

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

1 Tuesday, 12 October 2021

2 [Open session]

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

4 PRESIDING JUDGE VELDT-FOGLIA: Good morning.

5 Madam Court Officer, can you please call the case.

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

8 PRESIDING JUDGE VELDT-FOGLIA: First of all, I will call
9 appearances.

10 Please, Mr. Prosecutor, could you tell us who is present for the
11 SPO.

12 MR. DE MINICIS: Good morning, Your Honours.

13 Today appearing for the Prosecution, Alex Whiting, Deputy
14 Specialist Prosecutor; Cezary Michalczuk, Prosecutor; Silvia
15 D'Ascoli, Associate Prosecutor; Julie Mann, our Case Manager, and
16 myself, Filippo De Minicis, Associate Prosecutor.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

18 Victims' Counsel, you have the floor.

19 MS. PUES: Good morning, Your Honours. Good morning, everybody.

20 The Victims' Counsel team today is represented by
21 Njomza Haxhibeqiri, Junior Legal Associate; Liesbeth Zegveld, my
22 co-counsel; and by myself, Anni PUES as counsel.

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

24 Defence counsel, you have the floor.

25 MR. VON BONE: Good morning, Your Honours.

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

1 Defence is represented by myself, Julius von Bone; my
2 co-counsel, Betim Shala; Fatmir Pelaj, investigator and interpreter.
3 And also in the courtroom is today Mr. Salih Mustafa. Thank you very
4 much.

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

6 And, for the record, you are appearing before Trial Panel I.

7 Before turning to the testimony of Witness W03594, I would like
8 to address two issues. The first is you see this small red light on
9 my desk -- on our desk here. When it is a red light, it means that
10 we are in -- the light is on, it means that you are in public session
11 and that we should be careful with what we say. And when it goes
12 out, that will mean that we are in private session. This is a
13 temporary solution, but it is for us all to help to see where we are.
14 I won't be explaining this to the witness because I think it's kind
15 of complicated to take it all in, in this environment, but please be
16 aware of this little help for all of us, for the moment, till we have
17 found a more permanent solution.

18 Good.

19 Yes, before we start, I would like to address the Defence.

20 Mr. von Bone, at the end of the hearing on Tuesday, you brought
21 to our attention that the photographs that we have been shown have
22 been published in online newspapers and on television and so on, and
23 I would like to ask you to elaborate on why you raised the issue.

24 MR. VON BONE: Because I think anybody in Kosovo, including
25 witnesses that are to appear, can see these pictures, and it might

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

1 influence their testimony.

2 PRESIDING JUDGE VELDT-FOGLIA: Okay. But would you like to make
3 any submissions in this regard?

4 MR. VON BONE: I just raise the issue for whoever is busy with
5 that. I think, in fact, it is not good, in general, that when
6 photographs of people who are to be identified by a witness at some
7 stage are already published and on TV, in newspapers, and so on, that
8 obviously these people can be influenced by that, or seek anything
9 that they might want to see in a picture, and there is no other
10 pictures that are shown. So it's obviously that if someone is
11 standing on trial and those are the particular documents that we are
12 showing to a witness, that it is very possible that these -- that the
13 witnesses have seen them before and maybe already prepared their
14 testimony in a particular manner regarding it. Or, that, in fact,
15 it's not so much even the witness, that news media who are publishing
16 it, where people are reacting on it, via social media or any other
17 comments that they can make, then I think that is obviously
18 influencing the proceedings. And what conclusions we will draw from
19 that, we will take at a later stage, not at this moment. We just
20 raise the issue so that people are aware of that.

21 PRESIDING JUDGE VELDT-FOGLIA: So if I listen carefully to you,
22 you're not opposing to it, because -- or you are? It's better to be
23 clear in court, Mr. von Bone, what you want other people to do.
24 Because now the fact of raising it is, I would say, maybe not enough.

25 MR. VON BONE: If it is up to me, then obviously I would not

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

1 like to show pictures to people in order to make them identify
2 somebody while that opportunity has been long, long already
3 established. So that opportunity -- so if it is up to me, I would
4 not show such a picture, and I would not think it is wise to show
5 pictures that have been published widely.

6 So that is the standpoint, if you wish. And I think it is not a
7 good way to ask a witness, "Would you be able to identify from these
8 three, four, five or six people, somebody," if those people have been
9 already identified widely in Kosovo itself and on the pictures that
10 have been shown in this because -- what we can see from it is that
11 people, as I say, comment on it, people -- other people who are maybe
12 interviewed, in talk shows or wherever, are seeing this, and then
13 that is not helpful for the determination of the truth in the sense
14 that if somebody wants to identify somebody, then I think that is not
15 a proper manner of identification of a person.

16 PRESIDING JUDGE VELDT-FOGLIA: Okay. Mr. von Bone, your remark
17 on Thursday was kind of general and for the Panel it was not clear
18 where you were pointing at. And what I now understand is that you
19 say: I think that, in this way, not a proper identification could be
20 done. Secondly, what I now understand is you talked about
21 photographs that we have been showing, but you refer especially to
22 the photographs with persons on them.

23 MR. VON BONE: Well, to be quite honest, it's not only with
24 persons on it. There has also been the compound and the particular
25 house that we have been seeing or that people have been questioned

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

1 about, so this range of photos -- and it is not up to the Defence to
2 pose questions of the Panel. If the Panel has particular questions
3 and shows a particular photograph to any kind of witness, that is
4 completely up to the Panel to do that. However, I just wanted to
5 raise that issue of being aware that these photographs are -- have
6 been published widely in the news media and other media in Kosovo.
7 And this trial is being followed live in Kosovo. So I think it is
8 obviously that there is a great interest if we -- in my moments that
9 I have been in Kosovo, it would be the one of the first items of the
10 8.00 news, so to speak, this trial. So obviously there is an
11 interest in the coverage of this trial. And news media, they do
12 their own work, and that work might obviously influence people who
13 are to testify or who are testifying.

14 PRESIDING JUDGE VELDT-FOGLIA: Now, to make it more specific,
15 it's not only the Panel who are showing pictures with regard to the
16 compound. That is also something done by the SPO. So you were
17 referring to the Panel, but I think that is broader.

18 But what I do hear is that you have -- you're not making any
19 submissions on this point.

20 MR. VON BONE: Not at this point. We do not want to make any
21 conclusion on this right now. We just want to remind all
22 participants regarding this issue and the conclusions we will draw
23 from that, we will take at a later stage.

24 PRESIDING JUDGE VELDT-FOGLIA: That is clear.

25 What I would like to mention at this point in time is that all

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

1 the pictures that have been shown to the witnesses have never gone
2 public. Everything what has been shown to the witnesses has not gone
3 public. The only thing that was gone to the public is the pictures
4 shown during the opening statements, the first day when the trial
5 started. Those pictures were shown. And those pictures, they --
6 beforehand, the Defence was informed that they would be shown, and
7 you could also oppose to show them. So this is for the record, just
8 to make clear that that is where we stand.

9 Everything that is in the media apparently derives from the day
10 of the opening statement and does not come from the witnesses we have
11 been hearing testimonies from in court, and it was something we
12 discussed on an earlier moment and that has not changed. I find that
13 really important to share with you.

14 MR. VON BONE: Yes. But if I may, Your Honour --

15 PRESIDING JUDGE VELDT-FOGLIA: Of course.

16 MR. VON BONE: -- the fact that I did not oppose at that time,
17 it is completely at the risk of the Prosecution to do that, and
18 whether testimonies, witnesses are influenced by it, and that is
19 completely up to the Prosecution to do that. And that is not up to
20 the Defence. And if it is the Prosecution who makes a particular
21 presentation about anything that they want to present their case for,
22 then, you know, that is up to the Prosecution to determine what is
23 necessary or unnecessary to be shown. We just think that, as we have
24 also seen, that the same pictures have been shown by the Panel and
25 presented to witnesses and are asking their reaction on it, it is

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

1 obviously that people are -- we are not only here in this
2 courtroom --

3 PRESIDING JUDGE VELDT-FOGLIA: But that point was made and we
4 noted that, Mr. von Bone. But for me, it was important to make the
5 point I just made.

6 I see the SPO standing.

7 Mr. Prosecutor, I will give you the floor now.

8 And I also noted that at this point in time you don't make
9 submissions and you say, "We will draw our conclusions at a later
10 stage."

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

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

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

15 First off, I think that we started with one issue and then we've
16 ended up conflating different issues, evidence by the Prosecutor,
17 different types of pictures, and I think there is a difference
18 between the pictures that serve the purpose of an identification that
19 have been shown by the Panel at the beginning and the pictures of the
20 compound shown by the Prosecution.

21 Secondly, I think it would have been appropriate for counsel to
22 raise this matter with the witness, perhaps to ask the Panel for
23 leave to ask the witness if he had ever seen these pictures before,
24 because now we are, Your Honours, quite frankly, in the hypothetical,
25 and we don't know if the witness has every seen the pictures either

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

1 showed by the Panel or those showed by the Prosecution.

2 Also some of the pictures showed by the Prosecution were shown
3 to the witnesses during their interviews with the SPO.

4 In sum, the Prosecution, we don't think that there's anything
5 improper in the way that the Panel showed pictures to the witness,
6 and counsel would have had the opportunity to clarify that with the
7 witness but did he not. And we think that these pictures retain
8 probative value, which would be determined by the Panel, but that
9 is -- that is our submission, in sum, Your Honour.

10 Thank you.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 Victims' Counsel, do you want to say something on this matter?

13 MS. PUES: Thank you, Your Honours. We have no extra
14 observations on this matter. Thanks.

15 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, thank you for your
16 clarification. But do you also see the point of the Panel, that last
17 Thursday, for us it remained somewhat unclear what we should do with
18 your remark. So just for next time, if there is an issue, please
19 raise it with us, because that's the reason we are here for.

20 MR. VON BONE: Your Honour, I was just not aware whether the
21 Panel was aware of this circulation of this material in the news
22 media. And that is why I raised the issue. In general terms, as I
23 say, Defence will not, does not do anything on that point. I just
24 wanted to make sure - and it's maybe for all the parties - that they
25 are aware of it, and whatever we might do with that, that is each

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

1 party's personal responsibility. But as from a Defence point of
2 view, I obviously think that it is -- that we are unhappy with things
3 that are widely published being shown in court in order to maybe
4 determine something without knowing that -- without knowing that
5 these have been widely published.

6 And, once again, I want to say, this trial is being broadcasted
7 live. There is a lot of attention in the Kosovo news media. They do
8 their own investigations as well. They are interested in that case.
9 And so in that perspective, we have to deal with that too. And as we
10 are here to determine the truth of the matter, I think it is also
11 important to be cautious sometimes or be aware of things sometimes.

12 PRESIDING JUDGE VELDT-FOGLIA: Now. Mr. von Bone, the Panel is
13 completely aware of that and it's one of the most important things
14 that we inform the people in Kosovo of what is happening in this
15 courtroom. So that is a priority for all of us. So let that be
16 said.

17 Good.

18 MR. VON BONE: And if I may lastly, Your Honour, say something
19 on it. Obviously, it is important that people in Kosovo will be able
20 to follow these proceedings. There is no issue with that. I just
21 want to make sure that there is not going to be a trial by media at
22 some point in Kosovo over my client, because I defend my client and I
23 do not want to have undue influence of any kind.

24 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, you now repeated
25 yourself. It was very clear, and we, as a Panel, find it very

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

1 important that this trial is broadcasted.

2 Good. Now we proceed.

3 Mr. Prosecutor, please you have the floor.

4 MR. DE MINICIS: Thank you, Your Honour. I will be very brief,
5 sorry. If I may, I just want to say that -- however, I wanted to
6 make sure that we don't proceed under some sort of a presumption that
7 pictures that are used during this trial are known to the public or
8 have been widely published. I would request that if there is, from
9 any of the parties or the Panel, any suspicion that may have been the
10 case, the witness is asked that. Otherwise, I think it is entirely
11 appropriate for the witnesses to be shown picture, be that of the
12 compound or the identification of any suspect or the like. That
13 would be the -- I understand the trial is being publicly broadcast,
14 but the use of visual aids is a tool at the disposal of the parties
15 and the Panel to ascertain the truth. So if -- and there are proper
16 ways to ascertain whether witnesses is already familiar with a
17 certain photograph.

18 Thank you.

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

20 Mr. von Bone, is there something you would like to react on
21 that?

22 MR. VON BONE: No, Your Honour. I think it has been discussed
23 now in the broadest terms.

24 PRESIDING JUDGE VELDT-FOGLIA: Good. Very well.

25 But it is important that this has been clarified to this extent

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

1 because that can help us in furtherance of these proceedings. Good.

2 Let's now move to the testimony of Witness W03594. Can we
3 please usher the witness into the courtroom.

4 MR. DE MINICIS: Your Honour, sorry, I promise this is the last
5 time I interrupt you.

6 PRESIDING JUDGE VELDT-FOGLIA: No, no, no, you don't have to
7 promise me that's the last time. If there's something important,
8 please raise it.

9 MR. DE MINICIS: If we could move briefly into private session
10 for these brief submissions that I would like to make to the Court.

11 PRESIDING JUDGE VELDT-FOGLIA: Okay. Madam Court Officer, could
12 you please bring us into private session.

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

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

15 PRESIDING JUDGE VELDT-FOGLIA: And then for all participants,
16 the light is out now. So that's the idea.

17 MR. DE MINICIS: Your Honour, I just want to briefly inform the
18 Panel that during the courtesy meeting with the witness, he expressed
19 again some concerns about his identity, also considering that the
20 witness is somewhat of [REDACTED] that is concerning
21 this in this case. So we will do our best to elicit as much of the
22 testimony as possible in public session. But with this witness, I am
23 afraid there might be needed the Panel's leave to stay in private
24 session a little longer than we've been used to so far.

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

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

1 It was a consideration that the Panel had already discussed among
2 ourselves and, yes, priority is, of course, to be as much in public,
3 but we have the protective measures we should respect. So I have
4 seen the effort by the parties and the Victims' Counsel the last week
5 to do as much in public as possible and the Panel has appreciated
6 that very much. So it is what it is. We have to go by witness.

7 Good. Madam Court Officer, can you bring us back into public.
8 And it's noted what have you said, Mr. Prosecutor.

9 [Open session]

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

11 PRESIDING JUDGE VELDT-FOGLIA: Court Usher, please, could you
12 bring us Mr. Witness.

13 [The witness entered court]

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

15 THE WITNESS: [Interpretation] Good morning.

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

18 THE WITNESS: [Interpretation] Yes, I can hear you very well.

19 PRESIDING JUDGE VELDT-FOGLIA: How are you, first of all?

20 THE WITNESS: [Interpretation] I'm fine.

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

22 Today we will start with your testimony, but before we do that, I
23 have some remarks for you.

24 I will first explain to you the protective measures that you
25 have been granted for your testimony.

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

1 You have been assigned a pseudonym, and that means that we will
2 never call you by your real name. We will only call you
3 "Mr. Witness." Yes? Okay. In that way, we make sure that the
4 public doesn't know your name.

5 You also have face and voice distortion, which means that no one
6 outside the courtroom can see your face or hear your real voice.

7 When you answer questions that will not reveal your identity, we
8 will do so in a public session, in an open session, and that means
9 that the public can hear what is said in the courtroom. Okay? But
10 when you are asked to describe anything that relates specifically to
11 you or to mention facts that might reveal your identity, we will do
12 so in a private session, and that means that there is no broadcast
13 and no one outside this courtroom can hear what is said in this
14 courtroom. Okay?

15 And if anything is said in open session that will identify you,
16 we will protect this information. Your testimony will be broadcast
17 with a delay, and we can remove any such information from the
18 broadcast that will be seen and heard by the public and from the
19 public transcript of the proceedings. Okay?

20 Are the protective measures I just explained to you, are they
21 clear for you, Mr. Witness?

22 THE WITNESS: [Interpretation] Very clear. And I have no problem
23 following it.

24 PRESIDING JUDGE VELDT-FOGLIA: Okay. I'm going to lift a little
25 bit the volume so that I hear better.

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

1 Thank you, Mr. Witness.

2 Needless to say, like I always say, that we should do the utmost
3 attention to the protective measures in the course of our
4 examinations, avoiding disclosure of confidential information in open
5 session.

6 To the parties I also say, I remind you that will this hearing
7 is held in open session unless the parties or the Victims' Counsel
8 request to go into private or closed session. I remind you of the
9 in-court procedure -- of the procedure for requesting in-court
10 redactions, and I remind the parties and the Victims' Counsel to the
11 usual courtroom rules about the pace of speaking.

12 Mr. Witness, I turn back to you. You are called to testify
13 before the Specialist Chambers in order to assist the Panel of Judges
14 who are sitting here to reach a verdict. After you have taken your
15 solemn declaration to tell the truth, you will be asked questions by
16 the Specialist Prosecutor's Office, who are sitting there; then by
17 the lawyers of the -- representing the victims admitted to this case,
18 who are sitting over there; and then by the Defence counsel of
19 Mr. Mustafa; and lastly by the Judges of the Panel. Yes?

20 And I would like to provide you with some guidance for answering
21 the questions that will be put to you.

22 Please, Mr. Witness, listen carefully to each question and if
23 you don't understand it, feel free to ask to repeat the question. We
24 want you to tell the truth and to tell us what you saw, what you
25 heard, what you experienced, what you sensed, and if you did not hear

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

1 or see it yourself, please tell us and tell us how you came to know
2 about it. You may not remember all the details and that is perfectly
3 fine, and there's nothing wrong in saying, "I don't know" or "I have
4 forgotten about it."

5 Have you understood all that, Mr. Witness?

6 THE WITNESS: [Interpretation] Yes.

7 PRESIDING JUDGE VELDT-FOGLIA: Now, there is also some practical
8 advice from my part to you, and that is everything that is said here
9 is translated by the translators sitting up there and recorded. So
10 it's important to speak into the microphone you have in front of you,
11 to speak clearly, and to speak in a slow pace, in order for the
12 translators to be able to do their work properly. And you should
13 only start speaking when the person asking you a question has
14 finished. That's really important. So you could count up to five in
15 your head and then start speaking. That will be of great help.

16 And if you have any questions, if you need a break or you need
17 assistance, just raise your hand. Then I know that you want to say
18 something and then we can do whatever is needed.

19 Have you understood also all this?

20 THE WITNESS: [Interpretation] Yes.

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

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

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

1 Do you understand that?

2 THE WITNESS: [Interpretation] Yes.

3 PRESIDING JUDGE VELDT-FOGLIA: Good.

4 Court Usher, could you please assist the witness with the solemn
5 declaration to tell the truth.

6 Please, Mr. Witness, read the text provided to you.

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

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

13 We can now begin with the testimony of Witness W03594, starting
14 with the questioning by the Specialist Prosecutor's Office.

15 Mr. Prosecutor, you have estimated five hours for your
16 questioning of this witness. Please inform the Panel of changes in
17 this regard for reasons of planning.

18 You have the floor.

19 MR. DE MINICIS: Thank you, Your Honour. We will do our best to
20 keep you updated should there be any change in our estimates.

21 Your Honour, could we please move into private session
22 considering that we're going to go through the witness's personal
23 details to start with.

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

Examination by Mr. De Minicis

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

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

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

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

4 You have the floor, Mr. Prosecutor.

5 WITNESS: W03594

6 [Witness answered through interpreter]

7 Examination by Mr. De Minicis:

8 Q. Good morning, Mr. Witness.

9 A. Good morning.

10 Q. Are you ready to start?

11 A. Yes.

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

13 A. [REDACTED]

14 Q. What are your date and place of birth, please.

15 A. I was born on [REDACTED]

16 [REDACTED]

17 Q. When the war started in Kosovo in 1998, what was your
18 occupation?

19 A. I was [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. Mr. Witness, could you please explain to the Panel what is the
24 [REDACTED] you just made reference to.

25 A. The [REDACTED]

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

Page 1033

Examination by Mr. De Minicis

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

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. [REDACTED]

6 [REDACTED]

7 Q. And where were you based --

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. And by virtue of your job which you told us entailed

12 [REDACTED] during the war were you in contact with members of

13 the Kosovo Liberation Army?

14 A. When the war broke out in Drenica in 1998/1999, I was constantly

15 in that area. Every second or third day I was there. I had contacts

16 with all KLA members in Malisheve, Drenica, Rahovec areas, as well as

17 in other areas.

18 Q. And were you -- did you discuss with them issues such as their

19 [REDACTED] What kind of

20 discussions did you have with these representatives of the

21 Kosovo Liberation Army?

22 A. Every zone had its municipal committees. [REDACTED]

23 was seated in Skenderaj, [REDACTED] Before the war started in

24 [REDACTED]

25 [REDACTED]

Examination by Mr. De Minicis

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

1 Q. Mr. Witness, during the war, were yourself ever a member of the
2 Kosovo Liberation Army?

3 A. I was declared member of [REDACTED] Brigade.

4 Q. When were you declared a member of the [REDACTED] Brigade?

5 A. After the war. When an assessment was carried out who was a
6 member or veteran.

7 Q. Mr. Witness, were you in Prishtine when the NATO bombing of the
8 city began on 24 March 1999?

9 A. Yes.

10 Q. And after the bombing started, did you remain in Prishtine or
11 did you move out of it?

12 A. After the bombing started, since we could not go to Drenica, the
13 Gollak zone, Mramor, Zllash was full of people who had moved out from
14 Prishtine. And in order to help, I went there because there was a
15 crisis, a humanitarian crisis, so I went [REDACTED] to a friend of
16 mine.

17 Q. Do you recall approximately the date when you moved [REDACTED]?

18 A. It was approximately on the 28th of March. Something like that.

19 Q. Where did you stay once you moved [REDACTED]?

20 A. I stayed at the house of a friend [REDACTED]. A family friend.

21 Q. And from [REDACTED] did you continue [REDACTED]

22 [REDACTED] as you were doing before moving out of

23 Prishtine?

24 A. No, that was not quite possible. But I moved around. There was
25 an office there [REDACTED] an emergency office as they called it, for

Examination by Mr. De Minicis

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

1 helping the villagers [REDACTED] so I went there [REDACTED] We had

2 [REDACTED]

3 [REDACTED] I went to Kamenice and asked them there to

4 inform [REDACTED] at the time and was

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. And were the people in this office [REDACTED] to whom you asked
10 to contact [REDACTED] were they also members of the KLA?

11 A. I believe they had their own unit, the KLA [REDACTED] a kind of
12 a village unit.

13 Q. So you told the Panel that you asked the people [REDACTED] to
14 [REDACTED] Did they -- did these
15 people agree to contact [REDACTED] for you?

16 A. This is what they told me. They said that they will do this.

17 Q. And after they told you they would contact [REDACTED] what did
18 you
19 do?

19 A. Nothing. I returned to the family where I was staying and was
20 waiting for them to inform me.

21 Q. So did they -- did you receive -- did you hear back from these
22 people concerning your request to contact [REDACTED]

23 A. No, not at all. They came on the [REDACTED] eventually,
24 somewhere midday. They asked for me, the family where I was staying.
25 They said, "We need [REDACTED] When I went outside, there were three

Examination by Mr. De Minicis

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

1 persons of the KLA with KLA uniforms, without masks, and they said,
2 [REDACTED] is looking for you." So since we had had that conversation
in
3 [REDACTED] the day before and asked them to inform [REDACTED] and --
for people
4 to come and to [REDACTED] I didn't think
5 anything in particular in that moment.

6 Q. So let me see if I understood that correctly. You were at home
7 and three people in uniform arrived and told you that [REDACTED]
wanted to
8 meet you as you -- as it had been your request. Is that correct?

9 A. That's correct.

10 Q. Can you tell the Panel what happened next.

11 A. I got into a vehicle. At that time, there were old-type
12 vehicles called Niva, Niva make, so we travelled. When we passed
13 [REDACTED] I had no idea where we were going. During the entire
14 journey, they acted humanely toward me. They offered me cigarettes.
15 I offered them cigarettes and I didn't ask them at all anything,
16 thinking that I was being brought to [REDACTED]
17 [REDACTED] just like me.

18 May I continue?

19 Q. By all means, please.

20 A. On the way, in a mountainous area, it was raining heavily and at
21 a certain moment the vehicle got stuck in mud. We got out. I helped
22 them push the vehicle out of the mud. I had a revolver on my waist
23 which [REDACTED] Since we
24 were moving and travelling around on a daily basis, this revolver was
25 given to me so that I can take my own life, if need be, and not fall

Examination by Mr. De Minicis

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

1 into the hands of the enemy.

2 One of those three persons that I mentioned who were with me
3 asked me, "Do you have a weapon with you?" I said, "Yes, I do."
4 "Can I see it?" I showed it to him. And he said, "Very nice weapon.
5 Can I hold it for a while?"

6 I thought that once we get there, they will return the weapon to
7 me, but that never happened. And to this day, they never returned
8 the weapon to me.

9 Q. And did this happen as you were trying to free the car from the
10 mud?

11 A. Yes, correct. When I was out of the car.

12 Q. Did you eventually manage to free the car and continue your
13 journey?

14 A. Yes. We were four.

15 Q. And once you got back in the car, where did you go?

16 A. We went to a village which I didn't know at the time. I found
17 out later that that village was Zllash. So I didn't know at the
18 moment which village it was. The vehicle stopped and they told me,
19 "Just wait here for a moment. We will inform [REDACTED]."

20 Five or six minutes later, two persons came. They had masks on
21 their faces, and they brought me to -- I thought I was being brought
22 to an office where I would see [REDACTED] but they brought me without
23 any explanation into a barn where animals are kept.

24 MR. DE MINICIS: Now, Your Honours, I believe that now could be
25 an appropriate time to try to move into public session.

Witness: W03594 (Open Session)

Page 1038

Examination by Mr. De Minicis

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

1 Q. And, Mr. Witness, I will ask you to be mindful of that, so not
2 to pronounce names or your name, for that matter, for the time while
3 we were in open session.

4 A. It's clear to me.

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, we are now going
6 into open session, but even if we move into open session, if
7 something would be said that could reveal your identity, we will not
8 broadcast it and redact it from the transcript in writing. Okay?

9 THE WITNESS: [Interpretation] All right.

10 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
11 bring us into public session, please.

12 [Open session]

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

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

15 Mr. Prosecutor, please proceed.

16 MR. DE MINICIS:

17 Q. Mr. Witness, you told the Panel that you had arrived Zllash.
18 Have you ever been to Zllash before that time?

19 A. No.

20 Q. How did you come to find out that that location was, in fact,
21 Zllash?

22 A. I found out from the people who were inside there.

23 Q. The two masked people who took you into the barn, were they
24 wearing uniforms?

25 A. Yes, they were in uniform.

Witness: W03594 (Open Session)

Page 1039

Examination by Mr. De Minicis

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

1 Q. Were they armed?

2 A. I don't know. I didn't see them with weapons or armed. They
3 could have had a waist weapon, but I didn't see it.

4 Q. Do you recall noticing any insignia or patches on their
5 uniforms?

6 A. Like everybody else had, the KLA insignia and the sign of the
7 flag. Nothing else.

8 Q. Now, from the moment you got out of the car till the moment you
9 were put in this barn, did you notice where is it you walked through?
10 Was that -- were you in a building? Were you outside of a building?

11 A. I had no premonition. Why would I observe around the house?

12 Q. So you told us that you were put inside a stable. The entrance
13 of the stable, was it from an outdoor area?

14 A. Yes. From outside, it was a two-storey house. Below that
15 house, in the lower part, there was an old door. They opened the
16 door and I entered the room.

17 Q. How big was the stable where you were put in? Just ballpark.

18 A. It wasn't a very big space, I would say. Not very small but
19 neither very big. It was an area where animals are kept.

20 Q. Did the stable have any window?

21 A. Yes, there was a small window.

22 Q. Did it have other doors in addition to the one that you used to
23 get in there?

24 A. No. In the lower part, no. There was one door and a window.

25 Q. When you arrived there, did you find anyone else in that stable?

Witness: W03594 (Open Session)

Page 1040

Examination by Mr. De Minicis

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

1 And for now, I remind you not to please mention any name. Just tell
2 the Panel whether there were other people in there.

3 A. When I entered the room, there were four other persons there. I
4 found them in there.

5 Q. So this stable you were in with other four people, was it
6 guarded?

7 A. I don't know. I didn't see them. I didn't notice a guard.

8 Q. So neither inside nor outside you recall whether there was
9 anybody standing guard at the stable?

10 A. I didn't see them. However, when they would bring food and
11 water, and they would do this twice a day, there was guard at the
12 door. They would bring us food, enough food and water. Enough in
13 war circumstances, I mean. And I'm convinced that we were given the
14 same food that they had for themselves. They ate the same food as
15 us.

16 Q. How would you describe the conditions of living in that stable?
17 Sorry, actually before you answer that. How long did you remain in
18 that stable, Mr. Witness?

19 A. I remained there from the 4th up until the 18th or the 19th. I
20 do not exactly recall what day it was when I left the place. I think
21 it was the 19th of April, though.

22 Q. And how would you describe the conditions in that stable, living
23 there for two weeks?

24 A. The conditions were inhuman. When the individual, when somebody
25 enters into a place like that, so he is equalised with animals. He

Examination by Mr. De Minicis

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

1 is not treated like persons, like humans any longer.

2 I cannot find the words to explain that when all of a sudden
3 someone is taken and is sent to a barn that that person has not even
4 dreamt of in his or her life.

5 MR. DE MINICIS: Your Honours, if we could now move back into
6 private session, please. I think that would be safer.

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

9 ~~[Private session]~~ [Open session]

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

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

12 Mr. Prosecutor, please proceed.

13 MR. DE MINICIS: Thank you.

14 Q. Witness, Mr. Witness, just a couple of more questions in --
15 concerning the conditions in the stable. Did you and the other
16 people who were there have any beds to sleep on?

17 MR. DE MINICIS: The witness doesn't seem to have received the
18 interpretation.

19 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, do you hear us?
20 Mr. Witness, do you hear us?

21 THE WITNESS: [Interpretation] Now, yes. Yes, I do hear you now.

22 PRESIDING JUDGE VELDT-FOGLIA: Okay.

23 Mr. Prosecutor, I suggest that you repeat your question and then
24 we can see if it works properly.

25 MR. DE MINICIS: Yes, Your Honour, I will do. And I apologise

Examination by Mr. De Minicis

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

1 because actually the next two questions, I could have asked them in
2 open, but then we were going to dive into a different area. So
3 apologies for that.

4 Q. Mr. Witness, did you and the other people who were kept in the
5 stable have beds to sleep on?

6 A. No, no. So there was no bed there. There was no discussion of
7 a bed there.

8 Q. Did you sleep on the floor?

9 A. In the conditions that were found, so they brought us some hay,
10 because they had some hay outside of the building, and what we did is
11 that we laid that down and we had some blankets as well. So there
12 were enough blankets for us to lie down upon them and to cover
13 ourselves with them. So nobody had any discussion whatsoever about
14 the sleeping or the conditions of sleeping itself. But it was the
15 stress and the feeling as to why we were held there. So nobody was
16 thinking or was worried on how we were sleeping there, I think.

17 Q. Was there any toilet in the stable?

18 A. No, there was not. So they would bring us a coffee [as
19 interpreted] and we had a bucket as well, and within every 24 hours
20 we would get that bucket outside. So we would take care of our needs
21 while we were held there inside the barn.

22 Q. I'm sorry. Is it -- did you take the bucket outside or was it
23 emptied by any of the guards?

24 A. No. One of the guards would come, and it was one or two of us
25 who would keep it. So they were wearing masks in their face, so

Examination by Mr. De Minicis

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

1 those that would be keeping the bucket were wearing masks and they
2 would put it someplace outside, empty the buckets, and then bring
3 the -- fetch the buckets inside the barn again.

4 Q. Could you or the others had walked out of that stable during
5 those [REDACTED] had you wanted to?

6 A. So about the others, I don't know. I could myself. And I have
7 to say that [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] but there was no reason for

11 me to go there. So I'm thankful for them -- to them for that, so I
12 would go there once or twice. I had that possibility [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 THE INTERPRETER: Interpreter's correction: In line 3, "coffee"
16 should read "bucket."

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

18 MR. DE MINICIS:

19 Q. I'm a bit puzzled because when had you an interview with the
20 SPO, we were under the impression that you had no chance to get out
21 of the stable, as you stated before.

22 MR. DE MINICIS: And, Your Honour, if I could perhaps refresh
23 the witness's memory by reading a small part of his statement to the
24 SPO.

25 PRESIDING JUDGE VELDT-FOGLIA: You may. If not, I would have

Examination by Mr. De Minicis

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

1 done it myself. Yes.

2 MR. DE MINICIS: Yes. I would like to have on the screen

3 ERN 061016-TR-ET, Part 1, page 24, please.

4 Q. Now -- yes. Now, Mr. Witness, this is the transcript of your
5 interview with the SPO. It is in English, but, of course, the
6 interpreter will be translating it as I read it out for you because I
7 cannot read the Albanian.

8 Now, you were asked, you were telling the Prosecutor that after
9 a week you had been taken upstairs. And the Prosecutor asked you:

10 "Q. Is this the first time that you were called out of room,
11 out of the stable?"

12 And your answer was:

13 "Yes, after a week. We no chance to get out of the stable, to
14 get any fresh air or anything. There was no chance. We had no
15 chance of that."

16 Now, perhaps does this refresh your recollection as to whether
17 you were actually let out of the stable?

18 A. Is it possible to make a clarification, Mr. Prosecutor? You
19 asked me, you asked me on whether it was possible to go to Zllash,
20 and I can say it, that there was no chance whatsoever for myself or
21 any other person in that room to leave from there. And we could not
22 escape from there. So I was just telling you that we would do or
23 take care of that within the room, within the barn. Or once or twice
24 I had the possibility to go to the toilet. So when the Prosecutor
25 asked me in Prishtine the question was on whether you could escape.

Examination by Mr. De Minicis

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

1 I mean, when it comes to the escaping part, that is clear to me.

2 And it's true again that I was taken from the barn up to the
3 upstairs just once. And during that time, it was very dark. It was
4 night-time. I could not see a single thing. And even when I was
5 sent to the toilet, it was night-time, I was not wearing a mask, I
6 was not restrained in any way or form, so I could escape but there
7 was no reason for me to escape.

8 Well, it is true that in the first time -- from the [REDACTED]
9 until

10 19th, the first time that I was taken from there and I was sent
11 upstairs, that was -- that only happened once. It was only once that
12 this happened to me. This is something that I said at the
13 Prosecution office in Prishtine as well. So that was the first time
14 that I was taken from that barn during day-time.

15 Q. Thank you for that.

16 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, can I just -- I
17 don't want to interrupt your line of question. But just for a
18 clarification for me instead of doing it tomorrow or --

19 MR. DE MINICIS: Please, Your Honour. Any time.

20 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, for my
21 understanding, could you leave the barn and go back home any time you
22 wished when you were there?

23 THE WITNESS: [Interpretation] No, there was no chance I could
24 leave the place.

25 PRESIDING JUDGE VELDT-FOGLIA: Okay.

THE WITNESS: [Interpretation] There was no possibility like

Examination by Mr. De Minicis

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

1 that. It was not possible.

2 PRESIDING JUDGE VELDT-FOGLIA: Then that is clarified for me.

3 Mr. Prosecutor, you have the floor.

4 MR. DE MINICIS: Thanks for clarifying that, Your Honour.

5 Q. Now, Mr. Witness, we are still in private session. During your
6 time in the stable, did you have the chance to talk to the other --
7 the other four people you told us who were there by the time you had
8 arrived in the stable?

9 A. Yes, we had time to discuss. Plenty of it.

10 Q. You told us that four people were in the stable when you arrived
11 there. Was anyone else brought in after your arrival?

12 A. Yes. After about seven or eight days, another person was
13 brought in.

14 Q. I would now like to seek your help to -- if possible, to go
15 through who were the people who were detained with you there. And I
16 remind you that we're in private session, so it's now okay to say
17 names, to the extent that you recall.

18 So do you remember, can you tell the Panel who were the people,
19 the five people who were detained with you there?

20 A. It's only two names that I remember. I do not remember the rest
21 of them.

22 Q. That's okay, Mr. Witness. Perhaps we could start with these two
23 names you remember.

24 A. Yes. There was this person [REDACTED] and another one called
[REDACTED]

25 Q. Do you recall [REDACTED] family name?

Examination by Mr. De Minicis

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

1 A. No, I don't recall it. Because I was not interested in that.

2 So we were not able to ask about last names and that was of no

3 interest to us. So we would only know the names.

4 Q. Do you remember where he was from?

5 A. I do not know.

6 Q. And you said the other one was named [REDACTED] Is that what you
7 said?

8 A. [REDACTED]

9 Q. Do you recall where [REDACTED] was from?

10 A. No. No, I had no knowledge of anyone. I didn't know any of
11 them. I didn't know where they were from and probably they didn't
12 know where I was from either. So we did not explain to one another
13 who -- where we were from, but the entire conversation was why we
14 were kept there and was it possible at all for us to leave that
15 place.

16 Q. I understand, Mr. Witness, a lot of time has passed. But you
17 did -- you were able to provide a bit more information about these
18 two people to the SPO during your interview.

19 MR. DE MINICIS: And perhaps with the Panel's leave, I would
20 like to have ERN 061016-TR-ET, Part 1, page 20, please, on the
21 screen.

22 PRESIDING JUDGE VELDT-FOGLIA: And, for the record, I nodded to
23 Mr. Prosecutor, when he was asking for leave.

24 MR. DE MINICIS: Yes. And the page would, in fact, be 21,
25 Your Honour. Apologies.

Examination by Mr. De Minicis

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

1 Now, if we could go to line 17 to 21 on the screen.

2 Q. And so when the Prosecutor asked you who were the people who
3 were detained with you, you stated that:

4 "A long time has passed but there was one from [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Does this refresh your memory as the identity of one of your
8 fellow detainees there, Mr. Witness?

9 A. It is true. But even to this day I'm not sure on whether he was
10 from [REDACTED] or not. Whereas when it comes to the fact that he was
11 referred to as [REDACTED], that's something that I
12 remember. Probably I've said that, so I had the conviction that he
13 was from [REDACTED] because the fact that he told us that we were in
14 Zllash made me think that [REDACTED]

15 Q. So do I --

16 A. So personally he did not tell me that he was from [REDACTED]

17 Q. Do I understand it correctly that it was from Mr. [REDACTED]
18 that you learned that you were, in fact, being held in Zllash?

19 A. Yes, it was exactly him.

20 Q. Thanks. And I do understand that it may be difficult to recall
21 some details today. That is why I'm occasionally seeking leave from
22 the Panel to refresh your memory with your previous interview.

23 MR. DE MINICIS: Now if we could move to page 22 of the same
24 transcript, and line 6 to line 8.

25 Q. And when asked if you recalled anybody else who was in the

Examination by Mr. De Minicis

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

1 stable, you stated that [REDACTED] was from [REDACTED] Do you recall
stating

2 that to the Prosecution, Mr. Witness?

3 A. I may probably have said that, but I know that he was called a
4 [REDACTED] And I'm talking about [REDACTED]

5 Q. So was that the [REDACTED]

6 A. I do not know whether it was one week or probably after a couple
7 of days that I was staying there, there was once where two people got
8 in the barn, they were wearing masks, and they told [REDACTED] "Why
9 you getting closer to [REDACTED] And then they turned to me and said,
10 "Listen, [REDACTED] so he is [REDACTED] And they were referring to
11 [REDACTED] So whereas for [REDACTED] they told me that he was a
[REDACTED]

12 About [REDACTED] I had no impression about him being [REDACTED]
because

13 he was poor and I said that if, for instance, they -- he has taken a
14 car loaded with wood from the forest, I mean, that does not make him
15 [REDACTED] So he didn't give me the impression of being [REDACTED]
because

16 [REDACTED] had [REDACTED]

17 So this is what I thought when I got to know that he was called
18 [REDACTED]

19 So everyone, including the one that would bring us bread and the
20 other two people that got in the barn, I'm thankful to them because
21 they were having a good eye on me. And I don't blame them and I
22 don't blame anyone there. Because even before the Prosecution
23 office, I've said that the people that were there were people that I
24 did not know, so I do not want to accuse them. I'm not here to
25 defend them, but I don't wanted to accuse them either. Because after

Examination by Mr. De Minicis

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

1 that day that I was there, Mr. Prosecutor, so I wish to tell you that
2 from the [REDACTED] until the 18th of April, I can say with my human
3 responsibility and spiritual responsibility that no one has been
4 taken away from that barn during the day-time or during the
5 night-time, except for one occasion where I went outside myself. I
6 don't know what has happened before I set foot on there, but this is
7 what happened during the time that I was there. This is the truth,
8 and this is one million per cent true, and I can be held responsible
9 if this is not true, if what I'm telling you is not true.

10 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, please allow me.

11 Mr. Witness, I would like to remind you that if a question is
12 asked to you, you should answer the question. And if you don't know
13 the question, you can say, "I don't know."

14 The question before we went into your -- what you told about the
15 [REDACTED] was: Do you remember, you stated to the Prosecutor in
Prishtine
16 that [REDACTED] was from [REDACTED]

17 And for the transcript, it's page 23, line 5.

18 And now I repeat the question to you: Do you remember that you
19 stated to the Prosecutor - and that was the Prosecutor in Prishtine -
20 that [REDACTED] was from [REDACTED] That was the question. And I ask
you to
21 answer, give an answer to that.

22 THE WITNESS: [Interpretation] Yes. Yes, I remember that, and so
23 the answer to that question is yes. I can forget things sometimes.
24 And I got to know from other people that [REDACTED] is from [REDACTED]
and that
25 happened after I left the prison. The day that I left the place on

Examination by Mr. De Minicis

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

1 19th of April, I got to know that that person was from [REDACTED]

2 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated] Do you
3 understand my point, that I see that sometimes -- do you get my
4 point, Mr. Witness, that sometimes I see that you beat around the
5 bush and I just want you to give a reply to the question. Okay?

6 THE WITNESS: [Interpretation] It's not that I'm beating around
7 the bush, but a very long period of time has elapsed since then. And
8 it's about one year now that I've given the interview with the
9 Prosecution office too.

10 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, please proceed.

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

12 Q. Mr. Witness, something that you just said I would like to ask
13 you to clarify what you meant because it is -- it appears to be in
14 contrast to what you told the Prosecution during your interview.

15 You said that, right now, in fact, just a few minutes ago, that
16 you can tell that nobody has been taken away from that barn during
17 day-time or during night-time except from that one occasion when you
18 went outside yourself.

19 That's what you just stated. However --

20 MR. DE MINICIS: Your Honour --

21 THE WITNESS: [Interpretation] Yes, that is true. This is what I
22 said.

23 MR. DE MINICIS: Yes. If we could have, please, 061016-TR-ET,
24 Part 3, page 10, please, on the screen, and lines 1 to 13.

25 Q. Now, there you were talking, Mr. Witness, about this prisoner

Examination by Mr. De Minicis

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

1 who had been brought to the stable after your arrival. By the way,
2 do you recall the name or nickname of this person who had arrived
3 after you?

4 A. I think I have heard him being called [REDACTED]

5 Q. Okay. Now, you were asked whether for the week that you were --
6 MR. DE MINICIS: And I'm reading line 1 at page 10, Your Honour.

7 Q. The week that you were there with the youngster, did you talk to
8 him? And you answered:

9 "No, he was beaten up severely. He was" --

10 A. No.

11 Q. -- "maltreated."

12 And then you were asked: "When did that happen?"

13 And you stated: "The night that he arrived. He was brought in
14 the middle of the night."

15 Prosecution -- Prosecutor went on, said: "When was he beaten
16 up?"

17 And you stated:

18 "That night, that night. He was beaten up that night. There
19 was no way to take him to beat him up again because he couldn't even
20 stand."

21 And then the Prosecution continued: "Right. But where was he
22 beaten up?"

23 And you answered, this is line 17:

24 "The biggest beating happened when they were taken. And
25 according to what they told me, they had a special place where they

Examination by Mr. De Minicis

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

1 would beat them up because they didn't know either. But when the
2 youngster" --

3 PRESIDING JUDGE VELDT-FOGLIA: Excuse me.

4 MR. DE MINICIS: Sorry.

5 PRESIDING JUDGE VELDT-FOGLIA: Can the evidence be pulled up a
6 little bit because we cannot see it on the screen.

7 MR. DE MINICIS: I'm sorry, Your Honour. I got a bit --

8 PRESIDING JUDGE VELDT-FOGLIA: No, you not, but my question is
9 directed to Madam Court Officer. Thank you.

10 MR. DE MINICIS: And the last part I read was line 17 to 19.

11 Q. And then finally, the Prosecution said:

12 "All right. But when the youngster -- where was the youngster
13 beaten up?"

14 And you said: "All over his body."

15 I think this is perhaps enough for now.

16 Mr. Witness, does this refresh your recollection about people
17 being taken away or out of the stable during your stay there?

18 A. I declare publicly that I have not said this in Prishtine nor am
19 I telling you here that they would take the people from out of the
20 barn or from the barn. So I have declared that they have not taken
21 anyone away from the barn during my stay there. So this is the
22 declaration that I've given in Prishtine and this is what I'm telling
23 you here. If you have misunderstood me, that's a different story
24 altogether. Because if people were taken away from the barn, I would
25 have said that today before you. But I have told you back then and

Examination by Mr. De Minicis

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

1 telling you right now that during my stay there, nobody was taken
2 away from the barn, neither during day-time nor during night-time, to
3 be maltreated or to be sent away for any matter. That has not
4 happened to me and that has not happened to anyone else during that
5 time.

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, just to inform
7 you that we are approaching 11.00.

8 MR. DE MINICIS:

9 Q. Mr. Witness, so is your testimony today that did you not state
10 that to the Prosecution when you were interviewed at the time? Do I
11 understand you correctly?

12 A. Mr. Prosecutor --

13 MR. VON BONE: I have an objection, Your Honour.

14 THE WITNESS: [Interpretation] -- I don't want to blame the
15 Prosecutor. Probably there has been a misunderstanding. But I can
16 tell you convincingly that I have never mentioned that someone was
17 taken away from the barn. If that were the truth, I would say that
18 here before you as well.

19 So, Your Honours, Mr. Prosecutor, I'm not here to defend anyone,
20 but I don't have to accuse anyone if that is not what has happened.
21 So this is the declaration that I have given. So no person has been
22 taken away to be maltreated, either during the day-time or the
23 night-time, during the time that I was taken there and I was staying
24 at the barn.

25 MR. DE MINICIS: Your Honour, perhaps -- oh, sorry.

Examination by Mr. De Minicis

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

1 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, I saw you standing
2 and then sitting down.

3 MR. VON BONE: Yes, Your Honour, because I think that if we
4 would, in fact, go to page 11 of the transcript --

5 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]
6 Mr. Witness, would you put down your headphones. Do like this.

7 Mr. von Bone, please you have the floor.

8 MR. VON BONE: Yes. Because I'm not sure whether the -- what
9 the Prosecutor is intending, but, in fact, it is our belief that it
10 is in line what the gentleman stated, in fact, even on page 11 of
11 his --

12 PRESIDING JUDGE VELDT-FOGLIA: I'm not -- Mr. von Bone, I'm not
13 hearing you quite well. So maybe you could do --

14 MR. VON BONE: Can you hear me now?

15 PRESIDING JUDGE VELDT-FOGLIA: -- a little bit more into the
16 microphone --

17 MR. VON BONE: Okay.

18 PRESIDING JUDGE VELDT-FOGLIA: -- because I'm not understanding
19 it well.

20 MR. VON BONE: I do not believe -- the question that the
21 Prosecutor is asking is whether he stated something else to the
22 Prosecutor in Prishtine than he does here. But if we just read a
23 little bit further on the same text, then I believe it is in line
24 with what the witness actually said.

25 So maybe, maybe, we could just extend it a little bit and -- or

Examination by Mr. De Minicis

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

1 maybe you didn't see it. Just, you know, I think it is not that the
2 gentleman here is stating something else or that he, in fact, did not
3 state anything in Prishtine. Because I truly believe it is in with
4 what he has stated --

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, I think that the
6 witness has made very clear what he wanted --

7 MR. VON BONE: Yeah.

8 PRESIDING JUDGE VELDT-FOGLIA: -- to say for now. If you have
9 something to add on that in cross-examination, you'll be given the
10 floor. I think that for now, I will leave the Prosecutor,
11 Mr. Prosecutor to continue, although we are now in the break time, so
12 I think it will be after the break.

13 Mr. Prosecutor.

14 MR. DE MINICIS: Yes, we're happy to break now, Your Honour,
15 if -- and come back after the break to this.

16 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, can you put on the
17 headset again.

18 Madam Court Officer, can we go into public, please.

19 [Open session]

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

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

22 Witness W03594, it is now time for our first break, yes, and I
23 will therefore ask the Court Usher to accompany you in exiting the
24 courtroom, and we will see you back in half an hour at 11.35. Okay?

25 THE WITNESS: [Interpretation] I understand.

Witness: W03594 (Open Session)

Page 1057

Examination by Mr. De Minicis

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

1 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good. She will accompany
2 you. You can take off your headphones and you can leave the
3 courtroom.

4 [The witness stands down]

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I see that you're
6 still standing. No?

7 MR. DE MINICIS: In fact, Your Honour, I should have sat down.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good. We will resume in
9 30 minutes, and that will mean at 35, so five minutes past 11.30.

10 The hearing is adjourned.

11 --- Recess taken at 11.05 a.m.

12 --- On resuming at 11.35 a.m.

13 PRESIDING JUDGE VELDT-FOGLIA: I do not see any changes in the
14 composition of the teams, so we can proceed.

15 Madam Court Usher, could you please bring the witness in.

16 Thank you for the light.

17 [The witness takes the stand]

18 PRESIDING JUDGE VELDT-FOGLIA: Welcome, Mr. Witness.

19 THE WITNESS: [Interpretation] Thank you.

20 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I give you the
21 floor to continue with the examination of the witness.

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

23 Q. Mr. Witness, we were talking about the day that --

24 MR. DE MINICIS: And, in fact, Your Honour, I might need to
25 request to go into private session.

Examination by Mr. De Minicis

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

1 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, would you
2 bring us into private session, please.

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

4 THE INTERPRETER: Microphone for Your Honour.

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

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

7 MR. DE MINICIS:

8 Q. Mr. Witness, before we took a break, I was asking you about the
9 time where this person that you told us was nicknamed [REDACTED]
10 [REDACTED] was brought to the stable.

11 Now, do you recall telling the Prosecution that the day he was
12 brought there, [REDACTED] had been beaten?

13 A. It is true that he said -- presented himself as being beaten.
14 And he was brought somewhere around midnight.

15 Q. Do you recall telling the Prosecution that he had been beaten
16 severely?

17 A. Yes, it is true that I said that because he could not stand up.
18 He could hardly stand up.

19 Q. Now, when you arrived in the stable, did any of the other
20 detainees there tell you if they had experienced any beatings?

21 A. No, none of them.

22 Q. None -- is it your testimony that none of the other detainees
23 ever mentioned having received any beatings in that stable? And I am
24 afraid --

25 MR. DE MINICIS: I'm sorry to ask the same question the second

Examination by Mr. De Minicis

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

1 time, but I want to give the witness perhaps time to rethink his
2 answer, considering that it is not in line with what he told the
3 Prosecution during his interview.

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

5 MR. DE MINICIS:

6 Q. So you're certain nobody told you that?

7 A. I understood myself, because during those two, three days, they
8 didn't have any signs or marks on their hands, legs, head. But I
9 noticed that their backs were red, and there I understood that this
10 could be from the beating. But, otherwise, they could move freely,
11 they could take their clothes off and exercise, and none of their
12 legs or arms were swollen. I did not see any marks on their head. I
13 also stated in Prishtine that the backs of three of them were red.
14 There were no marks on them but they were red.

15 Maybe they didn't go into details to explain to me what had
16 happened to them, but I guarantee to you that none of them told me
17 that they had been maltreated by someone else.

18 MR. DE MINICIS: Your Honour, could I please ask for
19 061016-TR-ET, Part 3, page 7, to be displayed on the screen.

20 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, please
21 proceed.

22 MR. DE MINICIS: And I will be reading lines 5 to 13,
23 Your Honours.

24 Q. So the Prosecutor asked you, Mr. Witness:

25 "Q. What did they tell you happened to them?

Examination by Mr. De Minicis

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

1 You stated, you answered:

2 "They had been there before myself. I don't know for how long
3 before myself they were there."

4 Then the Prosecutor continued:

5 "So what did they say would happen to them when they were taken
6 out of the stable and upstairs before your arrival?"

7 You answered:

8 "Bad beatings. Beatings that were so bad that they thought --
9 they said like a beaten animal. Beatings that were so bad that they
10 thought actually death would be better."

11 And the Prosecutor then continued, and we're line 15 to 17:

12 "Right. And who did they say did this?"

13 "A. They took them during the night. And they said that they
14 had masks on."

15 Now, Mr. Witness, as you can see, what you told the Prosecution
16 during your interview is quite different from what you're telling the
17 Panel today. Does me reading the -- this portion of your interview
18 somewhat refresh your memory as to what you said about this?

19 A. I would like to clarify something, Your Honour and
20 Mr. Prosecutor. I'm quite aware of what I said. It is true, and the
21 interview I gave in Prishtine was recorded. If somewhere in there,
22 there exists that I've said that, that somebody was taken from that
23 barn and maltreated, then I can be held here as an accused and not as
24 a witness.

25 It is not true that somebody was brought out of the barn. There

Examination by Mr. De Minicis

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

1 were discussions about beating, but I did not know what was going on.
2 If I heard something like that, I would have gone crazy. I could not
3 believe anything because I did not see any signs on their body. I
4 had no idea that they had been maltreated to that degree as said.
5 But nobody, nobody was taken out of the room.

6 So this interview has been recorded and I request that we look
7 at it. And I hereby state again that none of those with me was taken
8 out. I'm speaking from the time I was there, from the [REDACTED]
9 until the
10 19th. I never said that they were taken out of the room and
11 maltreated. If they were maltreated, then that must have happened
12 before I arrived there. This is what I said even before the
13 Prosecutor in Prishtine.

14 And I hereby publicly state again that all those who were with
15 me in the room, none of them had injuries on their faces, heads,
16 limbs, knees, except the fact that their backs were a bit red. With
17 the exception of this person who came later in, who was brought in
18 later in, who said that he had been badly beaten. But, again, I did
19 not see signs of beatings on his body either. I'm telling here,
20 using his words, what he said.

21 This is all what I wanted to say.

22 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, two points. The
23 first is that the question is if the people, the people before you
24 were there had been beaten. What would you answer to that?

25 THE WITNESS: [Interpretation] According to them, yes.

PRESIDING JUDGE VELDT-FOGLIA: Okay. That is then clear.

Examination by Mr. De Minicis

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

1 Before you came in, they had been beaten.

2 Had they been -- let me finish my -- because if not, we get a
3 mess here.

4 MR. VON BONE: Excuse me, I have an objection.

5 He did not say that they had been beaten, which is implied in
6 the question. He said that it is what they told him. That is all he
7 said.

8 PRESIDING JUDGE VELDT-FOGLIA: That is what he said and that is
9 recorded.

10 MR. VON BONE: Yes. So if your question is that they had been
11 beaten, I believe that is not correct. It is that he was told that
12 they were beaten.

13 PRESIDING JUDGE VELDT-FOGLIA: Second point, Mr. Witness, we
14 have -- and, Mr. Prosecutor, allow me to just confront the witness
15 with something you -- what has been said in order to clarify what the
16 witness is saying now.

17 In your witness statement, for the record, Part 1, page 26,
18 lines 13 and 14, you say:

19 "They all had" -- that is to the Prosecutor in Prishtine.

20 "They all had scars and marks on their body and they had holes
21 on their body."

22 Do you remember having said that to the Prosecutor?

23 THE WITNESS: [Interpretation] No, I did not say that. With the
24 exception of three persons, I did not say all of them. I mentioned
25 there as well two or three people. Because I'm being here sincere.

Examination by Mr. De Minicis

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

1 I don't know if it was the interpretation and how the Prosecutor
2 understood me, but I never said all of them.

3 PRESIDING JUDGE VELDT-FOGLIA: You said, if I understood well
4 now, two or three; is that correct?

5 THE WITNESS: [Interpretation] Yes. Yes, this is what said and
6 what I'm saying today.

7 PRESIDING JUDGE VELDT-FOGLIA: And how many people were there in
8 the barn except -- leaving you out?

9 THE WITNESS: [Interpretation] Five.

10 PRESIDING JUDGE VELDT-FOGLIA: Good. These are my questions for
11 now.

12 I give the floor back to Mr. Prosecutor.

13 MR. DE MINICIS:

14 Q. Mr. Witness, just going back to -- Madam Presiding Judge has
15 already asked you whether you learned from the others that they had
16 been beaten and you confirmed that. But you did say that they were
17 beaten so bad, they told you they had been beaten so bad that death
18 would have been better. Did you not say that? Because, as you said,
19 we do have the video recording of that interview and I would be happy
20 to show it to you if you think that would refresh your memory with
21 regard to that statement of yours.

22 A. It is true that they told me that, but I did not believe them
23 because I did not see any marks on their bodies.

24 I'm not here going into details what they said. I did not see
25 anyone beat them and I'm not responsible for that. But in my view,

Examination by Mr. De Minicis

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

1 because I have experience from other prisons, we could not move for
2 weeks when we would be beaten. That's why I'm repeating again, I did
3 not see any marks on their faces, heads, limbs. I said this in
4 Prishtine as well. Two or three persons told me that they had been
5 badly beaten. But as I said, when they would take their clothes off,
6 I only saw some red marks on their back. I did not see any marks on
7 their limbs.

8 This is what I also stated in Prishtine.

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, what you said in
10 your earlier witness statement when you were interviewed by the
11 Prosecutor is what I read out to you. They had scars and marks on
12 their bodies and they had holes on their body. You can now here
13 clarify to tell that --

14 THE WITNESS: [No interpretation].

15 PRESIDING JUDGE VELDT-FOGLIA: Wait, wait. I talk and then you
16 can talk. You will get ample opportunity to say what you want to
17 say. That's the reason you are here for, yes.

18 THE WITNESS: [Interpretation] I didn't say "holes."

19 PRESIDING JUDGE VELDT-FOGLIA: But that is what is stated here
20 and what is recorded back then. So you can now here clarify what you
21 meant to say. But what is written down, in principle, that has been
22 said, but if it's necessary, like the -- Mr. Prosecutor says, we can
23 show it to you again. But you are here to clarify what you have said
24 then.

25 MR. DE MINICIS:

Examination by Mr. De Minicis

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

1 Q. And, Mr. Witness, it seems clear now that the detainees did tell
2 you about the beatings but - and I'm referring to lines 22 to 23 of
3 the transcript which is currently on the screen, which would be, I
4 repeat it for the record, 061016-TR-ET, Part 3 - you stated:

5 "With regard to the beatings, yes, they told me."

6 But then you continue and you said:

7 "They didn't need to tell me. I saw their bodies as well."

8 So, Mr. Witness, it would appear to me that there were some
9 markings that had put you on notice that these beatings had, in fact,
10 happened, in addition to what you had been told by the others, did
11 you not?

12 A. Mr. Prosecutor, I'm hearing this today for the first time about
13 holes. I said they had marks, signs, but I did not say holes.

14 Q. No. No, no, no, sorry. Sorry, Mr. Witness. Please, I didn't
15 mention holes. I did not mention holes now. But you did say, you
16 did tell the Prosecution that you saw markings on their body, saying,
17 "They didn't need to tell me they had been beaten, I could see that."
18 That's what the transcript said. So it's not holes. But were there
19 markings that showed to you that these people had been beaten?

20 A. It is true that I said that, and I'm fully convinced today that
21 they were now not beaten to the extent that they cannot stand on
22 their feet or something like that. In my opinion. They had marks on
23 their bodies. And I said before that I saw red marks on the backs of
24 two or three persons and I described them, these marks. I said they
25 were like red lines. But I did not say holes.

Examination by Mr. De Minicis

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

1 Q. Were you afraid during the time that you spent in that stable,
2 Mr. Witness?

3 A. I'm stating here today and I stated this to the Prosecutor, the
4 person who brought me there must have been crazy. I felt as if I
5 were an animal and no longer a human being. I don't know how I could
6 feel when suddenly I found myself in a barn, in a cowshed. This is a
7 humiliation. But that's only one person. It cannot be that all of
8 them were involved in that.

9 Q. During your stay in the stable, did you ever fear for your own
10 life?

11 A. Of course, I had, because I didn't know what would happen in the
12 evening or in the morning. There was no explanation given to me.

13 Q. I've asked you that because earlier on you appear to have --

14 MR. DE MINICIS: And I will provide the reference, Your Honour,
15 shortly.

16 Q. But you did suggest that you were somewhat grateful to the
17 people who held you there because you had been treated well. That --
18 do you maintain that you were grateful and you had been treated well
19 during your stay there?

20 A. It is true. It was not their mistake that I was there. You
21 asked me how I felt there, and I said I didn't know whether the
22 evening or morning would find me there. But the personnel who gave
23 us food, who took us to the toilet, I'm very thankful to them. They

24 [REDACTED] If they did not respect me, they would

25 [REDACTED] And this is true, and I'm

Examination by Mr. De Minicis

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

1 grateful to these persons. Most of them I don't know to this day.

2 This is the reality.

3 As to how I felt, I cannot explain it to others. I felt very
4 badly. That was my second death. My first death was caused by the
5 Serb occupier and this was my second death, which was even more grave
6 than that of the Serbian occupiers. For me, it was very difficult to
7 find myself in a barn and to be treated like an animal.

8 Q. Were you personally ever physically mistreated in that stable?

9 A. Never. No offence whatsoever, no beating, physical beating, or
10 threat from no one.

11 Q. Did you ever receive any form of physical maltreatment or
12 mistreatment, perhaps different from a beating? But are you sure you
13 never were ever beaten in that stable or physically mistreated?

14 A. Never, never.

15 MR. DE MINICIS: Your Honour, if I could please have ERN
16 061016-TR-ET, Part 4, at the end of page 1. In fact, it's page 2.
17 And if we could go to page 2 and lines 7 to 10, please.

18 Q. So the Prosecution was asking you or discussing about some form
19 of beatings that you had observed, in fact, and we'll get to that, of
20 the other detainees. But then you stated in line 7:

21 "Yes, they hit me as well. They said, 'Put your hands out,' and
22 there was no explanation there. You couldn't have asked for any
23 explanation as to not to put your hands out. I could have not put my
24 hands out."

25 Do you recall a time where somebody came in and asked you to put

Examination by Mr. De Minicis

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

1 your hands out?

2 A. It is true, Mr. Prosecutor, Your Honour, Madam Judge, and I
3 explained this very well, and I did not understand it as a
4 maltreatment or beating. I told the Prosecutor as well, this person
5 was very young who came into the room. He was 17 years, so he could
6 have been my own child. And he said, "Put out your hands," and I did
7 that. But this was not a beating. For me, it was -- I felt very bad
8 to see a young person doing that amongst us. It wasn't, for me,
9 painful to get two or three hits with a thin wooden stick. But for
10 me, it was very painful to see this person who was very young. He is
11 now grown up, but I'm sure he did it without being aware of what he
12 was doing.

13 So this was the only time something like this happened during my
14 stay there. And I did not consider it as beating or a threat or
15 something else.

16 MR. DE MINICIS: Your Honour, may I continue to read a few more
17 lines?

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

19 MR. DE MINICIS:

20 Q. Mr. Witness, the Prosecutor asked you if the others were hit in
21 the same way, and you stated: "Yes." It's line 12.

22 "How often?" continued the Prosecutor.

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

24 "Q. Right. And how many times were each of them hit?

25 "A. I don't know. I was hit four to five times. Until they

Examination by Mr. De Minicis

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

1 managed to get rid of that anger they had.

2 "Q. And what did they hit you with?

3 "A. They had this thick rubber stick.

4 "Q. Right. So you were hit four or five times?

5 "A. Yes.

6 "Q. And did this incident happen once or more than once?

7 "A. No, to me it happened once. It could have been that it
8 happened another time, but no more than that. Because when they
9 would enter they would say, 'You go to the corner.'"

10 Now, from the part that I read, it would appear -- I note two
11 slight contradictions to what you told the Panel today. First off,
12 you spoke of "they." You say they continued "until they managed to
13 get rid of that anger they had."

14 So, Mr. Witness, today, after I've read you this part, can you
15 tell the Panel whether, in fact, there were one person or more than
16 one person hitting with a thick rubber stick?

17 A. Only one. And I've said this before and I'm telling you right
18 now that it only happened once. So I was told to get off and there
19 were threats with words once or twice during the time I was there, or
20 probably twice or three times, but no one beat me up. So someone was
21 called a [REDACTED] but there has

22 been no beating in my presence while I have been there in the barn.

23 Q. But you did state that -- you did state to the Prosecutor that
24 the others had been beaten at least one additional time. So you
25 stated that you had been beaten once, but the others, they had been

Examination by Mr. De Minicis

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

1 beaten at least once more. Do you recall that?

2 A. No, I do not remember, so probably I have been misunderstood.

3 So they have not been once more or one time less. So that was

4 hitting in the hands. It was not, you know, something major. It was

5 like hitting a pupil while in the elementary school. So I was not

6 beaten in my limbs, in my hands or other parts of my body. Like I

7 said, that person was very young and I treated that person like my

8 kids. I had no anger whatsoever. I just was sorry about him. I was

9 not sorry about myself. And, like I said, that was something that

10 only happened once. And that happened to everyone else. There was

11 no difference towards myself or others. There was just one person.

12 So about the stick, I don't know whether it was a rubber stick

13 or a wooden stick, but it was very light, so I didn't feel any

14 suffering or pain at all, although my hand is damaged.

15 Q. How did you -- how is your hand damaged, Mr. Witness? What do

16 you mean by that?

17 A. My hand, in the demonstrations of 1981, I was wounded by the

18 Serbian occupier. It was not that my hand was damaged while I was

19 there.

20 Q. Now, are you telling the Panel today that the only beatings that

21 you witnessed concerned -- on the other detainees, concerned them

22 being beaten on their hands, just on their hands? Or did you see

23 them being hit elsewhere too?

24 A. I have not seen other times. I have only seen their hands.

25 That's what I've seen.

Examination by Mr. De Minicis

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

1 MR. DE MINICIS: Your Honour, we might need to read out a part
2 of the statement again to the witness, with your leave.

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

4 MR. DE MINICIS: And it's still the same part, Part 4 of the
5 transcript, but I would request the Court Officer to please move to
6 page 7. Actually, page 6 at the end, line 23, and then we'll scroll
7 on to the following page.

8 Q. You're still discussing these beatings. And, Mr. Witness, let
9 me be clear, I know these are not easy topics to talk about, and we
10 will try to keep this to a minimum. But it is important that what
11 you experienced there emerges with the utmost clarity here in the
12 courtroom today. I know it may not be pleasant but you have to tell
13 us the truth.

14 So the Prosecutor told you:

15 "Right. I keep asking you the same question, [REDACTED] You
16 said before that, in fact, you thought that some people had been hit
17 on other parts of their bodies as well as their hands."

18 Can we please scroll to --

19 "So," continued the Prosecutor, "on what other parts of their
20 body were they hit?"

21 And your answer was:

22 "Listen. The first time, all of us were hit on the hands. The
23 second time, as far as I can remember, [REDACTED] was hit. Maybe they
24 hit
25 him on the arm and on the back. And as far as I know, the one from
[REDACTED] was hit. Two people, no more than that. They maybe
entered

Examination by Mr. De Minicis

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

1 to threaten them and they left. They threatened them all the time.

2 They didn't want to -- they didn't enter to beat them up."

3 Does this refresh your recollection, Mr. Witness, as to the
4 beatings that you witnessed of -- with victims being the other
5 detainees?

6 A. Yes.

7 Q. Thank you.

8 A. It was not a beating, but it was just a push. So they put them
9 with their backs on the wall, so I have not seen any -- so they were
10 all threats, humiliations. They were swearing at them and they were
11 pushing them, but that's all.

12 As a matter of fact, I have always been at a corner and this
13 only happened once. So I have said that about [REDACTED] and somebody
14 else
15 from [REDACTED] whose name I do not remember. But, again, I haven't
16 taken that as something serious because it didn't last for long. It
17 only lasted for 10 or 15 seconds. So they entered the barn, they
18 were threatened, they were pushed to the corner, and that's all. And
19 I'm talking about [REDACTED] here and I'm talking about that other
20 person
21 that is from [REDACTED] These two people I'm talking about.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 A. That's true.

25 Q. From the time you were placed in the stable [REDACTED]

Examination by Mr. De Minicis

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

1 [REDACTED] until your release that you've told us happened around
2 April the 18th, were you ever taken elsewhere, outside that stable?

3 A. Yes.

4 Q. Could you tell the Panel where you were taken?

5 A. I got out in the yards and we went upstairs. We took the
6 stairs. It was on the left-hand side where the staircase was
7 located. And then via the staircase, we went upstairs, in the second
8 floor.

9 Q. Who took you from the stable to this place upstairs?

10 A. I do not know. It was one person. He was not wearing a mask.

11 Q. Have you seen this person before during your stay there?

12 A. No, never.

13 Q. And was that day or night?

14 A. It was the middle of the day.

15 Q. Are you sure it was the middle of the day, Mr. Witness? I
16 understand a lot of time has passed. I just want to see whether
17 you -- you're clear about that detail.

18 A. I'm not very sure because we didn't have a watch. So it was
19 probably the morning hours or it was midday. So it was not later
20 than that, I guess.

21 Q. So I take it that you recall that -- there being daylight
22 outside?

23 A. Yes, it was daylight, day-time. It was early. It was very
24 early. Like I said, it was either midday or before that period of
25 time.

Examination by Mr. De Minicis

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

1 Q. I'm asking you because you told the SPO, at 061016-TR-ET,
2 Part 1, page 24, that one night one week after your arrival, you were
3 called at night. That's why I asked you whether your recollection of
4 it being day was accurate.

5 Does this refresh your recollection? Do you know why you told
6 the SPO that it was at night? May have been ...

7 A. So probably I said that. I do not remember. But I remember
8 that one week after I got there, I was taken from the barn. It was
9 not night-time. It was day-time. So, like I said, we didn't have a
10 watch, we didn't exactly know what the time was. But I saw the yard
11 completely. I saw the house. It was day-time, light, so I could see
12 them all.

13 Q. What happened once you arrived upstairs? Can you describe the
14 place that you entered to the Panel, please.

15 A. Yes. We went upstairs. It was a wooden floor in the room. It
16 was a village room [as interpreted]. And there was a desk where
17 three people were sitting on that desk, whereas there were a couple
18 of other persons behind my back, and I sat down.

19 As soon as I sat down, I was asked, [REDACTED]
20 [REDACTED] To tell you the truth, I took that as a game. But they
21 told me that, "We want [REDACTED] Therefore, tell us how
22 [REDACTED] And they also [REDACTED] while
23 I was sitting.

24 So I stood there for about 10 to 15 minutes. They were all free
25 of masks. So they were only dressed in uniforms but, like I said,

Examination by Mr. De Minicis

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

1 they were not wearing masks. I thought that I would be released that
2 day because they were behaving very humanly towards myself. But I
3 was told, "You will be released very soon." And that "very soon"
4 would last for over [REDACTED] from that time onwards.

5 So as far as I was concerned, I thought that I would be released
6 that same day. I thought that I would not get back to the barn where
7 I was taken from.

8 I was asked -- there was no clarification or explanation
9 provided to me, no accusation addressed on my behalf. But the only
10 questions that they addressed to myself is: What about the situation
11 in the other areas? What about the [REDACTED]
12 [REDACTED] And that was the end of it.

13 Q. Okay. So just to -- for the benefit of the Panel and my benefit
14 as well to understand the chronology of events a bit better.

15 You said that by that time you had been detained in the stable
16 for about [REDACTED] is that correct?

17 A. Yes, it is. I can't exactly tell you, though, on whether that
18 was [REDACTED] that I
19 was held there. Because [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 Q. That's completely understandable that you don't recall the exact
23 amount of days. But you had been detained for approximately
[REDACTED]

24 [REDACTED] by then; is that correct?

25 A. It is correct.

Examination by Mr. De Minicis

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

1 Q. And during that time, had anybody told you the reason why you
2 had been placed in that stable and locked in there?

3 A. No reason whatsoever. Neither in the stable nor upstairs.
4 Nobody told me of anything.

5 Q. And during this time, we've discussed at length you had been
6 told by other inmates about the mistreatment they had received, were
7 you not?

8 A. It is true, but I have not believed them a lot. So this is very
9 frank what I'm telling you.

10 So I would not believe them because they were in a very good
11 physical shape. I didn't see any signs. I saw only their backs.
12 There were some lines in their backs but not -- otherwise, there were
13 no markings, no signs in their hands, in their limbs, in their
14 bodies. And to tell you the truth, they were in much better physical
15 situation than myself, much fitter than myself, because I suffered
16 this very seriously, so spiritually for me that was devastating.

17 It is true that they have told me that, but I had no idea. They
18 mentioned no names. So they didn't say a single name on who
19 maltreated them and I had no knowledge of who maltreated them.

20 Q. Sorry, Mr. Witness, to interrupt. I apologise. But these are
21 two different issues, whether they had been maltreated and whether
22 they were able to identify the perpetrators.

23 So they told you they had been maltreated; is that correct?

24 A. It is correct. They told me that they had been maltreated and
25 even seriously.

Examination by Mr. De Minicis

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

1 Q. Okay. And you stated that you somewhat didn't quite believe the
2 extent of the mistreatment they received as they were telling you.
3 That's what you just told the Panel. Is that right?

4 A. So stemming from my own self, so stemming from the behaviour
5 they would have towards myself and the behaviour they had towards
6 those people, while I was there, I mean, we had the same treatment,
7 the same chance, the same fate. We were treated in the same manner,
8 when it comes to food, when it comes to treatment. And I would not
9 have tolerated a different treatment towards others.

10 So not only that, but I felt sorry about them as well, because
11 they were human beings like myself. However, when it comes to
12 believing to their recollection of what had happened in the past, I
13 had no illusions, I had no idea about that because I did not suffer
14 anything on myself. Because, like I said, there were only these two
15 cases that I mentioned that I was there in the barn. Because if they
16 were maltreated during the time that I was there or if one person was
17 taken away from the barn and was sent somewhere to be beaten up, I
18 would have gotten the impression that they would do something bad to
19 these people --

20 Q. So -- sorry, Mr. Witness, please --

21 PRESIDING JUDGE VELDT-FOGLIA: Wait, wait.

22 THE WITNESS: [Interpretation] -- and that they were beaten other
23 times as well.

24 MR. DE MINICIS:

25 Q. So was there anything in the behaviour of these detainees that,

Examination by Mr. De Minicis

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

1 you know, would lend credibility or not to the stories that they had
2 told you about the treatment they had received?

3 A. No. It's not that I would not believe them, because they would
4 not tell the same thing. So everyone would have their own story to
5 tell. So they would aggravate the things. Like I said, the telling
6 was not similar, and this would give me the impression that what they
7 were telling me that happened upon them were not true. And given
8 that I didn't see any markings, any signs of theirs, in their hands,
9 in their bodies, I mean, I couldn't get to that conclusion.

10 Q. Thank you. You already said that.

11 MR. DE MINICIS: Now, if I may, Your Honour, just round off this
12 topic by reading a few lines to the witness. I would like to have
13 061016-TR-ET, Part 3, on the screen, please, and I will be reading to
14 the witness lines 18 to 22 at page -- sorry, page 6. Actually, I
15 will be reading from a little earlier, from line 13.

16 Q. The Prosecutor asked you:

17 "Let's go back to what they told you," with reference to the
18 other detainees. "So they told that you every night or every other
19 night they would be taken upstairs."

20 And your answer was:

21 "They were surprised as to how -- they were surprised and
22 shocked as to how they were not being maltreated, let alone me not
23 being maltreated."

24 Prosecutor continued:

25 "What did they say happened to them?"

Examination by Mr. De Minicis

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

1 And you stated:

2 [REDACTED] even [REDACTED] when they would come and open the
3 door, he come so close to me he would enter almost in my chest
4 because of the fear that he had for them, thinking [REDACTED]
5 [REDACTED]

6 A. It is true. It is true.

7 Q. That is true.

8 A. So this is what I've said. And they were thinking of me like a
9 [REDACTED]

10 Q. But [REDACTED]

11 [REDACTED] -- sorry, when
12 the guards entered the stable.

13 A. It is true.

14 MR. DE MINICIS: Moving on, Your Honour. Unless --

15 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I would like to
16 put one question to the witness in this respect.

17 Mr. Witness, why would some of the other persons who were
18 detained in the barn, why would they - I put it in my words - lie to
19 you or exaggerate about the maltreatment?

20 THE WITNESS: [Interpretation] I do not know. Probably they were
21 afraid. They would fear beatings again. So they were always under
22 stress. They were always afraid of someone taking them or beating
23 them.

24 PRESIDING JUDGE VELDT-FOGLIA: So -- okay. This suffices for
25 now.

Examination by Mr. De Minicis

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

1 You have the floor, Mr. Prosecutor.

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

3 Q. Now, Mr. Witness, we're going back to the moment you were
4 upstairs, and you said you thought it was a game at the beginning.

5 And --

6 A. It is true.

7 Q. What I wanted to ask you is: After [REDACTED] being
8 held in a stable against your will, with people so scared they would
9 seek [REDACTED] when somebody entered the room,
10 with people telling you they had been beaten, with you having told
11 the Panel that you were afraid for your life, what kind of a game
12 would it have been? Why did you think it could have been a game?

13 A. Knowing that I was in a barn and then them [REDACTED]
14 then I was thinking probably this is a game. Because if I were to be
15 [REDACTED] I thought that they would tell me to go home. But
16 probably they were not the people that could release myself. So this
17 is my impression nonetheless, because like I said before, they have
18 been behaving themselves very well with me.

19 So they didn't provide any explanation whatsoever to me, but
20 they told me that, [REDACTED] you will be released very soon." When
21 they said "very soon," I thought that I would be released that day or
22 that evening.

23 Q. And were you released that evening, Mr. Witness?

24 A. No. So it was [REDACTED] and I was released on
25 the 18th or the 19th. I'm not sure of the date. But from that

Examination by Mr. De Minicis

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

1 moment onward, no single soul communicated with me again, up until
2 the moment in time when we were released.

3 Q. When you were upstairs, were you given a chance to speak?

4 A. Yes. We talked very friendly, so it was a cordial talk. I

5 [REDACTED]

6 [REDACTED] And I

7 have been treated in the same manner by those people that were
8 upstairs. We talked very frankly, how the war is going on, what the
9 situation looks like on the ground. I mean, these were the types of
10 topics that we discussed while there.

11 Q. Now, at the beginning of your testimony, you told us how when
12 you first made contact with people in [REDACTED] you had asked them to
13 contact [REDACTED] Did you make any mention
14 of your -- you described him as [REDACTED] earlier on. Did you make
15 any mention to these people of [REDACTED] while you were upstairs?

16 A. No. I mentioned [REDACTED] name while I was downstairs. While
17 they
18 fetched us food, I told two people, "Please notify [REDACTED]." And I
19 was
20 told that he is busy but he would come. So he will come later but
21 for the moment he was busy. This is what I was told about him.

22 Q. So you didn't mention [REDACTED] was not mentioned to you
23 while you were upstairs?

24 A. I do not remember of having mentioned him. So probably I have
25 mentioned him, but I don't remember. But we were not talking about
26 him.

27 But to tell you the truth, I thought I would be released. I was

Examination by Mr. De Minicis

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

1 just waiting for the release.

2 MR. DE MINICIS: Well, Your Honours, if I could perhaps again
3 ask the Court's leave to read out a small part of the testimony to
4 the witness.

5 PRESIDING JUDGE VELDT-FOGLIA: You may.

6 MR. DE MINICIS: The reference would be 061016-TR-ET, Part 2,
7 page 8, please. And I will be reading from line 7 to 14.

8 Q. So here you were discussing with the Prosecutor the time that
9 you were brought upstairs to this office. The Prosecutor asked you:

10 "What questions were they asking you?"

11 And you stated:

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 imprisonment. Do you recall trying that?

23 A. It is true, but if I don't know on whether I said that upstairs.

24 I have asked [REDACTED] on two occasions. From what I recall, I had
25 been asking [REDACTED] while I was in the barn. I've told them,

Examination by Mr. De Minicis

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

1 [REDACTED] And they have told me that he is not
2 there but he was in another zone. I don't remember that I have
3 talked about him while I was upstairs. Probably that has happened,
4 but I just want to say that I have asked on one or two occasions
5 about [REDACTED] and I've asked them to meet with him. And it is true
6 that
7 they told me that is he in another zone. I was also told that, "As
8 soon as he comes, he will be notified of you."

9 Q. And have you come to learn later whether [REDACTED] was, in fact,
10 informed of your detention in that place at the time?

11 A. Yes, I got to learn that, and what I learned was that he was not
12 notified at all. But the owner of the house where I was staying,
13 because while we were talking in the yard, they listened that
14 [REDACTED]

15 [REDACTED] and the
16 next day they went and met him, and he had told them that he had no
17 connections and no dealings whatsoever with this matter.

18 After some time, I did personally talk to [REDACTED] and I'm
19 convinced that he had nothing to do with that occasion. So I know
20 [REDACTED] and he had no

21 connection with that discussion. It is true, though, that they
22 communicated with [REDACTED] with a couple of
23 other people, so they were people from [REDACTED] they were all
24 together

25 and they met with [REDACTED] said that, "I have
26 nothing to do with this discussion. So go to Zllash and see on who
27 can take care of this thing."

28 So this was the explanation that has been provided by [REDACTED]

Examination by Mr. De Minicis

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

1 Like I said, [REDACTED]

2 Q. Thank you. Thank you. And just when you say that it's true,
3 though, that they have spoken or met with [REDACTED] are you referring
4 to

the family that you were staying with or to your captors?

5 A. I'm referring to the family where I had been staying. They went
6 to ask for me. Because, according to our tradition, when you have a
7 guest, it's -- you fight for that guest, if that guest is taken away
8 from your own house.

9 Q. Thank you. Thank you, Mr. Witness.

10 Now, with regard to these people that you found in this office
11 upstairs, did you know them, any of them?

12 A. None of them. With full conviction, I didn't know any of them.

13 Q. Were they wearing any uniforms?

14 A. No -- yes, uniforms, yes. But they had no masks on their faces.
15 They behaved freely with me. As I said, we [REDACTED]

16 [REDACTED] We spoke of things that were going on at the time. We did
17 not speak about any other topics.

18 Q. Now, you stated -- did they tell that you a mistake had been
19 made in apprehending you?

20 A. That's true, yes. He said, [REDACTED]

21 [REDACTED] And this is how we ended our last conversation.

22 Q. Did you believe that that -- that a mistake, in fact, had been
23 made, that there -- were they truthful in that statement?

24 A. I think that even today, those people took upon themselves a
25 [REDACTED]

Examination by Mr. De Minicis

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

1 [REDACTED]

2 But that was not within their competence.

3 And I have the same impression today. If those people with whom

4 [REDACTED]

5 [REDACTED]

6 would have released me within the same day.

7 So this is a question about an individual who gave such an
8 order.

9 Q. But, Mr. Witness, now, you stated that you didn't know these
10 people; right?

11 A. That's true.

12 Q. And you also stated to the Prosecutor - and it's page 8, the
13 page where we are, and line 18, 19 - [REDACTED]

14 [REDACTED] Is that what

15 you -- do you stand by that?

16 A. How could I believe that when I was brought back to the barn?

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 Q. How were you feeling during that conversation with the people up
23 there? Were you feeling as -- the way that you would feel talking

24 [REDACTED] as you have -- as you have stated so

25 far that ...

Examination by Mr. De Minicis

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

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 MR. DE MINICIS: Your Honour, if I could please request for
5 Part 5 of the transcript, 061016-TR-ET, Part 5, page 9, to be shown
6 on the screen.

7 Q. Now, Mr. Witness, line 14, the Prosecution asked you:

8 "Given that you spent an hour closely in their company in that
9 office with all of their faces uncovered, would you be able to
10 recognise, do you think, any of them today?"

11 And you stated:

12 "I wasn't able to recognise them after three months, let alone
13 after 20 years."

14 And the Prosecutor asked you:

15 "Why not ..."

16 And you stated:

17 "We were in the state of half dead, half alive. And I was of
18 the impression that I would not be able to come out alive out of
19 there."

20 And then you continue, saying how you had no information, how
21 you had left your family.

22 So it seems to me that the situation you described to the
23 Prosecutor is not the one where you were [REDACTED] with people
24 [REDACTED] It seems to me that you
25 were fearful, fearful to the point that you could not even remember

Examination by Mr. De Minicis

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

1 the faces of these people.

2 A. When I said that to the Prosecutor that we were half live and
3 half dead, this referred to before I was brought upstairs. With

4 [REDACTED]

5 [REDACTED] And the very fact that they [REDACTED] again, I'm
6 saying that I thought it was a game. But they [REDACTED]

7 they [REDACTED] and I spent there an hour. I don't know how

8 else I can treat those people when there was no offence, no swearing.

9 There was only a discussion about things concerning the national

10 cause. Because we were all, including those who were in the barn,

11 risking an attack of the Serb occupier. Even for them, they were not

12 safe there.

13 I said to the Prosecutor that I could not recognise them even

14 three months later. If I thought that any of them would be guilty, I

15 would have tried to remember. But I'm saying again that if a person

16 who gave orders for me to be brought to Zllash was amongst those with

17 [REDACTED] I wouldn't have been aware of that. I said I

18 [REDACTED]

19 [REDACTED] I don't know how they actually treated me or what they
thought

20 of me, but I perceived that as a [REDACTED]

21 Why would I have any reason to say here that I know them if I

22 don't know them?

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, you have made your
24 point. Thank you.

25 MR. DE MINICIS: Your Honour, if I could have, please, Part 1 of

Examination by Mr. De Minicis

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

1 the transcript on screen.

2 PRESIDING JUDGE VELDT-FOGLIA: Yes.

3 MR. DE MINICIS: Page 28, lines 4 to 6.

4 Q. Mr. Witness, I keep belabouring this point because the
5 description of this friendly chat that you are now giving to the
6 Panel stands in stark contrast with what you stated to the
7 Prosecution at the time. It's not only the part that I just read out
8 that the record is, in fact, clear that you were talking about the
9 time that you were upstairs, but in other places during the
10 interview, other times, you stated things that don't quite -- not
11 quite consistent with the characterisation of that friendly chat that
12 you have given so far.

13 For instance, you were asked by the Prosecutor at line 4 if
14 could you see their faces.

15 And you responded:

16 "No, because I wasn't feeling normal. All I could see, they
17 looked like shadows."

18 It seems to me, Mr. Witness, that you were there in a state of
19 fear and concern, and that your state of mind at the time was not
20 that of a man [REDACTED] with [REDACTED] as
21 you've described so far. Don't you think?

22 A. It is true, because in the beginning, they looked like shadows
23 to me. And I said this before Her Honour, when I was [REDACTED]
24 I did not trust them. I thought it was a game. But when they
25 [REDACTED] and told me that, "It's

Examination by Mr. De Minicis

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

1 not a [REDACTED] you are amongst your brothers," then I
2 realised that it wasn't a game. Because if it were a game, they
3 wouldn't have [REDACTED]

4 Again, when I said we were half alive, half dead, I had no
5 particular thing in mind. When I went upstairs, I spoke to them, I
6 spoke freely, and again, I thank them today for treating me in a
7 correct, humane manner within that one hour that we spent together
8 and that I considered and treated them like friends and brothers.

9 If I suspected that any of those five or six persons was guilty,
10 I would have stated that here today. Again, Mr. Prosecutor and
11 Madam Judge, I'm fully convinced that nobody within that Zllash
12 prison is guilty of my imprisonment. And I'm saying this with my
13 whole responsibility as a human being and as an Albanian.

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness.

15 MR. DE MINICIS:

16 Q. Thank you, Mr. Witness.

17 PRESIDING JUDGE VELDT-FOGLIA: No, but, Mr. Witness, you don't
18 have to repeat what you have said. You have said this before and I
19 think it's now been the fifth time. We have noted that and we have
20 taken notice of it. Yes?

21 MR. DE MINICIS:

22 Q. Now, did your -- you said that by the time had you been brought
23 upstairs, nobody had told you the reasons for your detention. Did
24 these people who [REDACTED] upstairs give you any explanation
25 as to why you were being detained?

Examination by Mr. De Minicis

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

1 A. Mr. Prosecutor, we are repeating the same question again. I did
2 not get any explanation there. The only explanation I got was that
3 [REDACTED] and that I would soon be released. This was
4 the only explanation I was given.

5 Q. Thank you. Thank you, Mr. Witness.

6 Now, you had been missing from home for about [REDACTED]
7 [REDACTED] Did you ask them if you could contact your family?

8 A. I didn't know where my family was. My family [REDACTED]
9 A day before I was imprisoned, I found out that my family had been
10 moved out from Prishtine and was somewhere [REDACTED] that it had
11 been expelled. So I had no idea where they exactly were, whether
12 they were alive. I only knew that they -- that the Serbian police
13 had entered the house and expelled them from there. And then I found
14 myself in the prison in Zllash. I was worried about my family. I
15 had [REDACTED] at
16 the time, behind.

17 Q. But did you ask or did you not ask them whether they could
18 contact your family?

19 A. There was no theoretical chance to ask that. There was no one
20 to ask that from.

21 Q. Okay.

22 MR. DE MINICIS: I will actually get back to this again in a
23 second, Your Honour, because I am -- currently I have misplaced the
24 reference to this, but I will get back to this soon.

25 Q. So what happened at the end of this conversation, Mr. Witness,

Examination by Mr. De Minicis

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

1 once you finished talking?

2 A. Once I was finished, the same person who brought me upstairs
3 came and brought me back to the barn where the other [REDACTED] were.

4 Q. And you said, if I understood you correctly, that you stayed
5 there for [REDACTED] approximately; is that right?

6 A. That's true.

7 Q. Between the time you were brought back there and the day of your
8 release, were you taken out of the stable again?

9 A. Never.

10 Q. Did the others who were with you in the stable remain?

11 A. Nobody ever took them out.

12 MR. DE MINICIS: Madam President, Your Honours, I see that there
13 are six minutes left before the end of the session, and I am about to
14 move on to another topic. I wonder whether if it would be -- it
15 could be perhaps possible to break now and to re-start the new topic
16 after lunch recess.

17 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could we go
18 back into public.

19 And, yes, that's what we're going to do.

20 [Open session]

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

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

23 Mr. Witness, it's now time for the lunch break. We will resume
24 at five minutes to half past 2.00. I hope you will get a rest for a
25 moment, Mr. Witness, after these intensive moments of testifying in

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

1 court. We will see you back later. I will ask the Court Usher to
2 accompany you out of the courtroom.

3 [The witness stands down]

4 PRESIDING JUDGE VELDT-FOGLIA: We will resume at five minutes
5 before half past 2.00.

6 The hearing is adjourned.

7 --- Luncheon recess taken at 12.56 p.m.

8 --- On resuming at 2.59 p.m.

9 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
10 bring -- oh, yes, that we shall start with.

11 Appearances for this afternoon's session. I look around and I
12 see the same faces. And at this part too. So good.

13 And then now I ask Madam Court Officer, can you bring us into
14 private, please.

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

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

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

18 There has been a request from the Victims' Counsel for an *ex*
19 *parte* session, and the Panel has decided to grant that request, and
20 that means that that will be done this afternoon. Unfortunately, I
21 will say it takes some time to set up the court in order to be able
22 to do an *ex parte* session, and as I foresee it now, we won't -- I can
23 already say we won't be able to continue with the examination of the
24 witness this afternoon.

25 However - and then I will go back into public session - there

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

1 are some matters that I would like to discuss which I had planned to
2 do at the end of today's session. I will do them now, right away in
3 public, although I have to go into private for a little moment for
4 that. But, yes, okay.

5 I see the SPO standing.

6 MR. DE MINICIS: Yes, Your Honour. If I could please ask to
7 have some further clarification as to this request for private -- for
8 an *ex parte* session. Would that be -- at the onset I thought perhaps
9 it would be an additional session, *ex parte* session after, but
10 instead the Panel has decided to continue the examination of the
11 witness in an *ex parte* session? I'm sorry if I did not understand
12 clearly, Your Honours.

13 PRESIDING JUDGE VELDT-FOGLIA: I'm sorry for not being clear,
14 Mr. Prosecutor. Apparently there is a request of the
15 Victims' Counsel with -- I cannot say on what, but apparently it is
16 important to do it before we continue with the questioning of
17 Witness W03594.

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

19 PRESIDING JUDGE VELDT-FOGLIA: That was the point I wanted to
20 make.

21 MR. DE MINICIS: Thank you very much.

22 PRESIDING JUDGE VELDT-FOGLIA: So I -- we will inform the
23 witness that, looking at the time, we won't continue today.

24 We will now go back into public session, and then I would like
25 to discuss some matters.

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

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

3 [Open session]

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

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

6 Let me see. Yes. To start with, that is a question or a point,
7 an issue that I would like to discuss with the Prosecution. That is
8 regarding the order of witnesses for the months of November and
9 December, and a possible change of that order. The Panel has taken
10 note of the SPO's submission on the revised order of witnesses for
11 the month of October, November, and December. That is filing 229.
12 And we have been informed - and "we" is the Panel - by the Registry
13 that in the following month it will not be possible to hold a fourth
14 session on any given day. And therefore, the Panel will only be able
15 to hear the testimony of one witness per week unless the time
16 indicated by the SPO for direct examination does not exceed two hours
17 per witness, in which case two witnesses could be heard within the
18 same week.

19 However, having taken note of that two witnesses should be heard
20 together, the Panel proposes to follow the order proposed by the SPO
21 with the exception of Witnesses W04391, W04390 and W04676. And the
22 proposal of the Panel - and it's a proposal because we cannot look
23 into availability issues, of course, and other possible reasons - is
24 to hear Witness W04676 between 17 and 19 November, 2021, and the
25 testimony of Witness W04391 and W04390 between 22 and 26 November.

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

1 And the reason for the proposed change is that in the week of
2 22 November, the Panel has at its disposal, as communicated with the
3 parties and the Victims' Counsel, we have more than three days
4 consecutive days to hear the witnesses. So that if we would hear two
5 witnesses, we would have more availability, also taking into account
6 the proposed hours of direct examination by the SPO.

7 And that would mean that due to the current allocation of time
8 for court hearings, Witness W04485 will probably be scheduled to
9 testify between 13 and 15 December, according to the schedule we
10 have, and then witness W04601 and W04484 will be probably heard in
11 January 2022.

12 So for now -- and I don't expect you to react on the spot, but
13 for now, this is our concrete proposal with regard to three
14 witnesses.

15 MR. DE MINICIS: Thank you, Your Honours. We take note of that.

16 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

17 The second issue that the Panel would like to discuss also
18 concerns the SPO.

19 And I would like to ask Madam Court Officer to bring us into
20 private session, please.

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

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

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

24 Yes, this is with regard to the testimony of Witness W01679. We
25 noted that in the list of materials to be used with the witness as a

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

1 document, that was the SPO Official Note, and then I will cite the
2 ERN. That is 060690 till 060698-ET-RED, and at pages 060695 till
3 060697 of this document, there is an English translation of the
4 original UNMIK statement of this witness which seems to include a
5 correction in the text to that original UNMIK statement that the
6 witness made during the SPO interview of [REDACTED] And while in
7 the original UNMIK statement it is mentioned that the witness heard
8 the following day that [REDACTED] was killed, in the SPO translation
dated

9 [REDACTED] it is stated that the witness heard, without an
10 indication of a moment in time, that [REDACTED] was killed.

11 And we would like to know if that understanding is correct, if
12 there is a correction made or that it is a translation issue, because
13 that is for us not clear yet.

14 And the Panel further notes that the -- I will call it a
[REDACTED]
15 SPO English translation differs from the original UNMIK statement,
16 which is ERN 7000687 till 7000691, RED3, and then even more
17 specifying, SITF00035217, and the translation differs in terms like
18 "second floor" versus "upstairs," and I can give you some more
19 examples. The Panel would like the SPO to clarify the reason for
20 these differences. And again here, no need to react on the spot. If
21 you could come back to the Panel this week on this point orally or in
22 writing, that would suffice.

23 MR. DE MINICIS: Yes, Your Honour. The -- possibly we could get
24 back to the Panel tomorrow morning with an exhaustive answer on this
25 issue that Your Honour has explained on the record.

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

1 such items. And specifically, the parties and Victims' Counsel
2 should endeavour to indicate which items, if any, can be classified
3 as public, should they be considered as admitted.

4 And on this issue, I will now give an oral order for the SPO.

5 The SPO is requested to inform the Panel by Friday,
6 12 November 2021, which items including in Filing 201, including any
7 items referred to by the accused in his SPO interview, can be
8 classified as public, if any, should they be considered as admitted.

9 And the SPO is further requested to indicate, by Friday,
10 15 October 2021, which items including in Filing 228 can be
11 classified as public, if any, should they be considered as admitted.

12 This concludes my oral order.

13 And then there's one last issue, and it's again the SPO.

14 Following the SPO request for reclassification, Filing 230, the
15 Panel has ordered the reclassification as confidential of the four
16 filings as indicated in the filing.

17 And following the same rationale, the Panel intends to
18 reclassify as confidential the SPO's amended witness list that is in
19 annex 1 of Filing 161 and that is currently classified as strictly
20 confidential and *ex parte*.

21 And I will give an oral order for the SPO but I saw you nodding.
22 Would you already be able to say something now or -- I wanted to give
23 you some time for this.

24 MR. DE MINICIS: Your Honour, we have no objection to that
25 reclassification. Thank you.

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

1 PRESIDING JUDGE VELDT-FOGLIA: Okay. Then we will order the
2 reclassification in that sense. Good.

3 This is for now. We will adjourn in principle till tomorrow
4 morning, 9.30, and -- so today there will not be a continuation of
5 the testimony of Witness W03594. And because we are in public
6 session I thank the parties and the Victims' Counsel and Registry for
7 -- no, there's no Registry, I apologise, for their attendance. I
8 thank the interpreters for now, and the stenographer, and security
9 for their assistance today.

10 The hearing is adjourned.

11 --- Whereupon the hearing adjourned at 3.15 p.m.

12

13

14

15

16

17

18

19

20

21

22

23

24

25