. He was very [REDACTED]. I think he was a [REDACTED] of all those  
15 present. And from his face, not only me but I think every victim  
16 would recognise him, thinking of what we went through because of him.

17 He has not changed much. It's the same person. Maybe he is a  
18 little bit stouter. But he is the same person, the same face, the  
19 same body, height.

20 Q. You said that "[REDACTED]." Whom were you  
21 referring to, when you said "[REDACTED]"?

22 A. I mean he, [REDACTED], [REDACTED].

23 Q. But when are you talking about "all," whom are you referring to?

24 A. There were other persons I have mentioned in my statement.  
25 [REDACTED]. The people who were there.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4446

Examination by Mr. Michalczuk

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

1 Q. Are you talking about those persons who were present in Zllash  
2 in April 1999 when you underwent all the things that you testified in  
3 this trial?

4 A. Yes, correct.

5 Q. What did you do once you realised, watching that session, that  
6 it was [REDACTED]?

7 A. I felt very bad. Just as if he tore [REDACTED]. That  
8 was how I felt. And I contacted the person, I have [REDACTED] contact,  
9 and  
10 I said, "Can I tell the Court? Can I explain the Court that he is  
11 not just a witness like the others, but he is [REDACTED]  
12 [REDACTED]?" I communicated with this person  
13 that I communicate with, and I [REDACTED],  
14 because [REDACTED], trying to explain the situation,  
15 and I asked for [REDACTED]  
16 [REDACTED]

17 Q. And that person that you contacted - don't mention [REDACTED] name  
18 if  
19 you know it - [REDACTED]? What organisation did he  
20 belong to?

21 A. I think [REDACTED].

22 Q. Do you know the name [REDACTED]?

23 A. No, I don't know the name [REDACTED]. I'm sorry.

24 Q. So you [REDACTED]; is that correct?

25 A. Yes, yes, [REDACTED].

Q. You [REDACTED]; if so, what  
[REDACTED]?

Witness: W01679 (Recalled) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 4447

Examination by Mr. Michalczuk

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

1 A. Through [REDACTED]. [REDACTED].

2 Q. Mm-hm. Why did you choose [REDACTED]

3 [REDACTED]?

4 A. Because, as far as I know, [REDACTED]. I don't know

5 [REDACTED]. I know how -- I mean, that much as

6 to get along with someone.

7 Q. Do you remember the content of your message sent to that person

8 [REDACTED]? What exactly did you write?

9 A. I don't recall exactly. I have the message on my phone. But I

10 showed [REDACTED] that, "I have a problem. Can you convey this message to

11 [REDACTED] so that they can see who this person is and

12 whether they know that he is [REDACTED]." I wanted [REDACTED] to

13 convey this message to you, that is, [REDACTED], or to

14 the Court. And, in fact, I said [REDACTED]. It sent me back to

15 1999. I felt in the same way I felt then when I saw him sitting in

16 this chair here.

17 Q. I understand. In that message we are talking about, how did you

18 refer to that person whom you recognised?

19 A. I addressed [REDACTED], "Hi, how are you? I have a problem. Can you

20 convey this message of mine [REDACTED]?" And I was

21 afraid [REDACTED] didn't understand me, what I wanted to say. That's why I

22 asked for an interpreter to help me. And [REDACTED] said, "Okay." Then I

23 continued to talk to [REDACTED] through the interpreter, explaining to [REDACTED]

24 my problem.

25 Q. My question was slightly different. So when you were writing

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4448

Examination by Mr. Michalczuk

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

1 this message, how did you refer in this message to the person whom  
2 you recognised while watching that session? Did you refer to him in  
3 any way? I don't know, by his name, surname, in any other way?

4 A. Yes. I tried to explain to [REDACTED], telling [REDACTED] that  
this is [REDACTED],

5 this witness is [REDACTED], that he is [REDACTED], but I didn't go  
6 into length. Just telling him, "Please convey this message to the  
7 [REDACTED]."

8 Q. In that message, did you actually mention, then, this nickname  
9 [REDACTED]?

10 A. Yes, I did. To my recollection, yes.

11 Q. Do you remember approximately at what time you sent that message  
12 [REDACTED]?

13 A. It was around - I can't be precise - prior to 12.00, I think.  
14 12.00. Because I didn't know what to do. I didn't know whom to  
15 address. But I didn't find any other way, so that's what I did, that  
16 kind of communication.

17 MR. MICHALCZUK: Your Honours, with your permission, I would  
18 like to show the witness a certain communication that we preserved  
19 two days after that session, on [REDACTED], and I would like to  
20 ask him a few questions about it.

21 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Mr. Prosecutor.

22 MR. MICHALCZUK: Thank you.

23 Madam Court Officer, I would kindly ask you to pull up on the  
24 screen the document of this ERN number 105373 to 105375 RED, page 3,  
25 and also page 2, if we could show both pages on the screen. It's for

Witness: W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4449

Examination by Mr. Michalczuk

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

1 the benefit of the witness and also for the benefit of those who  
2 [REDACTED]. Right. That's it. Thank you very much.

3 Q. Mr. Witness, on the left-hand side of this screen, if you take a  
4 look at the screen before you, you can see a certain print screen of  
5 the instant message communication. There are some small black  
6 portions. We just -- don't worry, we just had to redact some parts  
7 of this message just [REDACTED]

8 [REDACTED] The rest of the message is there.

9 Do you recognise this exchange of messages that you can see  
10 before you on the screen?

11 A. Yes.

12 Q. This message in the big box, is that the message that you sent  
13 to that person shortly after you had recognised [REDACTED] on the --  
14 during  
15 this court session?

16 A. Yes, this is the message. And you can clearly see that I wanted  
17 [REDACTED] because I wasn't sure  
18 how much he could understand me.

19 Q. Looking at this exchange of messages here before you on the  
20 screen, could you see the time when your first initial message was  
21 sent?

22 A. Yes, I can see it now.

23 Q. So what time was it when you sent that message?

24 A. 11.15 and 11.16. I couldn't remember accurately, but now I can  
25 see. Because at that moment, you know, I was [REDACTED]. I took it  
as a form of [REDACTED]. So I didn't know how to contact you, what

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4450  
Questioned by Victims' Counsel

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

1 I was writing, just to tell you that this person is not what he  
2 pretends.

3 Q. Looking at the exchange of messages that you have before you on  
4 the screen, does that exchange reflect the conversation that you had  
5 on that day with the person whom you contacted [REDACTED]?

6 A. Yes, it's correct.

7 Q. Mr. Witness, the Prosecution doesn't have any further questions.  
8 Thank you very much.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Your Honours.

10 THE WITNESS: [Interpretation] Thank you.

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

12 Victims' Counsel, could you proceed right away with your  
13 questioning or would you like to have some time to prepare?

14 MS. PUES: Thank you, Your Honours. I'm prepared to proceed  
15 straight away.

16 PRESIDING JUDGE VELDT-FOGLIA: Okay. Then you have the floor,  
17 Victims' Counsel.

18 MS. PUES: Thank you very much.

19 Questioned by Victims' Counsel:

20 Q. Good morning, Mr. Witness. I am Victims' Counsel, not sitting  
21 in the usual position in case the psychologist needs to support you.  
22 And thank you very much for the information that you have provided to  
23 us this morning.

24 A. Good morning to you too.

25 Q. I would only briefly want to follow up with a couple of

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4451  
Questioned by Victims' Counsel

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

1 questions that relate to this specific day, [REDACTED] of this year,  
2 the morning when you -- or the incidents that you've just described.

3 The one thing I would just like to ask you is: Can you recall  
4 if the witness, at that point, had mentioned his nickname yet in the  
5 testimony you'd been listening to?

6 A. No, I do not recall that. He did not mention anything. But as  
7 I went on watching, I automatically recognised it. It's in my  
8 memory. I cannot forget that person. That person will never be  
9 removed from my memory. And he is a person that every witness, every  
10 victim that was there, will recognise, I believe will recognise.  
11 Personally in my case, I will never forget that person, to my last  
12 breath.

13 Q. Did you, after you continued -- or no.

14 Did you, after you messaged your contact, continue listening to  
15 his testimony?

16 A. Yes, I continued to some extent, but I was very upset. I just  
17 could not imagine [REDACTED], a [REDACTED], someone who  
18 [REDACTED] us, how can someone like that sit on a chair  
19 where witnesses sit? So for a moment [REDACTED],  
20 as if [REDACTED], as I was going back in my memory to the  
21 [REDACTED]. So I just [REDACTED].

22 Q. Can you at all recollect if at some later point during that  
23 testimony, which I understand you watched in parts but you were  
[REDACTED]

24 [REDACTED], the witness himself mentioned his nickname [REDACTED]?

25 A. It could be that he did. I cannot remember right now. Maybe

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4452  
Questioned by Victims' Counsel

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

1 later as I watched it in pieces. I remember when the Prosecutor, if  
2 I'm not mistaken, there was a moment when she mentioned that he was  
3 accused or something like that, I think it was in that particular  
4 part. But as I said, it is possible that he mentioned it, but I  
5 don't remember.

6 Q. [Microphone not activated] Thank you. Moving on from there --

7 THE INTERPRETER: Microphone, please.

8 MS. PUES: Thank you.

9 Q. Moving from there on to how you felt about this, you already  
10 described earlier on that [REDACTED] and that you were [REDACTED]  
11 [REDACTED]. I'm referring here to pages 19, line 12, for example,  
12 page 20, line 10. Can you -- have these feelings continued  
13 afterwards? How did you feel after having heard this testimony over  
14 the day -- days following or the months even?

15 A. From that moment, I [REDACTED]. Never. I saw it  
16 as a [REDACTED]. I -- I did not feel well from that moment  
17 onwards. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. When you say you were under a lot of stress, how did the stress  
21 express itself? Were there any -- I don't know. Let me ask it just  
22 in general. [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED] I



Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4453  
Questioned by Victims' Counsel

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

1 wouldn't have intervened if it was another witness, but with him, I  
2 had no other choice. [REDACTED]. I had  
3 [REDACTED]. [REDACTED]. The rest  
4 [REDACTED].

5 Q. So would it be correct to say [REDACTED]

6 [REDACTED] because of what you saw and heard that morning, or not?

7 A. [REDACTED], I would say.

8 Q. Thank you, Mr. Witness. Those were my questions.

9 MS. PUES: Thank you.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Victims' Counsel.

11 THE WITNESS: [Interpretation] Thank you.

12 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, what would be  
13 the best scheduling for you? Could you proceed now and then use the  
14 break to have a closer look at maybe some extra questions would you  
15 like to ask following up on what has been asked now, or would you  
16 prefer to have a break at this moment in time?

17 MR. VON BONE: Your Honour, I would like to have a break at this  
18 time, if that's possible. I think it will be most efficient if I can  
19 develop even some more questions on the issues that were touched upon  
20 and then that would be all much more comprehensive, I think.

21 PRESIDING JUDGE VELDT-FOGLIA: I have a follow-up question on  
22 that. We started later today. If I would reduce the break a little  
23 bit, would that be problematic for you?

24 MR. VON BONE: It would not be a problem, Your Honour.

25 PRESIDING JUDGE VELDT-FOGLIA: If we go back to one hour, that

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4454  
Procedural Matters

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

1 would be to see if we can still not make it too long a day. We have  
2 another day tomorrow but -- yeah, would that ...

3 MR. VON BONE: I think that's fine, Your Honour.

4 PRESIDING JUDGE VELDT-FOGLIA: Then, Mr. Witness, we will have a  
5 break now till a quarter past 1.00 and then we will ask you to come  
6 back. And then we will proceed with your testimony and then it will  
7 be the turn of the Defence Counsel to pose questions to you.

8 Is that clear for you?

9 THE WITNESS: [Interpretation] Yes, it is.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. Then Madam Court Usher  
11 will accompany you out of the courtroom, and then I wish you a good  
12 lunch break.

13 THE WITNESS: [Interpretation] Okay. Thank you very much.

14 [The witness stands down]

15 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could we go  
16 back into public session.

17 [Open session]

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

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

20 As we now have finished the questioning by the -- by  
21 Mr. Prosecutor and by the Victims' Counsel, we will have a break for  
22 one hour, till a quarter past 1.00, and then we will start with the  
23 cross-examination by the Defence Counsel.

24 The hearing is adjourned.

25 --- Luncheon recess taken at 12.12 p.m.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4455

Cross-examination by Mr. Von Bone

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

1 --- On resuming at 1.16 p.m.

2 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

3 I see that the composition is the same. Mr. Mustafa is present.

4 So we can proceed.

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

6 ~~[Private session]~~ [Open session]

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

8 PRESIDING JUDGE VELDT-FOGLIA: Okay.

9 Court Usher, could you bring the witness in.

10 [The witness takes the stand]

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

12 THE WITNESS: [Interpretation] Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: We are in private session for  
14 your information. I will now give the floor to the Defence Counsel  
15 and he will be asking you questions.

16 Defence Counsel, you have the floor.

17 And for your information, Defence Counsel, you have also one  
18 hour. And if you would need some more for your questioning, there's  
19 always -- you have always the possibility to ask the Panel to  
20 allocate you some more time, but please inform me if you think that  
21 you will be needing more than one hour.

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

23 Cross-examination by Mr. von Bone:

24 Q. Good afternoon, Mr. Witness.

25 A. Good afternoon.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4456

Cross-examination by Mr. Von Bone

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

1 Q. Can you hear me well?

2 A. Yes.

3 Q. I cannot hear you well. Maybe you can speak up a little bit.

4 Mr. Witness, how many times did you watch the testimony of the  
5 witness, and I mean the witness that you recognised? How many times  
6 did you see that in total?

7 A. The interview we are talking about today? The person in  
8 question?

9 Q. You -- I'll rephrase it for you. You said you were watching  
10 television and then you recognised a person. And my question is:  
11 How many times did you see that person giving testimony on TV or any  
12 other means of media?

13 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, for me, the  
14 question is not clear neither.

15 MR. VON BONE: Okay.

16 PRESIDING JUDGE VELDT-FOGLIA: So if you could please rephrase  
17 it.

18 MR. VON BONE:

19 Q. On the day that you were watching TV and you recognised that  
20 person, was that the only single time that you watched the testimony  
21 of that person or was there any other additional time that you  
22 watched that testimony?

23 A. I did not watch his testimony. I had seen him before on  
24 *[REDACTED]*, and

25 I watched him when he was here, in the hearing here.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4457

Cross-examination by Mr. Von Bone

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

1 Q. I understand. And about that moment that you saw him as -- on  
2 [REDACTED], how long before --  
3 how long ago was that?

4 A. I don't know exactly how long. Maybe three or four years ago.

5 Q. Okay. And then you saw him giving testimony in the court. And  
6 my question is -- that testimony that he gave, you notified a person.  
7 And my question is: Did you afterwards see that testimony again?  
8 Did you watch it again?

9 A. No, I was no longer interested. I'm not interested even now.  
10 But as I said, it was [REDACTED] for me to see him as a  
11 witness and that was the reason why I intervened. I know who he is,  
12 what he is. But as I said, I considered it as a [REDACTED] on his  
13 part.

14 Q. Yes, I understand. I just want to make sure that I understand  
15 well that you only watched it one single time, this person giving  
16 testimony; is that correct?

17 A. During his testimony, I followed it every now and then. But I  
18 wasn't interested in what he was saying or what he said, nor am I  
19 interested today. I just wanted to point out who he was. I wanted  
20 to say that he is not a person to sit on his -- on this chair, but is  
21 he is another patient to sit there. That's where his place is.

22 Q. And you said today in your testimony that you followed the trial  
23 of the accused in general; is that correct?

24 A. I cannot say that I followed it in general. If I'm not paying  
25 attention about something, I'm not following it. For example, what

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 4458  
Cross-examination by Mr. Von Bone

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

1 your client is saying, I'm not interested to watch or hear what he is  
2 saying because [REDACTED] what he is. It's not that I  
3 followed every session, because in such moments, [REDACTED].  
4 You [REDACTED].

5 Q. No. But previous to this particular witness who testified, did  
6 you see or follow any other witnesses that testified in court before  
7 or after you saw that person on TV? And with "on TV," I mean when he  
8 was giving testimony here in court.

9 A. Yes, there are sessions that I followed of those that you  
10 invited to testify here.

11 Q. Okay. And were there any other witnesses that you recognised?

12 A. Yes, there were. For example, there was [REDACTED], [REDACTED]  
13 [REDACTED] he was here.

14 Q. Anybody else?

15 A. I cannot be specific or accurate. Even with the [REDACTED]  
16 witness, I had some suspicions.

17 Q. I want to go back to the testimony that was done by the person  
18 that you recognised.

19 You said earlier that you recognised him, and I refer to the  
20 transcript page 16, line 14: "Yes. I saw that it was [REDACTED],  
which --  
21 to whom I have referred to in [REDACTED]"

22 A. Yes, that's correct.

23 Q. Yes. And which statements actually did you give [REDACTED]?

24 A. I gave similar statements about these people, about this group  
25 of criminals who committed these tortures and killings. I have

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4459

Cross-examination by Mr. Von Bone

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

1 explained this [REDACTED] I've explained it now. I've spoken about  
2 these things in those statements.

3 Q. Mm-hm. And which specific statement do you speak [REDACTED]?

4 A. [REDACTED]

5 Q. Was that in the [REDACTED]?

6 A. Yes.

7 Q. Okay. Thank you very much.

8 Mr. Witness -- let me see. When you were watching the TV and  
9 you saw the person testifying, were you alone?

10 A. No, [REDACTED].

11 Q. And were [REDACTED]?

12 A. No, [REDACTED] do not follow it. I usually follow it myself, on  
my

13 [REDACTED], wherever I can.

14 Q. Okay. And did you discuss it [REDACTED] when you  
15 recognised this person?

16 A. Maybe I did.

17 Q. Well, I'm asking you, did you or did you not?

18 A. Yes.

19 Q. Okay. And what did you actually discuss then?

20 A. We discussed about this ex-person, that he [REDACTED], very  
21 simple. I already told you I wanted to intervene because this was  
22 [REDACTED]. It was [REDACTED] towards me, [REDACTED] to have a  
23 [REDACTED] sitting here [REDACTED]. He  
24 simply [REDACTED].

25 Q. And [REDACTED] did you discuss that then? With

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4460

Cross-examination by Mr. Von Bone

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

1 whom exactly?

2 A. [REDACTED]

3 Q. Okay. And did you discuss it with anybody else, apart from  
4 [REDACTED]

4 [REDACTED]

5 A. No, I didn't.

6 Q. You said that you became very upset, stressed; is that correct?

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 A. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]



Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4461

Cross-examination by Mr. Von Bone

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

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]?

4 A. [REDACTED]

5 [REDACTED]

6 [REDACTED]?

7 A. I can't give you a precise figure.

8 Q. No? Okay. Was it more than one time?

9 A. Probably.

10 Q. I'm asking you whether it was more than one time. Can you tell  
11 us?

12 A. [REDACTED].

13 Q. Mr. Witness, when you got in touch with the Kosovo Specialist  
14 Chambers and eventually with the Prosecutor, the Prosecutor made a  
15 report about this, and I just want to get into two portions of this  
16 particular report. I will cite it to you.

17 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] What  
18 are you going to cite, Defence Counsel?

19 MR. VON BONE: It's a paragraph --

20 PRESIDING JUDGE VELDT-FOGLIA: No, but from what document?

21 MR. VON BONE: Yes, that's what I'm just trying to --

22 PRESIDING JUDGE VELDT-FOGLIA: Okay.

23 MR. VON BONE: It is the Official Note ERN 105371, which is the  
24 material that is related to this issue.

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

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4462  
Cross-examination by Mr. Von Bone  
*All redactions applied are pursuant to Orders F493, F509 and CRSPD107*

1 thought you were going cite from the report ...

2 MR. VON BONE: It's called an Official Note. I call it a  
3 report. This is what it is.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay. But I thought you I heard  
5 you saying something about IMO, but I must have misunderstood.

6 MR. VON BONE: It's the Official Note of the SPO, ERN 105371.  
7 I'm not sure whether it is necessary to put it up, but I'll cite the  
8 paragraphs.

9 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

10 Madam Court Officer, could you please pull the document up  
11 referred to by Defence Counsel.

12 MR. VON BONE:

13 Q. Mr. Witness, I will cite paragraph 3 and 4 for you. I'll do  
14 that slowly and then I'll ask a question.

15 "Once he realised that he had recognised [REDACTED], W01679  
16 immediately sent a ... message to [REDACTED] in the  
17 [REDACTED]  
18 [REDACTED] asking to inform the Prosecutors about his identification.  
19 He sent that message at 11.15."

20 Mr. Witness, is this accurate what I have just cited?

21 A. It is accurate --

22 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

23 THE INTERPRETER: Microphone for Your Honour.

24 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, can you take off  
25 your headphones, please.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4463  
Cross-examination by Mr. Von Bone

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

1 Victims' Counsel, I see you standing. You have the floor.

2 MS. PUES: Yes, Your Honours. I am -- I would like to point out  
3 that this is a question the witness can't possibly answer because he  
4 hasn't written down that note, so he cannot testify as to the  
5 accurateness of what is written in there.

6 PRESIDING JUDGE VELDT-FOGLIA: Maybe, Victims' Counsel, there is  
7 a part of this message - maybe I also direct myself to the  
8 Defence Counsel - that he cannot testify on. Before he was asked to  
9 [REDACTED] Defence Counsel,  
10 and then he stated that he didn't know the name. So my --

11 MR. VON BONE: My point is not this paragraph, to be quite  
12 honest.

13 PRESIDING JUDGE VELDT-FOGLIA: Yes, I know. But I see that you  
14 want him to say that what is said here is accurate, and I see that  
15 not on all the points he can say that it is accurate. So maybe you  
16 can take out the essence that you would like to question him about  
17 without referring to this specific paragraph.

18 MR. VON BONE: I will do so, Your Honour, but the issue is not  
19 so much this paragraph. The next paragraph is --

20 PRESIDING JUDGE VELDT-FOGLIA: Okay. But then I -- I would just  
21 say --

22 MR. VON BONE: So I just want to make sure that -- it's more  
23 logic to -- to put it in this manner, to this, and in general there  
24 is no issue here.

25 PRESIDING JUDGE VELDT-FOGLIA: No, there -- no --

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4464  
Cross-examination by Mr. Von Bone

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

1 MR. VON BONE: I just want to make sure that, you know, he  
2 contacted it, and that's --

3 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, it is you who  
4 put this paragraph, this specific paragraph to the witness. You  
5 could also have said: You already testified this morning that once  
6 you recognised the witness as being somebody you knew as [REDACTED],  
yeah,  
7 you asked to inform, [REDACTED], the Prosecutors. That's  
8 what you testified this morning. And then go to your next point  
9 without him specifically agreeing on this third paragraph. That's my  
10 point.

11 So I would say --

12 MR. VON BONE: Your Honour, I will leave this issue and go to  
13 the next. It's no --

14 PRESIDING JUDGE VELDT-FOGLIA: Okay. Yes, I see him.

15 Mr. Prosecutor, you have the floor.

16 MR. MICHALCZUK: Just for the record, a small observation. So  
17 this note was produced by actually the two of us, the SPO, after the  
18 conversation with the witness. But later on, this note was not given  
19 to him to confirm whether this is accurate, and that's why we decided  
20 to call him live to testify to say how it was. This note simply  
21 reflects how we understood what he told us. Just for the record I  
22 would like to make it 100 per cent clear.

23 PRESIDING JUDGE VELDT-FOGLIA: Okay.

24 MR. MICHALCZUK: It's not a witness statement, not a prior  
25 witness statement.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4465  
Cross-examination by Mr. Von Bone

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

1 PRESIDING JUDGE VELDT-FOGLIA: Thank you for this information.

2 MR. MICHALCZUK: Thank you.

3 PRESIDING JUDGE VELDT-FOGLIA: And, for now, I did not  
4 understand it differently.

5 Defence Counsel, shall I ask the witness to put on his  
6 headphones again and --

7 MR. VON BONE: Sure.

8 PRESIDING JUDGE VELDT-FOGLIA: -- then you proceed with your  
9 question.

10 MR. VON BONE:

11 Q. Mr. Witness, I'll read you the following paragraph:

12 "Witness W01679 confirmed to Mr. Prosecutor and Madam Prosecutor  
13 that the person whom he saw testifying on [REDACTED] was indeed  
14 [REDACTED] at the 153rd Brigade, [REDACTED],  
15 and then [REDACTED]  
16 [REDACTED]."

17 And my question is: Did you indeed confirm that? So what is  
18 written here, did you indeed confirm that?

19 A. Yes.

20 Q. And then the note reads as follows. I read you the paragraph:

21 "Witness W01679 said that he was 'absolutely positive' about his  
22 recognition of [REDACTED], due to [REDACTED] distinctive features, his  
23 face,  
24 his body type, and height. He added that [REDACTED] had not changed  
25 much."

24 My question to you is: Did you say this indeed to the  
25 Prosecution when you spoke with them?

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4466  
Cross-examination by Mr. Von Bone

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

1 A. Yes, I did.

2 Q. Okay. Thank you very much. I have a couple of questions on  
3 this. Could you tell which distinctive features you mean or you  
4 meant when you actually recognised that person?

5 A. It's his face, his nose. I have [REDACTED] of that face. He's  
6 a person who was very [REDACTED]. I was [REDACTED] and I could -- I  
had to

7 [REDACTED]. He is a person that -- and I put it in  
8 my statement - that when I asked him, "Why did you [REDACTED] he  
9 said, "[REDACTED] That's why." And he is the person who  
10 said that.

11 Q. I understand. I just want to understand what was the distinct  
12 feature in his face that you recognised. If you say his nose, what  
13 is so particular about the nose of this person?

14 A. It seems to me like it's a [REDACTED]. I don't know how to  
15 explain. It's in my mind. It's fixed in my mind. Nobody can tell  
16 me that it's not him. Usually I know the persons I have referred to,  
17 especially [REDACTED]. There have been other persons there that  
18 did nothing wrong to me and I'm not interested in them. I don't  
19 remember them, but I do remember those who [REDACTED]  
20 [REDACTED]

21 Q. I understand. You said his [REDACTED]. My question is again: Is  
22 there any other specific particularity in his face that you  
23 recognised him on?

24 A. No, not anything in particular. Just his face.

25 Q. Just his face. Okay. How about his body type? What was so

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4467

Cross-examination by Mr. Von Bone

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

1 particular about his body type that you recognised this person?

2 A. He was [REDACTED] than the others and maybe more -- [REDACTED]

3 [REDACTED] than the others.

4 Q. There was nobody else in court when he was testifying, and my

5 question relates to the fact that when you were watching his

6 testimony, what was so particular about his body type that made you

7 think or say, "This is that man"? What was -- is there any specific

8 or particular point about his body type that you can indicate to us?

9 A. I think you don't want to understand me. I said that I saw him

10 on television three or four years ago, I think. But I knew him from

11 before. I saw him before. But I don't know what are you asking me

12 about. I don't know how to be more specific.

13 It's not that I knew him here only, that you brought him here.

14 I knew him from before when [REDACTED].

15 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, can you put on

16 your -- take off your headphone? I want to discuss something with

17 the Defence Counsel.

18 Defence Counsel, he has said that the man was taller and was

19 more developed physically. And as I understood it, yeah, is that

20 that are the features he recognised this specific person from, from

21 back then.

22 So back then, in 1999, apparently he thought he was taller - I'm

23 just repeating what is said - and that was more developed physically.

24 And apparently, as I understand the witness, he is saying, "I saw a

25 person with those features."

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4468

Cross-examination by Mr. Von Bone

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

1           So I -- no, I would tell you not to tell him that he's not  
2           saying it because he is giving you features.

3           MR. VON BONE: Well --

4           PRESIDING JUDGE VELDT-FOGLIA: I don't understand your question,  
5           to be honest.

6           MR. VON BONE: Well, I do not think the issue that the response  
7           gives is something in the past. But I want to --

8           PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] It also  
9           relates to now. That, for me, is clear. Because he is telling what  
10          this person has that is similar to back then. And I don't think that  
11          there is --

12          MR. VON BONE: Well, Your Honour, to be quite honest, I just  
13          cited the paragraph.

14          PRESIDING JUDGE VELDT-FOGLIA: Yes.

15          MR. VON BONE: And he said that, and I am going on that issue.

16          PRESIDING JUDGE VELDT-FOGLIA: You are --

17          MR. VON BONE: And then he cannot refer back to 1999. But he  
18          must refer to that specific moment where -- which, in fact, he said  
19          that he recognised him on that particular feature. And, actually,  
20          the distinctive features, I have not even touched on it. I'm just  
21          touching now first on -- we touched on the face and now we touch on  
22          the body type. And I really want to know what on the body type it  
23          was that he said, okay, this is that particular person.

24          PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I already  
25          explained to you, and I'm not going to repeat myself, how I



1 understood what the witness is saying. You may proceed with your  
2 questioning, of course, but I will stop you if I think that you are  
3 confusing the witness because, for now, I was really under the  
4 impression that he thought to have been giving you -- that he had  
5 given you an answer, yeah, explaining to you what he recognised the  
6 person on.

7 So you may proceed, but I will stop you if I think that it's  
8 necessary.

9 MR. VON BONE:

10 Q. Mr. Witness --

11 PRESIDING JUDGE VELDT-FOGLIA: No, wait, wait, wait. I have to  
12 ask him to put on -- can you put on your headphones, Mr. Witness.

13 Please proceed, Defence Counsel.

14 MR. VON BONE:

15 Q. Mr. Witness, you said to the SPO that you recognised him due to  
16 his height. My question is: Did you see that person actually  
17 standing in court?

18 A. No. But I do know that he is tall. I didn't see him here,  
19 whether he was standing or sitting. I wasn't interested in that.  
20 But I do know that he is tall.

21 Q. I understand that you know he is tall, but while he was sitting  
22 here, you could not determine whether he was tall or not tall. Do I  
23 understand that well?

24 A. I didn't mean here in the court. Even when I spoke to the  
25 Prosecutor, I just said, "I know him, I have seen him before." And

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4470

Cross-examination by Mr. Von Bone

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

1 even when [REDACTED] than the others. I based  
2 what I said on what I had engraved in my mind about him.

3 Q. I understand. I understand that. I just want to focus on what  
4 you saw when you saw him testify. That is the only focal point that  
5 I have.

6 And my question is: Could you see whether this was a [REDACTED]  
7 person or not while he was sitting there?

8 A. No, I couldn't prove that here. When I became so nervous and  
9 upset, I wasn't interested to look at other things. I just was so  
10 distraught that I didn't think of looking at him properly. I didn't  
11 want to see him.

12 Q. Mr. Witness, it is written that you said -- that you added that  
13 [REDACTED] had not changed much." Is that correct?

14 A. In my opinion, he hasn't changed much. Maybe he has [REDACTED]  
15 [REDACTED], but I don't see any major difference in him.

16 Q. Mr. Witness, you saw him testify while he was here in court;  
17 correct?

18 A. Yes. But I didn't pay much attention to what he was saying.

19 Q. I understand. Do you know what he was wearing?

20 A. In a jacket, I think, something like that.

21 Q. You know it or you think it? What did you see?

22 A. Based on what I saw, it was the upper part of a suit, that is.  
23 I wasn't very keen to see what he was wearing because once I saw his  
24 face, I couldn't believe my eyes that it was possible for him to sit  
25 down on this chair.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4471

Cross-examination by Mr. Von Bone

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

1 Q. Do you recall the colour of whatever he was wearing?

2 A. I can't be very accurate. Something like this colour or  
3 something, like [REDACTED]. I wasn't concentrated on  
4 that.

5 Q. Do you know what his hair looked like?

6 A. No, I didn't see that.

7 Q. No? Any particular thing in his face that you think of that  
8 that's why I realised that this is the man?

9 A. I don't have anything specific, but it's because I know him from  
10 before. But I wasn't interested to look at those things that you are  
11 putting to me. I didn't even want to see him, actually.

12 Q. Mr. Witness, you say that you knew him from before. Did you  
13 also saw him in the [REDACTED]?

14 A. It is possible.

15 Q. I'm asking you: Did you see him there or did you not see him  
16 there?

17 A. And I'm saying I might have seen him, but now, for the moment, I  
18 don't recall precisely. But I might have seen him.

19 Q. Okay. And between the moment that you saw him [REDACTED]  
20 [REDACTED] and, for example, when you saw him [REDACTED] there was  
21 [REDACTED], did you see him in the meantime?

22 A. I can't be specific. But I happened him [as interpreted] with  
23 the [REDACTED] but also [REDACTED]. But when and how, I  
24 don't remember.

25 Q. Mm-hm.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4472  
Cross-examination by Mr. Von Bone

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

1 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel?

2 MR. VON BONE: Yes?

3 PRESIDING JUDGE VELDT-FOGLIA: Could we receive a reference for  
4 the [REDACTED]?

5 MR. VON BONE: Yes, Your Honour, I will give that to you. I  
6 will give that to you, Your Honour.

7 That is SPO Part 2, page 25, line 15 -- sorry. Line 11 up to  
8 18; line 20, 21; and page 26, line 13 to 25.

9 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

10 MR. VON BONE: Page 26, line 13 to 25; and page 27, lines 2 to  
11 9. And then I will give the ERN number. The ERN number is  
12 060698-TR-ET, and that is Part 2, Revised.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

14 MR. VON BONE: That's so much for [REDACTED], Your Honour.

15 Q. So, in fact, you saw Mr. -- the person that you recognised on  
16 earlier occasions, and now you saw him here in court testifying.

17 At the previous occasions, did you become very upset as well?

18 A. Yes, of course.

19 Q. And when you were in [REDACTED], were you not

20 [REDACTED] at that time when you would see him or when you would be  
seen?

21 A. I was. I was [REDACTED], from 1999 onwards. [REDACTED]

22 [REDACTED] that I'm sitting opposite to you. But I didn't pay  
attention to

23 it. [REDACTED]. From 1999, I was [REDACTED].

24 It was just my curiosity that took me there to see them. I just  
25 wanted to see them. But, of course, I was [REDACTED].

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4473

Cross-examination by Mr. Von Bone

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

1 Q. And, Mr. Witness, you testified today that -- and that is  
2 page 23 of the transcript, lines 4 to 9, you said the following:

3 "But as I went on watching, I automatically recognised it. It's  
4 in my memory. I cannot forget that person. That person will never  
5 be removed from my memory."

6 Is that correct?

7 A. Yes. And I don't think he could be removed. [REDACTED]  
8 [REDACTED]. He's somebody I will never forget. And you, if you were  
9 in my shoes, would never be able to forget him.

10 Q. I understand it made a very great impression on you; is that  
11 correct?

12 A. Not only that he left traces, but I still feel the consequences  
13 of that today.

14 Q. Okay. Mr. Witness, could you explain -- as you said, you  
15 [REDACTED]. Do you recall [REDACTED]  
16 [REDACTED] people who took you, took you [REDACTED], towards  
17 [REDACTED]?

18 PRESIDING JUDGE VELDT-FOGLIA: Wait. Mr. Witness, can you take  
19 off your headphones, please. I want to discuss something with  
20 Mr. Prosecutor.

21 MR. MICHALCZUK: Your Honours, I would like to object to that  
22 question because the cross-examination should be limited in scope and  
23 ambit to the examination-in-chief. When never discussed with the  
24 witness today [REDACTED], any [REDACTED].

25 We're just talking about a certain recognition of a certain person

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4474

Cross-examination by Mr. Von Bone

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

1 that person that took place in March this year in this court session.  
2 We didn't go beyond that in our examination, and I don't think that  
3 the Defence Counsel should be allowed to explore anything beyond that  
4 scope.

5 On the same note, I would like to notice also that this same  
6 witness was before this Panel several months ago, and the Defence had  
7 ample opportunity to ask all the questions about all the  
8 circumstances about this case, and he could be -- ask about any  
9 aspects of his testimony.

10 Right now, I don't think that these questions are going right  
11 into the matter that we discussed today in the examination-in-chief.  
12 Hence, my objection. Thank you.

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

14 Defence Counsel, you have the floor. What would you like to  
15 react on that?

16 MR. VON BONE: Well, so much for the determination of the truth  
17 by the SPO. But it is the witness himself that spoke about his  
18 statements in which he mentioned this particular person. I just want  
19 to put to him that, in fact, that is not at all the case. And it is  
20 what the witness himself said.

21 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I see the point  
22 you are making. On the same note, I think that I know where the  
23 Defence counsel is heading to, and it could very well also be a  
24 question of this Panel.

25 So in the light of -- that we are here to determine the truth, I

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4475  
Cross-examination by Mr. Von Bone

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

1 think it's important to go into this matter. But - and I say this as  
2 a general remark, Defence Counsel, because you have not give any  
3 reason to make a specific remark on that - we try to keep it  
4 specific. But I see your point here, so you may proceed with this  
5 question.

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

7 PRESIDING JUDGE VELDT-FOGLIA: But before that, I will ask the  
8 witness to put on his headphones again.

9 Mr. Witness, can you put on your headphones.

10 MR. VON BONE:

11 Q. Mr. Witness, we spoke earlier about also [REDACTED]  
12 [REDACTED] and my question is: Do you recall who you mentioned  
13 [REDACTED] about the people who took you  
14 [REDACTED]?

15 A. I remember it was [REDACTED], and a certain [REDACTED], if  
16 I'm not mistaken. It was these persons.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, could you please  
21 make a reference to --

22 THE WITNESS: [Interpretation] I don't know what they wrote down  
23 there.

24 MR. VON BONE: Mm-hm. I'll give that, Your Honour.

25 Your Honour, [REDACTED]

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4476  
Cross-examination by Mr. Von Bone

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

1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 MR. VON BONE:

3 Q. So if I understand your -- your answer well, it is that you say  
4 you don't know what they written down but you said these names?

5 A. I believe I said those names, just like I said them here. But  
6 those were different conditions, [REDACTED]. I felt as

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. Thank you very much.

15 MR. VON BONE: The reference number is, Your Honour, 700687. It  
16 runs up to 691.

17 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

18 MR. VON BONE: And it is the first page.

19 PRESIDING JUDGE VELDT-FOGLIA: If you want to cite something of  
20 that, I would have a preference to call it up on the screen.

21 MR. VON BONE: Okay.

22 PRESIDING JUDGE VELDT-FOGLIA: But I don't know if you're going  
23 to cite something.

24 MR. VON BONE: I'm not going to cite something. I just want to  
25 raise an issue with the witness, and it can be simply seen.



Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4477

Cross-examination by Mr. Von Bone

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

1 Q. Mr. Witness, in the statement that you gave to the UNMIK, you  
2 have never mentioned [REDACTED]. Can you explain that  
3 to us, how that is possible?

4 A. I don't know how it is possible. I did mention him. I would  
5 always have mentioned him, now and forever. Now, why he is not  
6 mentioned, I don't know. I don't know who is responsible for that,  
7 but what you are saying is impossible, because I did mention him.

8 Q. I understand.

9 MR. VON BONE: Maybe we can put it up on the screen,  
10 Your Honour, for that matter, the handwritten Albanian version as  
11 well as the English version. The English version is starting with  
12 700687, and the Albanian version starts with 689 and ends with 691.

13 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Madam Court  
14 Officer.

15 MR. VON BONE: I'm not sure whether it is on the screen,  
16 Your Honour, to be quite honest. I cannot see that. Let me see.  
17 Yes.

18 Maybe we can go to the last page, 691, of the Albanian version.  
19 Yes. And I would like to have the bottom part of that. And maybe we  
20 can enlarge the portion on the left bottom side.

21 Q. Mr. Witness, is -- on the left bottom side, can you see the  
22 signature?

23 A. Yes.

24 Q. Is that your signature?

25 A. Yes.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4478  
Cross-examination by Mr. Von Bone  
*All redactions applied are pursuant to Orders F493, F509 and CRSPD107*

1 Q. Thank you very much.

2 Mr. Witness, I want to ask you again. How is it possible that  
3 in that statement there are a number of people that you mentioned,  
4 but you never mentioned [REDACTED] or the real name of [REDACTED]? How  
is that  
5 possible?

6 A. I don't know how that's possible. Everything can happen. A  
7 certain moment may escape, but I don't think I did not mention him.  
8 It's impossible to mention the first person and not the second  
9 because it's a person who took you, who tortured you. And the person  
10 in question, I will never forget him precisely because of the  
11 question he asked me [REDACTED]. When I asked him, "[REDACTED]  
12 [REDACTED]?" he said, [REDACTED]."

13 I don't know what happened here. You have it in front of you.  
14 You can analyse it. I have nothing against it. It's quite okay with  
15 me.

16 Q. Thank you very much, Mr. Witness. And speaking about your  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

20 [REDACTED]

21 PRESIDING JUDGE VELDT-FOGLIA: Before we proceed, Mr. Witness,  
22 can you take off your headphones, please.

23 Victims' Counsel.

24 MS. PUES: Thank you, Your Honours.

25 Similarly to my last intervention, I take objection with the

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4479  
Cross-examination by Mr. Von Bone  
*All redactions applied are pursuant to Orders F493, F509 and CRSPD107*

1 question because, again, this is something the witness cannot testify

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 PRESIDING JUDGE VELDT-FOGLIA: Thank you for your -- what would  
6 be your question, Defence Counsel.

7 MR. VON BONE: Well, it is a fact, Your Honour, that in the

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 PRESIDING JUDGE VELDT-FOGLIA: I know. I've seen it here. But  
12 [REDACTED]. It's not something the --

13 MR. VON BONE: It is what the witness stated. [REDACTED]

14 [REDACTED] So that is ...

15 [Trial Panel confers]

16 PRESIDING JUDGE VELDT-FOGLIA: But what are you going to ask?  
17 Because this reference is not something -- I see you standing. I  
18 will give you the floor.

19 But maybe it's better that I give the floor first to the -- to  
20 Mr. Prosecutor.

21 Mr. Prosecutor, you have the floor.

22 MR. MICHALCZUK: Similarly to what I stated before, questions  
23 about the timelines that my learned colleague is trying to put to the  
24 witness right now, they go beyond the scope of the  
25 examination-in-chief of today.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4480

Cross-examination by Mr. Von Bone

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

1           And, again, he had all the time allotted to him during the  
2           initial examination of this witness and the Defence cross-examination  
3           of this witness.

4           So I would simply say that this goes -- this cross-examination  
5           is going, again, beyond the scope of the examination-in-chief and  
6           should not be allowed.

7           If the question is going to the identification, I understand  
8           that these questions should be asked. But questions other than that,  
9           and this one going to the timeline, the time when the alleged  
10          detention and mistreatment took place, goes beyond the scope that  
11          should be allowed for this cross-examination. Thank you.

12          PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, do you have  
13          something to add other than we already discussed on this?

14          MR. VON BONE: Yes. This is about the recollection of this  
15          person, about an incident about a person, and that what he stated  
16          about, that is the entire issue that we are trying to determine here.  
17          It is not only about recollection, but also what actually do you  
18          remember about that. And I believe, Your Honour, that especially it  
19          is in the interests of justice, and we are trying to determine the  
20          truth here, what is the reaction of a witness regarding this issue.  
21          Because it is plain and clear what was stated by this -- by this  
22          witness and whether he can actually recall that. For example, in the  
23          statements that we just discussed, he said, "I recall that I -- I  
24          said that, but I cannot, of course, touch upon why it is not written  
25          here." That is, of course, not the question.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4481

Cross-examination by Mr. Von Bone

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

1           PRESIDING JUDGE VELDT-FOGLIA: I will give you the floor,  
2           Victims' Counsel.

3           But I do have a question to you why this was not posed to the  
4           witness before.

5           MR. VON BONE: Why it was not posed to the witness before.  
6           Because --

7           PRESIDING JUDGE VELDT-FOGLIA: On another occasion.

8           MR. VON BONE: On another occasion. Well, first of all, there  
9           is the recollection that is clearly at issue here. What this person  
10          is saying about what he saw, who he saw, when he saw. The entire  
11          recollection. We cannot disseminate and say, oh, no, no, no, it is  
12          only about what I recall about this person. It is always connected  
13          to a particular event. That is usually how also recollection in  
14          general would work. That you say, yes, I recall this guy, I saw him  
15          there. It was at that occasion.

16          PRESIDING JUDGE VELDT-FOGLIA: Sorry, Defence Counsel, maybe I  
17          was not clear.

18          What I want to say is this specific question with regard to the  
19          moment in the judgement, that you think that could be in  
20          contradiction to prior statements of this witness, we have had him in  
21          court. This is, if I understand well, not new information. And then  
22          it was not discussed with the witness. So my question to you is:  
23          Why was it not then discussed with the witness.

24          MR. VON BONE: Your Honour, it was not discussed. I get half  
25          the time allocated to whatever, of whatever topic, and this is just a

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4482  
Cross-examination by Mr. Von Bone

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

1 matter of how somebody recalls something. That is what it is about.

2 PRESIDING JUDGE VELDT-FOGLIA: I -- okay.

3 MR. VON BONE: I believe, Your Honour, it is really in the  
4 interests of justice and to determine truth what we hear from a  
5 witness. If, of course, we are hear to determine the truth,  
6 obviously. I think that the --

7 PRESIDING JUDGE VELDT-FOGLIA: That's essential, I know -- I  
8 know --

9 MR. VON BONE: -- SPO does not like the answers.

10 PRESIDING JUDGE VELDT-FOGLIA: -- but we are here --

11 MR. VON BONE: [Overlapping speakers] ...

12 PRESIDING JUDGE VELDT-FOGLIA: Can you please -- can you now be  
13 silent.

14 I can only repeat what you say, that we are here to ascertain  
15 the truth. So that I can give you. There, I agree with you.

16 Victims' Counsel.

17 MS. PUES: Thank you, Your Honours.

18 Yes, briefly to add. In my view, we are actually in a line of  
19 questioning that is repetitive, not today, but revisiting the  
20 transcript of the trial hearing, [REDACTED], regarding  
21 Mr. Witness who's testifying today again. For example, on page 958,  
22 the Defence not just had the chance but also did use the opportunity

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4483

Cross-examination by Mr. Von Bone

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

1           So, therefore, indeed, this is not now the only opportunity or  
2           the one opportunity where the Defence has had the chance to explore  
3           and ascertain the truth. This is simply repetition in my view.

4           Thank you.

5           MR. VON BONE: May I just for the last moment --

6           PRESIDING JUDGE VELDT-FOGLIA: No, no, you may --

7           MR. VON BONE: -- add something?

8           PRESIDING JUDGE VELDT-FOGLIA: You may --

9           MR. VON BONE: Yes.

10          PRESIDING JUDGE VELDT-FOGLIA: -- but I want to follow and  
11          assess every remark made on its merits.

12          [REDACTED]

13          [REDACTED]

14          [REDACTED]

15          [REDACTED]

16          PRESIDING JUDGE VELDT-FOGLIA: Yes.

17          [REDACTED]

18          [REDACTED]

19          [REDACTED]

20          the brevity of time pulled up and provides -- or it shows that the  
21          Defence has, indeed, explored this extensively before.

22          Maybe just to actually add on to this. A few pages earlier, the  
23          Defence has also been asking the same questions we've heard today,  
24          for example, whether a specific signature is the same, yes or not.  
25          In that hearing, we extensively explored with the witness whether the

Witness: W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4484  
Cross-examination by Mr. Von Bone

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

1 interpretation and translation of statements [REDACTED]  
2 were actually accurate or not, in which witness expressed that he  
3 wasn't content with some of that but also expressed that he had  
4 [REDACTED]. So we've discussed it at length and explored  
5 it at length.

6 PRESIDING JUDGE VELDT-FOGLIA: I can say that, Mr. Prosecutor,  
7 the -- narrowing the interrogation -- the examination by the  
8 Defence Counsel to exactly what is the reason for having this witness  
9 here, I give some more leeway on that because I think that we are  
10 here to -- like everybody here in the courtroom, I assume, to  
11 ascertain the truth.

12 But, Defence Counsel, I'm under the impression that you're

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 witness. But I am here, with you, and I want to insist on that,  
21 because I heard something in your voice and in your remarks that I  
22 want to -- and maybe I heard it wrong. We are also here to ascertain  
23 the truth. And I want to give you the floor and I have given you the  
24 floor on something larger than as we said in our decision I would  
25 give, but it was a question from the Panel too. So if I pose the



Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4485  
Cross-examination by Mr. Von Bone

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

1 question or you pose the question, I don't think that that makes a  
2 difference.

3 [REDACTED] I find it problematic to do it. But I  
4 want you to know that I -- and we are now at one hour, that I give  
5 you the space needed to defend your client. So, rest assured, and I  
6 think you have seen that in the way that this Panel has been working.  
7 And I see you nodding and I hope that that --

8 MR. VON BONE: Absolutely, Your Honour.

9 PRESIDING JUDGE VELDT-FOGLIA: -- is a yes.

10 MR. VON BONE: There's no question about it. Yes.

11 PRESIDING JUDGE VELDT-FOGLIA: Okay. So then we clear the air  
12 on that point.

13 MR. VON BONE: Yes. May I just add one thing that I've got in  
14 my mind. That's why I wanted to explain.

15 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

16 MR. VON BONE: Yes. Oh, sorry. It is because it was the  
17 connection that this -- that the witness made when [REDACTED],  
18 he said, well, this is what Mr. [REDACTED] said at the time when I was  
19 [REDACTED], and there he connects it to a particular moment that was  
20 said to him. That is upon [REDACTED]. But it is not the only thing  
21 that was what was said [REDACTED]. And that is why I think that

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4486  
Cross-examination by Mr. Von Bone  
*All redactions applied are pursuant to Orders F493, F509 and CRSPD107*

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, for now, I won't  
6 allow you to proceed on this point. If -- we will have a break in 15  
7 minutes. If I see the necessity to -- to allow you after re-reading  
8 this passage, I will give you the floor.

9 And my next question would be: Do you know how much time you  
10 still need?

11 MR. VON BONE: Maybe 15 minutes, Your Honour.

12 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well. You have the  
13 floor to proceed.

14 MR. VON BONE: Thank you very much.

15 Q. Excuse me, Mr. Witness, we just had a -- something to --

16 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, I want to say  
17 something to the witness.

18 Mr. Witness, my apologies that sometimes you need to take off  
19 your headphones and wait a while, but we have to discuss questions  
20 that are being posed to you, and, in that way, we won't influence  
21 your possible answer to us. So bear a little bit more with us. And  
22 thank you for your patience.

23 THE WITNESS: [Interpretation] I understand. I understand. No  
24 problem.

25 PRESIDING JUDGE VELDT-FOGLIA: You have the floor,

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4487  
Cross-examination by Mr. Von Bone  
All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 Defence Counsel.

2 MR. VON BONE:

3 Q. Now, Mr. Witness, I go back to the -- what I call the Official  
4 Note of the Prosecution, and I cited paragraph 4 and I will cite once  
5 again what is written here.

6 MR. VON BONE: It is paragraph 4, Your Honour, ERN 105371.

7 Q. "Witness W01679 confirmed to Mr. Prosecutor and Mrs. Prosecutor  
8 that the person whom he saw testifying on [REDACTED], was  
9 indeed [REDACTED] who [REDACTED] 153rd Brigade."

10 Up to that part, Mr. Witness.

11 And, in fact, if I read your statements, then [REDACTED] never  
12 [REDACTED], did he?

13 PRESIDING JUDGE VELDT-FOGLIA: Can we make just an open  
14 question: [REDACTED]? I mean ...

15 MR. VON BONE: Well, Your Honour --

16 PRESIDING JUDGE VELDT-FOGLIA: No, no, just an open question.

17 MR. VON BONE: I think it is fair enough to --

18 PRESIDING JUDGE VELDT-FOGLIA: No, no, an open -- no.  
19 Defence Counsel, I said no. An open question, please.

20 MR. VON BONE:

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 A. I don't know. I don't think I didn't, but I don't know how it's  
25 written down. I am surprised myself now.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4488

Cross-examination by Mr. Von Bone

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

1 Q. Could it be that you forgot him at the time?

2 A. I don't think so. I don't think so.

3 Q. Or is it that you -- that you talked to somebody who told you to  
4 say that [REDACTED] was there?

5 A. No, I didn't talk with anyone. And I don't discuss such issues  
6 with anyone. But as I already said, it is engraved in my mind.

7 And another thing why I can't forget this person is that - I'm  
8 repeating for the third time - when [REDACTED], he said to me  
9 that, "[REDACTED]."

10 Q. Mr. Witness, you said in your statement to the Prosecution, and  
11 that is the transcript with the ERN number 060698-TR-ET, Part 2,  
12 5 June, page 23, lines 7 to 19. You said:

13 "Everybody knows [REDACTED]."

14 How come that this person is so well known?

15 A. He is known, I don't know, maybe because he [REDACTED].

16 I don't know why he is known. Maybe because of the good things he  
17 did.

18 Q. But you say he was [REDACTED]. Are you sure about that?

19 A. According to what -- hearsay, to what people say. And, as far  
20 as I know, he was his deputy.

21 Q. But you don't know for yourself. What do you mean with  
22 "hearsay"? From who did you hear that then?

23 A. I don't remember from whom I heard it, but people spoke about  
24 him for a long time as a hero, a commander. Until people realised  
25 who they were, what they did.

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4489  
Cross-examination by Mr. Von Bone

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

1 Q. Did you ever mention anybody else as a deputy of Mr. Mustafa?

2 A. Yes, I mentioned someone, as far as I remember.

3 Q. And who told you that?

4 A. I heard it from people.

5 Q. And do you know if those people were working with [REDACTED] or  
with

6 Mr. Mustafa?

7 A. I don't know if they were working with them.

8 Q. So --

9 A. They were difficult times. You couldn't go into detail as to  
10 who did what. But according to hearsay, people referred to him as a  
11 deputy commander.

12 Q. So you don't know from yourself but you know it from what other  
13 people told you. Do I understand that well?

14 A. In the case of [REDACTED], yes.

15 Q. I understand. When [REDACTED] was testifying and you recognised  
him

16 as [REDACTED] when he was testifying here in court, do you recall that  
17 moment very well, the moment that you recognised him?

18 A. I do recall it, just like I'm seeing you now. If I see you  
19 another time, I will recognise you.

20 Q. Okay. And do you recall what topic he was talking about when  
21 you saw him at that moment and recognised him?

22 A. No, I don't recall what he was talking about. Because once I  
23 saw him, I was upset and I was no longer interested in what he was  
24 saying. I was keen to explain, to convey this message to the Judge  
25 and the Prosecutor, to everybody concerned, who this person is, that

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4490  
Cross-examination by Mr. Von Bone

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

1 his place is not here. He shouldn't offend the victims, you know.

2 That was my concern.

3 It was not my concern what he was saying. Even now, I am not  
4 interested in that. You should believe me.

5 Q. I understand. Last question --

6 PRESIDING JUDGE VELDT-FOGLIA: Defence Counsel, these two  
7 questions, in my view, are repetitive, so I hope that the next  
8 question won't be.

9 MR. VON BONE: No. It is a concluding, but I think we have  
10 maybe the answer.

11 Q. Do you recall any specific topic that he discussed that -- that  
12 somehow took your attention or made you angry or whatever, that you  
13 had some kind of emotion when he discussed any particular type of  
14 topic? Do you recall that?

15 A. No, I can't answer that question. Once I saw him in the  
16 capacity of the witness, that was it. That did it. Not the words he  
17 said. [REDACTED] him here.

18 Q. So you don't know any topic that he discussed? [Indiscernible]  
19 I summarise it.

20 A. I was not interested in that. Even now, I'm not interested in  
21 that.

22 Q. It is clear. I want to thank you very much for your time,  
23 Mr. Witness.

24 MR. VON BONE: And I leave my questions for this witness.

25 THE WITNESS: [Interpretation] Thank you.

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

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

2 Mr. Witness, we will have a break for 15 minutes, till 3.00, and  
3 then we will continue. Please bear a little bit more with us.

4 Madam Court Usher will accompany you for the break.

5 THE WITNESS: Okay.

6 [The witness stands down]

7 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you  
8 bring us back into public session, please.

9 [Open session]

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

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

12 We have finished the examination by the Defence Counsel, the  
13 cross-examination. We will now have a break of 15 minutes till 3.00  
14 and then we will continue.

15 --- Recess taken at 2.46 p.m.

16 --- On resuming at 3.01 p.m.

17 PRESIDING JUDGE VELDT-FOGLIA: Very well. Welcome back.

18 Mr. Prosecutor, before I bring the witness in, I just would like  
19 to know where we stand with follow-up questions.

20 MR. MICHALCZUK: Your Honours, we don't have any questions in  
21 re-direct.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 MR. MICHALCZUK: Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: And before I go to the  
25 Victims' Counsel, I -- for the record, I see that we are in the same

Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4492  
Procedural Matters

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

1 composition. So we can put that in our record.

2 Victims' Counsel.

3 MS. PUES: Your Honours, we don't have any further questions.

4 Thanks.

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

6 Defence Counsel, then you were the last, so there are no  
7 questions at that point, if there are no questions from the SPO and  
8 the Victims' Counsel.

9 I look at my colleagues.

10 [Trial Panel confers]

11 PRESIDING JUDGE VELDT-FOGLIA: So I will bring the witness in  
12 and we will conclude with the witness and I will -- before that, I  
13 will first ask to go into private session, but I also wanted to  
14 convey that there is still one oral order I would like to give at the  
15 end when we are again in -- after our private session, again in our  
16 open session.

17 Very well. Madam Court Usher, could you usher the witness in.

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

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

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

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

23 [The witness takes the stand]

24 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, welcome back. I  
25 have inquired with the parties and the Victims' Counsel, and they



Witness:W01679 (Recalled) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 4493  
Procedural Matters

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

1 have informed me that they don't have any questions for you anymore.  
2 And the same goes for the Panel. We don't have any questions. So  
3 that means that we have reached the end of your testimony. And I  
4 understand that it must have been tiring and demanding. And I would  
5 to thank you for the efforts you put into giving your testimony  
6 because I believe, as I said to you before, that it will help us in  
7 our efforts to find the truth. So thank you very much.

8 I wish you a safe journey home, and, needless to say that you  
9 should not discuss the testimony given before the Specialist Chambers  
10 with anybody.

11 So thank you very much. And Madam Court Usher will usher you  
12 out.

13 THE WITNESS: [Interpretation] Thank you.

14 [The witness withdrew]

15 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you  
16 bring us into public session again.

17 [Open session]

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

19 PRESIDING JUDGE VELDT-FOGLIA: Very well. Before I give the  
20 oral order and before I give you the floor for any issues you might  
21 want to raise with the Panel at this moment in time, for the record  
22 and without going into discussion now on this topic, Defence Counsel,  
23 is that we have our Decision on the Conduct of Proceedings, which is  
24 filing 170, where in paragraph 18 we talked about 50 per cent of  
25 allocated time for you in the SPO case. I also want to mention that

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1 apart from the effective time allocated to you in the concrete  
2 proceedings, we also had an in-court oral order saying -- from 13  
3 December, where you were given the same amount of time. Just for the  
4 record. And you already said that you have been given ample of time  
5 to present your case, but I think it is important to mention this.

6 I'm going to give an oral order with regard to today's  
7 transcripts, because it has been for the majority in private session.

8 In line with the Panel's previous order for submissions on the  
9 lifting of redactions in trial hearing transcripts or their  
10 reclassification, which is filing 348, dated 18 March 2022, the Panel  
11 considers it appropriate to order the parties, the Registry, and  
12 Victims' Counsel to undertake a revision of the transcripts of  
13 today's hearing, dated 1 June 2022, and to provide submissions in a  
14 consolidated filing on whether parts of the transcript, if any, of  
15 course, can be reclassified as public.

16 The parties, the Registry, and Victims' Counsel shall follow the  
17 procedure set out in paragraph 5 of order 348, which I just  
18 mentioned, and shall file their submissions by Friday, 22 July 2022.

19 And they may integrate their submissions pursuant to this order  
20 in the submissions that are already due on same date, pursuant to the  
21 paragraphs 4 and 5 of order 348, if they so wish. Because in that  
22 order, we have indicated by what dates the Panel would like to  
23 receive this consolidated filing, and the last one is foreseen for  
24 22 July. And we could add today's transcript to the last one.

25 And this concludes the Panel's oral order.

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1 Very well. Yes.

2 Mr. Prosecutor, is there something you would like to raise with  
3 the Panel?

4 MR. MICHALCZUK: Just maybe one matter. This morning, Your  
5 Honours were discussing with us the issue of the missing translations  
6 of a certain book, and the translation is ready and will be disclosed  
7 either today later on or tomorrow.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. So that specific -- it was  
9 that specific page, you can --

10 MR. MICHALCZUK: Exactly this one. And we will disclose it  
11 tomorrow, yes.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Thank you for that.

13 MR. MICHALCZUK: Or today.

14 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel.

15 MS. PUES: Yes, Your Honours.

16 With a view to how we can continue with the experts, they are  
17 awaiting to hear back from me on whether or not they may be heard on  
18 9 June, and I would, therefore, be very grateful to get any  
19 indication whether this is the case so that I can pass this on.  
20 Thanks.

21 PRESIDING JUDGE VELDT-FOGLIA: As soon as possible. And that  
22 will be on a very short time-frame. In a very short time-frame you  
23 will be informed on that. You're talking about the report, the IMO  
24 report, to say it in more colloquial terms. Yes, thank you for that.

25 You have the floor, Defence Counsel.

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1 MR. VON BONE: Yes, Your Honour, whether there would be any  
2 hearing of -- or a Status Conference or whatever on 8 or 9 June,  
3 Mr. Mustafa, I hope can be excused for that. The family is coming  
4 and that is the only opportunity then there is that he can meet them.  
5 So I'm not sure what the status is of what kind of hearing is  
6 scheduled, but I think for that occasion it might be that he might  
7 not attend.

8 I just want to -- these are the circumstances -- it's difficult  
9 for family to arrange all kinds of things, and so that's why this  
10 is --

11 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] they  
12 are coming the 8th and the 9th. Do I understand you well?

13 MR. VON BONE: I think they are coming from the 6th until, I  
14 believe, the Sunday. I'm not sure whether the 6th is on a Wednesday  
15 or so but --

16 PRESIDING JUDGE VELDT-FOGLIA: The 7th is a Tuesday; 8th,  
17 Wednesday; 9th, a Thursday.

18 MR. VON BONE: Yeah.

19 PRESIDING JUDGE VELDT-FOGLIA: The 6th is Whit Monday, yeah, so  
20 the official holiday.

21 MR. VON BONE: Yeah. So they probably come on the Sunday flight  
22 or -- so Monday until Thursday, I'm sure. Anyway, I'll -- I just  
23 wanted to tell this in advance that whatever the hearing is about,  
24 that might come from the Defence.

25 PRESIDING JUDGE VELDT-FOGLIA: Very well. The deadline for

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1 parties' submissions on the IMO report is today, so we will inform  
2 you as soon as possible on the issue of the -- if we are having a  
3 hearing on the 9th or not.

4 MR. VON BONE: Yes.

5 PRESIDING JUDGE VELDT-FOGLIA: And I can -- there will be coming  
6 out another decision today also with regard to reparation  
7 proceedings. So that's for -- to clarify a kind of -- to clarify  
8 further steps in this regard.

9 MR. VON BONE: If I may add one more thing.

10 PRESIDING JUDGE VELDT-FOGLIA: Of course.

11 MR. VON BONE: Defence might want to seek leave from the Panel  
12 for maybe some additional evidentiary material that we would like to  
13 supplement in light of what has been going on in the recent hearing  
14 and the notes that were made by the Prosecution. So --

15 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] You  
16 mean with regard to the hearing of today and the documentary evidence  
17 that is proposed --

18 MR. VON BONE: Yes.

19 PRESIDING JUDGE VELDT-FOGLIA: -- by the SPO.

20 MR. VON BONE: And especially regarding today's hearing and the  
21 things leading up to that. We are looking into that matter in order  
22 to maybe get some additional evidence on that. That might lead to  
23 whatever. But --

24 PRESIDING JUDGE VELDT-FOGLIA: Documentary evidence?

25 MR. VON BONE: Not necessarily documentary evidence. We are

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1 looking into the entire scope of recognition and regarding that, that  
2 might lead to any kind of report or whatever. That's what we are  
3 looking for.

4 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] "We are  
5 looking into the entire scope of recognition" --

6 MR. VON BONE: Yes.

7 PRESIDING JUDGE VELDT-FOGLIA: -- and "that might lead to any  
8 kind of report ..."

9 MR. VON BONE: Yeah. That we might want to supplement.

10 So we might seek leave from the Panel in order to make a filing  
11 of that or anything else that might come out of that. Just the  
12 situation as it came now, it was rather short-term notice, we were  
13 unable to develop that. So that's why we are not looking -- we are  
14 looking into it and maybe we have something on that issue.

15 PRESIDING JUDGE VELDT-FOGLIA: There will be, of course -- you  
16 will be informed if the Panel -- both parties and the  
17 Victims' Counsel will be informed if the Panel will, under Rule 132,  
18 come with evidence that they want to bring in, and you will be given,  
19 of course, the possibility to -- after rejoinder, to come with your  
20 proposal of evidence. That's the -- also foreseen in the rules of  
21 procedure.

22 MR. VON BONE: I just wanted to --

23 PRESIDING JUDGE VELDT-FOGLIA: No. We thank you that you put us  
24 on notice in this regard.

25 Very well. So I cannot say yet if we will meet again next week

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

1 on 9 June, but you will be informed as soon as possible.

2 So, for now, the hearing will be adjourned to further notice.

3 And we will also share a possible upcoming schedule for the coming

4 weeks so we at least have some dates, if necessary. Yes?

5 Okay. Thank you.

6 The hearing is adjourned.

7 --- Whereupon the hearing adjourned at 3.17 p.m.

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