

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

1 Thursday, 18 November 2021

2 [Open session]

3 [The accused appeared via videolink]

4 --- Upon commencing at 9.30 a.m.

5 PRESIDING JUDGE VELDT-FOGLIA: Good morning.

6 Court Officer, could you please call the case.

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

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 First of all, I will call appearances. On my right side, I
11 think I see the composition, but let me check with the -- Madam
12 Prosecutor.

13 MS. D'ASCOLI: Good morning, Your Honours. Good morning,
14 everyone. Yes, the Specialist Prosecutor's Office today is in the
15 same composition as yesterday. That is, Prosecutor Cezary
16 Michalczuk; Case Manager Julie Mann; legal intern Deborah Osborne;
17 and myself, Associate Prosecutor, Silvia D'Ascoli.

18 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

19 MS. D'ASCOLI: Thank you.

20 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, please.

21 MS. PUES: Good morning, Your Honours. Good morning, everybody.
22 The participating victims are this morning, like yesterday,
23 represented by Njomza Haxhibeqiri, Junior Legal Associate;
24 Liesbeth Zegveld, my co-counsel; and myself, Anni Pues, as counsel.

25 I should add a note of potential apologies, depending on the

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1 length of today's proceedings, I will have to quietly leave the
2 courtroom at some point to attend to one other matter, but the
3 participating victims will be duly represented by co-counsel. Thank
4 you.

5 PRESIDING JUDGE VELDT-FOGLIA: Thank you for that,
6 Victims' Counsel.

7 Defence counsel, you have the floor.

8 MR. VON BONE: Your Honour, good morning. The Defence is
9 represented by myself, Julius von Bone; my co-counsel,
10 Mr. Betim Shala; interpreter and investigator, Mr. Fatmir Pelaj. And
11 Mr. Mustafa is joining us by remote.

12 With permission, I would like to address one issue but I think
13 that would be better done in private session, Your Honour.

14 PRESIDING JUDGE VELDT-FOGLIA: Very well. We will first finish
15 our formalities and then we will proceed.

16 And, for the record, Mr. Mustafa, you are present. Can you hear
17 us well?

18 THE ACCUSED: [Via videolink][Interpretation] Yes, Your Honour.

19 PRESIDING JUDGE VELDT-FOGLIA: Very well.

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

21 Before we continue with the testimony of the witness, I ask the
22 Court Officer to go into private so we can attend the issue the
23 Defence counsel wants to raise.

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

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

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

2 Defence Counsel, you have the floor.

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

4 There's an issue of translation regarding the -- one of the
5 statements of the witness. I would refer to the interview that this
6 person gave on Part 1. It is page 19. And to be exact, it is
7 line 15 up to line 17.

8 PRESIDING JUDGE VELDT-FOGLIA: One moment.

9 MR. VON BONE: Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
11 pull that up.

12 I see Madam Prosecutor standing. Please, you have the floor.

13 MS. D'ASCOLI: Thank you, Your Honours.

14 Just a clarification. On the top of my mind I don't remember
15 this part was used. So I'm not sure that any translation issue, if
16 the transcript is not admitted, is of relevance.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay, let us see. This is
18 line -- because maybe I will be asking a question about it.

19 Can you repeat the lines you said, Defence counsel.

20 MR. VON BONE: Yes, it's the transcript in English is line 15
21 until 17, and it goes in particular to a word mentioned in line 17.

22 PRESIDING JUDGE VELDT-FOGLIA: Okay.

23 MR. VON BONE: It is the word [REDACTED] that we are referring
24 to. And we address the issue as in the Albanian version of the
25 transcript there is used a different word, which would come probably

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1 more out in the word -- in the English word [REDACTED] but we do not
2 know how exactly to solve such issue if there is this kind of issue
3 arising. That's why I want to raise it now. Because if it would
4 happen at any other future witness, sometimes with a transcript that
5 might, you know, be something going along in the course of the court
6 proceedings, but when it is in the transcript, we actually ask for
7 some guidance how to resolve such an issue if there is a particular
8 discrepancy. And as the witness in this particular part is saying
9 something about the cause of death or the reason or whatever, then
10 such a word can become a discussion about something. That's why I
11 wanted to raise it.

12 PRESIDING JUDGE VELDT-FOGLIA: Yes, your point, thank you for
13 raising it.

14 MR. VON BONE: That's all.

15 PRESIDING JUDGE VELDT-FOGLIA: Madam Prosecutor, you are right
16 in the sense that it has not been used in evidence, but I can tell
17 you that the Panel is going to ask a question specifically with
18 regard to this point in the statement. So, yes, there's merit, and
19 yes, we can in -- at this moment in time I think it would be good to
20 ask the interpreter if they would be willing to compare for this
21 specific word - if that is possible - because normally it's about the
22 translation in court. But if it would be possible to look at the
23 Albanian word and then compare it -- and then make a translation.

24 [Trial Panel and Court Officer confer]

25 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, you have the

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1 floor.

2 MS. PUES: Just one brief suggestion, Your Honours. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] That might resolve the issue in a more

7 immediate matter. However, it doesn't solve the general question

8 that the Defence counsel raised as to how to proceed in general.

9 Thank you.

10 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, thank you for
11 your suggestion. We will go into the matter with her for sure. But
12 I think it's good to have on record what the translation of the word
13 she used back then is in English and then we can further elaborate on
14 that.

15 So Madam Court Officer told me that it would be a possibility to
16 have the two statements in both English and Albanian next to each
17 other, but for that we would need the page of the Albanian version
18 and the line. So if you could be so kind to give us that.

19 MR. VON BONE: And we -- and the more abstract issue we would
20 like to have resolved for any future witness, if there is any
21 discrepancy, how to go about that, rather than, you know, the earlier
22 time that we had this, when there was a different transcription or
23 word. We were speaking about forest or mountain or a mountain
24 forest, this kind of thing. So that is something that would be
25 useful for -- at least for the Defence that we know how.

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1 PRESIDING JUDGE VELDT-FOGLIA: I would say we take one step at a
2 time. We first resolve this issue for now so we can -- Defence
3 counsel, so we can proceed with the testimony of the witness of
4 today, and we will look into any other translation issues and we will
5 come back on that. Although I see that what we are dealing with
6 today is a different problem or question than we were dealing with
7 the other day, so I don't think they're really comparable.

8 MR. VON BONE: Your Honour, it is in the Albanian version
9 page 20, lines 6 to 8, and then specifically the word comes in
10 line 8.

11 PRESIDING JUDGE VELDT-FOGLIA: And then which word is it or
12 words?

13 MR. PELAJ: The word in Albanian is [REDACTED] It start
14 with --

15 PRESIDING JUDGE VELDT-FOGLIA: No, I see it.

16 MR. PELAJ: [REDACTED]

17 PRESIDING JUDGE VELDT-FOGLIA: Okay.

18 MR. PELAJ: It's in line 8.

19 PRESIDING JUDGE VELDT-FOGLIA: Yes, I see it.

20 MR. PELAJ: Thank you, Your Honour.

21 PRESIDING JUDGE VELDT-FOGLIA: Yes, thank you for pointing that
22 out to us.

23 So my question to the interpreter would be if she or he could
24 translate the word [REDACTED] into English.

25 THE INTERPRETER: Interpreter's note that in this case we have

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1 been instructed to consult and then we will get back to you. Thank
2 you.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you. We all heard the
4 answer so we take a moment of patience for this.

5 THE INTERPRETER: Your Honour, perhaps you can continue because
6 we will need a little time to get back to you with this particular
7 term. Thank you.

8 PRESIDING JUDGE VELDT-FOGLIA: Could you give me an indication
9 in terms of time.

10 THE INTERPRETER: Well, we are not really authorised to
11 off-the-cuff interpret terms, so we will get back to you but it might
12 take a little time. So if you can just continue and then as soon as
13 we do have this clarified, we will let you know. Hopefully very
14 soon.

15 PRESIDING JUDGE VELDT-FOGLIA: Okay. Time is not pressing at
16 the moment, but let us see. We will proceed and then we will see
17 if -- we will see then.

18 Okay, good.

19 Defence counsel, on your general question we will get back and
20 now we are waiting for the translation of the word. What we will do
21 is usher the witness into the courtroom and proceed with her
22 testimony. Good. We are now going back to public session.

23 Madam Court Officer, could you bring us into public session,
24 please.

25 [Open session]

Witness: W04676 (Resumed) (Open Session)

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

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

3 Madam Court Usher, could you please bring in the witness. Thank
4 you.

5 [The witness takes the stand]

6 PRESIDING JUDGE VELDT-FOGLIA: Madam Witness, good morning, and
7 welcome back to the Specialist Chambers.

8 THE WITNESS: [Interpretation] Good morning.

9 PRESIDING JUDGE VELDT-FOGLIA: Did you have time to rest?

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

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

12 Today we will continue with your testimony, and now it's the turn for
13 the Judges to ask you some questions and we want to try to gain some
14 more details and clarity on parts of your testimony. Yes?

15 Good. I remind you that you're still under oath to speak the
16 truth. Do you understand that?

17 THE WITNESS: [Interpretation] Yes.

18 PRESIDING JUDGE VELDT-FOGLIA: Good. Now, very well. Let us
19 see.

20 WITNESS: W04676 [Resumed]

21 [Witness answered through interpreter]

22 Questioned by the Trial Panel:

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

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

13 ~~[Private session]~~ [Open session]

14 THE INTERPRETER: Your Honour, we are ready with an answer about
15 the question that you asked us. Is it okay for us to give the answer
16 now?

17 PRESIDING JUDGE VELDT-FOGLIA: Madam Interpreter, we first have
18 to resolve another issue. So we are now in private, I will first
19 resolve something else, and then if you allow me, I will get back to
20 you.

21 THE COURT OFFICER: And, for the record, Your Honour, we are in
22 private session.

23 PRESIDING JUDGE VELDT-FOGLIA: And everything you have said will
24 be redacted and will not go out.

25 I should have brought you -- I should have brought us earlier

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1 into the private session, but I can assure you that this will not go
2 out and there is nobody in the public gallery.

3 So you said [REDACTED]

4 [REDACTED] Could you say something more about that?

5 A. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 PRESIDING JUDGE VELDT-FOGLIA: [REDACTED]

18 could you elaborate some more on that?

19 A. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 PRESIDING JUDGE VELDT-FOGLIA: That was something I was looking
23 for, to make it more concrete. Thank you for that.

24 And with regard to [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 A. As I said earlier, [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Let me reiterate. [REDACTED]

6 [REDACTED]

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

8 Yes, let us go back to the following. Yesterday we discussed

9 that [REDACTED] and the transcript there is, for

10 example, because we discussed it on several occasions, is page 12,

11 lines 20 to 22. And my question with regard to that is, to clarify:

12 [REDACTED]

13 [REDACTED]

14 A. [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 PRESIDING JUDGE VELDT-FOGLIA: You said that indeed twice

24 yesterday. And when going through the statement when being

25 interviewed by the SPO, the Panel read parts of your statement which

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1 could show a certain discrepancy but maybe not, so that's the reason
2 that I would -- I will discuss them with you just to better
3 understand what you said before.

4 And I'm now --

5 A. If you could permit me, he was -- [REDACTED]

6 [REDACTED] and he -- in fact, he asked [REDACTED]

7 [REDACTED]

8 [REDACTED] And

9 he said, [REDACTED]

10 [REDACTED]

11 PRESIDING JUDGE VELDT-FOGLIA: My question is on the moment in
12 time that it happened, and in -- and I will read out. In the
13 interview 076539-TR-ET, and then Part 1, page 16, line 8, and also
14 page 15 of Part 1, line 19, [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 And I'm just wondering, because you mentioned the specific dates

21 [REDACTED] I was

22 just wondering if you could clarify or give an explanation on that.

23 Because it seems that there is a kind of time lapse.

24 A. Your Honour, as I said in the statement and had the chance to

25 repeat yesterday, the exact date that he came, I cannot remember even

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1 to this day. All I know is that [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 If you remember from yesterday, one of the photographs had the
7 date of 7/7/1999, a date that I do not recall myself. [REDACTED]

8 [REDACTED]

9 [REDACTED] All I know, that it has happened on the same
10 day, the exhumation and reburial. I know it was in July, but I
11 cannot -- I swear I cannot recall the exact date. However, it was
12 the mid-July or the second week of July 1999.

13 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you. I have a
14 remark for the interpreter.

15 We will do it at a later stage because the witness will have to
16 leave the courtroom in order to discuss this issue, so I prefer to
17 continue with the testimony and later on we will discuss this point.

18 Very well. Madam Witness, I would like to go back for a
19 clarification what was discussed yesterday about the cause of
20 [REDACTED] -- the cause of death. And yesterday you said --
21 that is transcript 51, lines 4 till 21. You said that it was not
22 discussed what the reason, what the cause of his death was.

23 But allow me to refresh your memory by reading you the SPO
24 witness statement.

25 And it's the same reference number, Madam Court Officer, and

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1 then it's Part 1, page 17. Could you please pull that up. Thank you
2 for that. And then we go to line 7 and -- yes.

3 You are discussing there that he went to see you in order to ask
4 for your help. And then I see that:

5 "I didn't go into -- and when [REDACTED] made that request was
6 anything else discussed?

7 And your answer is:

8 "I didn't ... I didn't go into details [REDACTED] However, I
9 remember asking him how he [REDACTED]

10 "Did he reply? Did he give you any information as to how he
11 came to [REDACTED]

12 And then you say:

13 "He only told me the following. He was detained in prison, and
14 [REDACTED]

15 Can you confirm that that is what he said? Because yesterday we
16 didn't discuss this.

17 A. We did not discuss it because I wasn't asked directly about this
18 particular part, this sentence. But, yes, this was the answer he
19 gave to my question of what had occurred. He said, "Yes, he was in
20 prison," and that's where [REDACTED] explanation ended. No more, no
21 less. And he never discussed the issue of [REDACTED]
22 [REDACTED].

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Witness. It's
24 just that I wanted to clarify that this had been said by him on that
25 occasion to you because yesterday it did not come up. Thank you.

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1 Let me see. Yes. I would like to ask you a clarification with
2 regard to your role in the process of exhumation. Yesterday - and I
3 refer to the transcript, page 13, lines 14 till 18 - you identified
4 several reasons why you helped [REDACTED]
5 [REDACTED]

6 And in your SPO witness statement, Part 1, from page 17, line 18 to
7 page 18, line 2, you said that you went to the exhumation because the
8 circumstances, the reasons, the causes of death, have to be and must
9 be investigated.

10 A. Yes, Your Honour, I did say that. And I recommended to him that
11 the authorities ought to be notified on this suspicious death as was
12 the case with every other suspicious death that had occurred during
13 the war in Kosovo.

14 PRESIDING JUDGE VELDT-FOGLIA: And in that light, the question
15 could be raised -- because I did hear you say that you were there to
16 exhume the body and to give him another rest place. But yesterday we
17 discussed - and then I refer to Part 2, page 23, lines 24 and 25, and
18 page 24, line 1 - that it was visible that on the left-hand side of
19 [REDACTED] body - and the picture I'm referring to is SPOE00209318 -
20 that a hole was visible on the left-hand side of his body, and it was
21 discussed that it might have been [REDACTED]. I heard you say, "I
22 didn't know the cause of death," but it might have been.

23 And the question is: Would it not have been logical, [REDACTED]
24 [REDACTED] to see what could have
25 been the [REDACTED]? To have a look at the rest of

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1 his body? Is there a reason why it was not done?

2 A. Different hypothesis can be made on the cause of death in these
3 cases. As I had an occasion to say and I'll say it again, none of us
4 was an expert in -- to carry out a superficial examination of the
5 corpse. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED] and so on. However, in order for this to be ascertained, a
9 post-mortem examination ought to have been carried out and it never
10 was. The superficial examination would not logically have led you to
11 [REDACTED]

12 [REDACTED].

13 Additionally, there was the issue of the decomposition of the
14 body. The examination did not continue with the exception of this --
15 the part of the body. The trousers were not taken off or the rest of
16 the clothes to be able to see his chest and his back. It was only a
17 superficial viewing [REDACTED]

18 [REDACTED] including that there was this hole and it was caused by a
19 bullet. However, forensics ought to have been able to conclude on
20 that.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you. Eight pictures were
22 taken that day. I refer to the transcript, 21, page 21, line 12;
23 transcript page 20, line 8, and page 20, lines 3 and 4. I mean, we
24 have been discussing it -- and 22, line 18. We have been discussing
25 it all the time.

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A. [REDACTED]

6 [REDACTED] The first photo describes

7 the burial site whereas the last photo shows the moment when the

8 corpse was taken out of the graves. So this was the process of the

9 identification, so the time of unburial, identification of the

10 corpse, and [REDACTED] preparation for a further procedure of
reburial.

11 PRESIDING JUDGE VELDT-FOGLIA: [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A. [REDACTED]

15 [REDACTED]

16 PRESIDING JUDGE VELDT-FOGLIA: On the pictures, we don't see any

17 persons visible. [REDACTED]

18 A. No, Your Honour. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 PRESIDING JUDGE VELDT-FOGLIA: Yesterday by the Defence

23 counsel -- on the question of the Defence counsel, you gave a list of

24 people that were present during the exhumation. In the SPO

25 interview, Part 2, page 7, line 20 - it's not necessary to pull it up

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1 - you mention a person called [REDACTED] that he was also
2 present. Could you say something more about this person, [REDACTED]?
Or

3 it was maybe it was phonetically spelled wrongly. Maybe it was
4 spelled wrongly, I don't know, but ...

5 A. It's spelled wrongly. Because, like I said, we were seven or
6 eight persons and the name that I remember is [REDACTED] It is not
7 [REDACTED] It's a misspelling of the name.

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

9 Yesterday in the transcript - page 63 and then lines 9 and 10,
10 and also page 62, lines 18 and 19 - you said, you gave as a testimony
11 here that you identified the body [REDACTED]

12 In the SPO witness interview - and then I'm referring to the
13 same number I already cited before but more specifically Part 2,
14 page 17, line 9 till 11.

15 We can pull that up, Madam Court Officer, please.

16 And then we are at line 9. And then it starts at 7, and the
17 question was put to you:

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 A. The interview that I've given to the Prosecutor of the SPO and
5 the explanation that I provided to you yesterday were related to the
6 question [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 In the site, in the burial site, the identification of the body
17 [REDACTED] was something easy to do. It was easily identifiable
18 because of the clothes that he was wearing, because [REDACTED]
19 [REDACTED], and it was easily identifiable as well

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 PRESIDING JUDGE VELDT-FOGLIA: I hear you say it, but for me the
7 question here was very clear:

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 A. No.

16 PRESIDING JUDGE VELDT-FOGLIA: Did you consider -- I will go
17 back. I should have asked it before, but I remember this extra
18 question.

19 [REDACTED]

20 [REDACTED]

21 A. No, Your Honour. Because it was immediately after the war. And

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Witness. Let us
9 now turn to something that was discussed yesterday and what we would
10 like to receive some more clarification on. It's about the blanket
11 which was discussed several times. And the Victims' Counsel has
12 asked a question on that, and page 40, lines 19 and 20. And the
13 answer was not completely clear for us so I would like to elaborate a
14 little bit more.

15 It's also mentioned in line -- in page 17, line 6, and page 25,
16 line 22. Yeah, throughout this -- the transcript yesterday.

17 The blanket that was used, what kind of blanket was it? Was it
18 something that you would also use at home to sleep or was it a kind
19 of animal blanket that you would use for animals or specifically for
20 this? What kind of blanket was it? Could you remember? Can you
21 remember that?

22 A. I can't exactly say. I don't know what kind of a blanket that
23 was. I don't know whether that was used for the animals or whether
24 that was a blanket that we would normally use at home.

25 What I can say is that -- I can repeat that it was of a blue

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1 colour and it was in a decaying process. About its composition,
2 about its textile, I can't say anything. I don't know.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 Madam Court Officer, could you pull up two pictures, and one
5 is -- I will say out -- it's a lot of numbers. It's one of the
6 pictures from SPOE000209313 till 00209320, and then specifically the
7 one ending with 9317. And then also SPOE00128386 till 00128420, and
8 then it is the one with the last numbers 8401. Yes.

9 My question would be: To your knowledge, do you think that they
10 look alike? We see blankets on both pictures.

11 A. Colour-wise, they might be similar. But when it comes to the
12 composition, I don't know. But like I said, from the point of view
13 of the colour, they might be similar. I'm only talking about the
14 colour.

15 PRESIDING JUDGE VELDT-FOGLIA: Yes. Now, we leave it here.
16 Thank you.

17 Madam Court Officer, we can take them away.

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 A. No, Your Honour, I don't know. If I knew, I would have told you
22 the truth, but I don't know.

23 PRESIDING JUDGE VELDT-FOGLIA: In your SPO witness statement,
24 Part 2, page 5, lines 9 and 10, you said:

25 "It was just obvious to me that [REDACTED] and we are talking

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1 about [REDACTED] "it was obvious to me that

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 A. We are talking about two different things. We're talking about
8 my impression and about my discussion [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 never happened. I think that we can have, like, thousands of
23 opinions in our mind, but if you never discuss those opinions or
24 those ideas with someone else -- I mean, those were [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 I mean, these are -- this is my approach on this.

3 PRESIDING JUDGE VELDT-FOGLIA: I am completely aware that you
4 are talking and discussing with us and giving testimony on painful
5 moments, and we appreciate that you share that with us. But we have
6 to discuss them and I have to ask you questions, but we are aware of
7 that.

8 A. Understandable.

9 PRESIDING JUDGE VELDT-FOGLIA: What you just explained to us,
10 you said it in similar words in Part 2, page 4 of your witness
11 statements, [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Do you know or could you tell us how the bodies of the two
15 persons, [REDACTED], how they were situated in the
16 grave in relation to each other?

17 A. They were close to one another.

18 PRESIDING JUDGE VELDT-FOGLIA: And if you say "close," I see
19 your hands -- you have your hands beside each other. Are you
20 indicating that they were laying next to each other? "Next to each
21 other" are my words, not your words.

22 My question is: Were they laying next to each other?

23 A. From the site and from the picture that I have in front of me,
24 when we started to remove the blanket and we were trying to pull the
25 corpse of [REDACTED]

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1 and he said, "Don't go further afield because there is another corpse
2 close to him." And the process was interrupted there in order not to
3 damage the other body.

4 When two persons are buried together, they are buried close to
5 one another. It's not that we put someone beneath and the other
6 above, but we put them next to one another. And, of course, we did
7 not go further afield to that part of the grave with the opinion and
8 under the assumptions of [REDACTED], there, there was
9 another body that was buried.

10 PRESIDING JUDGE VELDT-FOGLIA: So it was clear -- was it clear,
11 was it clear for [REDACTED] which of the two bodies he had to
12 uncover to take it out of the grave?

13 A. Can you repeat that again, please.

14 PRESIDING JUDGE VELDT-FOGLIA: Yes, I realise that it -- I'm
15 trying not to put words in your mouth.

16 Did [REDACTED] know which body was the one of [REDACTED]

17 A. I am positive that [REDACTED], knew in which
18 part of the grave the body [REDACTED] was located because of the form
19 and the way in how we went immediately to the burial site.

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

21 Who reported -- my microphone is on. Okay. You hear me?

22 Okay. It was -- who reported the second body -- who reported to
23 the authorities that the second body was still laying in the grave?

24 A. The entire reporting process was taken care of by [REDACTED]

25 [REDACTED]

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1 PRESIDING JUDGE VELDT-FOGLIA: Was there a specific reason that

2 [REDACTED]

3 [REDACTED]

4 A. My recommendation after we exhumed the body and reburied it
5 again, I recommended [REDACTED] to report the case to the relevant
6 authorities. Because this was a case [REDACTED] that was
7 first and foremost; and, second, because of the information that he
8 had on the case and because of the knowledge he had on the location
9 [REDACTED] Therefore, he was a direct witness of the entire event.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED] given that he knew of the burial site, on
13 where he was buried, I recommended to him to report the case,
14 [REDACTED]

14 [REDACTED] to report

15 the case of the injured people or killed people or disappeared people
16 to the relevant authorities. Because back then, [REDACTED]
17 [REDACTED] collecting information about the civilian
18 population, attacks and murders from the Milosevic regime, and
19 different massacres that had happened in the country, in particular,
20 from 24 February up until the end of the bombing and the end of the
21 war in Kosovo.

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

23 I have a more general -- a question of a more general kind with
24 regard to your participation [REDACTED]

25 [REDACTED] I read -- so

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1 it is different from what we have been discussing now.

2 You said in Part 1, page 18, lines 14 and 15, that you

3 [REDACTED]

4 [REDACTED]

5 [REDACTED] If you can say something about

6 that.

7 A. I don't know on whether you would allow me to go a little bit
8 more in depth in the answer to your question.

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] About 100.000 civilians have been forced,
5 through bombing, violations, murders, attacks, I mean, they were
6 forced to leave Kosovo. We are talking about a regional road which
7 was a terrible road. That was the road to hell. So only those
8 people that are still alive can attest to what happened to that road
9 to hell.

10 From Koliq up until Prishtine, from the 1st up until the 10th,
11 there was a very severe offensive of the police, military,
12 paramilitary, civilian forces of Serbia against the civilian
13 population in Kosovo. In this period in time, there are hundreds of
14 people that were murdered, injured, and that have gone disappearing
15 from that day up until now. We have tens of women and girls that
16 were violated and raped, and I'm talking about the period from 1 to
17 10 April. All these massacres and this severe war of Serbia against
18 the civilian population was aimed at one objective: namely, the
19 ethnic cleansing through different ways and inhuman treatments that
20 the Milosevic regime used in Kosovo. For --

21 PRESIDING JUDGE VELDT-FOGLIA: Madam Witness, I'm sorry to
22 interrupt you, but -- I appreciate what you just -- you're sharing
23 with us, but I would also like to go back to my question. So if you
24 need this as an introduction to go to my question, I will allow for
25 it, but I would like to have a focus on where we are going to.

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1 A. In reply to the question, we weren't talking about a single
2 victim. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Let me also explain, because it could be of interest [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 PRESIDING JUDGE VELDT-FOGLIA: Okay. I leave it for now here.

15 Madam Witness, there is a point that we have to discuss with regard

16 to interpretation, so I will ask Madam Court Usher if she can usher

17 you out for, I hope, only a short period of time, but it is better

18 that you don't hear what we are discussing on this point. Okay? And

19 then we will usher you in again.

20 [The witness stands down]

21 PRESIDING JUDGE VELDT-FOGLIA: Very well. We are now here in

22 this private session, and I will ask Madam Interpreter if she could

23 inform us what the deliberation has brought you with regard to the

24 interpretation of the word which was indicated by the Defence team.

25 THE INTERPRETER: Your Honour, I'm told by a member of my team

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1 here that the correct translation for that word in that context would
2 have been [REDACTED]

3 PRESIDING JUDGE VELDT-FOGLIA: This is, for now, I would say,
4 the word that we will be using. We will come up - not now - but with
5 an e-mail referring to the general approach towards interpretation
6 questions, and, if need be, we can come back to that in court. But
7 there are some general instructions that are already designed and in
8 place to deal with interpretation issues.

9 Good. So I have four questions, less or more, or five questions
10 left. I will have the witness brought in again and then I will go to
11 Part 1, page 19, line 18, and the word [REDACTED] I will translate
12 it with [REDACTED]

13 [The witness takes the stand]

14 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

15 Could you give an answer to the question, if you know, what the
16 [REDACTED]?

17 A. No, Your Honour, I don't know.

18 PRESIDING JUDGE VELDT-FOGLIA: And do you remember if [REDACTED]
19 [REDACTED]?

20 A. When we talked about [REDACTED], he maintained and I have
reported,

21 in fact -- he maintained that he had reported the case but that
22 nobody had summoned him further. He was utterly disappointed at the
23 failure to take this up, and I am referring to the fact that he had
24 [REDACTED]. He was quite reticent

25 and did not want ever to discuss the case [REDACTED] Maybe there

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1 were -- there were certain reasons. However, he never allowed the
2 discussion about [REDACTED] to occur.

3 PRESIDING JUDGE VELDT-FOGLIA: Allow me to refresh your memory
4 without the need of pulling it up because it's just one phrase, but
5 it is the same reference number I cited before, Part 1, page 19,
6 line 17. Part 1, page 19, line 17, yes. That [REDACTED] said
7 that:

8 "The only thing pronounced, [REDACTED]
9 [REDACTED] according to him [REDACTED]."

10 And my question to you would be: Is there something that you
11 could elaborate on [REDACTED]? [REDACTED]
12 [REDACTED]? [REDACTED] I mean.

13 A. In my testimony yesterday, I tried to explain about [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 That was the kind of reply that he gave you when we mentioned
22 [REDACTED]

23 Maybe he was -- it was because [REDACTED] Maybe he
24 just [REDACTED]. And that haunted him all the time.

25 It's a question whose answer he had been seeking all along; i.e.,

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1 [REDACTED]

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Witness. We
3 will now shift to a different topic.

4 Was there fear [REDACTED]
5 regard to what happened [REDACTED]

6 A. The fact that the discussion was closed and never allowed to
7 occur means that, yes, they were afraid.

8 PRESIDING JUDGE VELDT-FOGLIA: And you speak about that in your
9 SPO witness statement. It's Part 3, page 3 - we don't have to pull
10 it up but just for the record - lines 23 till 25; and also in Part 3,
11 page 4, line 1 till 5. You talk about fear.

12 And my question would be: Fear from what and fear for whom?
13 For whom were they afraid?

14 A. If you permit me, Your Honour, I would be able to hazard a guess
15 but others might be able to testify who might give you a better
16 answer.

17 PRESIDING JUDGE VELDT-FOGLIA: It's for sure that I don't want
18 you to guess, but my question is very clear. Do you know for who
19 they were afraid?

20 A. No, I don't. And I can't mention a name either.

21 PRESIDING JUDGE VELDT-FOGLIA: And --

22 A. If we're talking about a single individual, a certain group, I
23 am not aware.

24 PRESIDING JUDGE VELDT-FOGLIA: Or an individual or a group.

25 A. I never knew.

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1 PRESIDING JUDGE VELDT-FOGLIA: And do you know what they were
2 afraid of? What did they fear?

3 A. I am certain that they were scared because they had reported the
4 case and because of the quest to learn the truth [REDACTED]
5 I'm referring back to the postwar period in Kosovo.

6 PRESIDING JUDGE VELDT-FOGLIA: Allow me to refresh your memory.
7 Part 3, page 10 of your SPO statement, and it is line 9 till 13, you
8 said:

9 "There was an amount of fear felt by the family members of
10 [REDACTED] to not discuss this matter [REDACTED]
11 [REDACTED] they
12 were afraid that something might happen to them."

13 So what I understand from your witness statement, that they
14 feared that something might happen [REDACTED]
15 [REDACTED]

16 A. The word "fear" is too big to be explained. It's not fear for
17 oneself alone. When this case was discussed with [REDACTED]
18 [REDACTED] they would say, "Stop it, because
19 [REDACTED]" [REDACTED]
20 [REDACTED] they were afraid because they had reported the
21 case -- the case and had had no response from the authorities for
22 years and years on end, and so this became a situation of
23 overpowering fear. And that caused the family to close up, in a way,
24 to refuse to discuss the case [REDACTED] and what might have occurred
25 to him.

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1 PRESIDING JUDGE VELDT-FOGLIA: Do you fear anybody with regard
2 to you being a witness in this case?

3 A. Fear exists all the time, yes. And it's out of some
4 misunderstanding that people could think of. It's a fear of being
5 pointed out, fear of being labelled a traitor, a collaborator,
6 somebody who wishes ill on other people, somebody who has betrayed
7 the values of freedom and values of the war, and that comes out of a
8 mindset that exists amongst us.

9 I am here as a witness. I'm here to testify to something that
10 happened within a day, to refer to a process of exhumation and
11 reburial where I was present. And I am here as a witness of the KSC.

12 Fear for me will always exist. Kosovo is a very small place.
13 We all know each other, quite easily, and we encounter different
14 people in the course of our work. We encounter people who are unable
15 to appreciate in what capacity a witness is called upon to testify
16 here. [REDACTED]

17 [REDACTED]

18 [REDACTED] I have always had fear and this
19 fear coming out of some misunderstanding about the role of every
20 witness in this case will exist.

21 I said it yesterday, and let me repeat it today, that I am
22 seeking the truth as well. However, truth ought to be sought for by
23 everyone on -- and on everyone and on every single case. It's a
24 question of the quest for the truth.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Witness. In

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1 this respect, I want to highlight a concern because we are discussing
2 fear.

3 You said to the Prosecutor on the fourth -- in Part 4, that, if
4 you -- on the question if you have anything to clarify or add, and
5 you said:

6 "However, I do have one concern because of the new situation,"

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 And it's page 1 and page 2, and I didn't say that, but that's
15 for the record.

16 [REDACTED]

17 [REDACTED]

18 A. As I explained earlier, every individual who's been invited by
19 the Specialist Chambers to testify is viewed differently in Kosovo.
20 And when that perception exists and when this person is treated
21 differently, this naturally causes fear, general fear. They are not
22 aware of the procedures within the KSC. If you cast an eye on the
23 portals, news portals, if you watch television, listen to analysts,
24 everybody who has come to testify in this process has been labelled a
25 collaborator of the KSC. We are the ones who have sent the dossier

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1 to the Specialist Chambers, that we have contributed to the
2 indictment against the leaders of the KLA. We are not the ones who
3 have reported the case or provided any evidence whatsoever. The
4 Kosovo Specialist Chambers has a process and we have responded to the
5 invitation by the KSC to come here and testify in the capacity of a
6 witness.

7 So fear of being labelled a collaborator and traitor will always
8 exist. It will exist for all of us who have testified before the
9 Specialist Chambers. It's general fear.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Witness. I have
11 this last question and that is with regard to [REDACTED]

12 [REDACTED]

13 You told the female prosecutor at that time, that's at Part 2,
14 page 2, lines 5 and 6, of your SPO witness statement, [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 PRESIDING JUDGE VELDT-FOGLIA: It goes, I think, besides what I
9 asked, but I think it's -- I look at my right side. Are there
10 questions on ...

11 JUDGE DEKKERS: Yes. Thank you, Madam President.

12 Maybe two additional questions.

13 The first one is: [REDACTED]

14 [REDACTED]

15 A. [REDACTED]

16 JUDGE DEKKERS: And, to your knowledge, [REDACTED]

17 [REDACTED]

18 A. Not -- no, to the best of my knowledge, no.

19 JUDGE DEKKERS: Okay. Thank you very much.

20 JUDGE BITTI: Thank you, Mr. President.

21 Madam Witness, during the exhumation, did you hear one of those
22 exhuming the body that they had the impression or that they saw or
23 that they realised that the arms, and especially also the legs, of

24 [REDACTED]

25 A. No, I didn't hear that. But the whole process was carried out

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1 [REDACTED] So, no, I did not hear that. From what I can recall,
2 no.

3 JUDGE BITTI: Thank you very much.

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Witness, is there something
5 you would like to testimony about that we have not covered and you
6 think it's important, that you still want to share with us?

7 A. No, Your Honour, I haven't got anything else, with the exception
8 of the request that's also part of the last will and testament from
9 -- coming for -- for the quest for justice on -- in this case.

10 PRESIDING JUDGE VELDT-FOGLIA: That's what we are doing in this
11 right moment.

12 I will go now back to public session. Madam Court Officer,
13 could you bring us into public session, please.

14 [Open session]

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

16 PRESIDING JUDGE VELDT-FOGLIA: Madam Witness, we reached the end
17 of your testimony, and I can imagine that it has been very demanding.
18 I would like to thank you for your efforts to give your testimony and
19 to help us in our effort to find the truth, as you just -- as you
20 just said.

21 I thank you very much. I wish you a safe journey home. I
22 remind you that you should not discuss your testimony with anybody.
23 And, again, thank you. You will now be ushered out by the
24 Court Usher.

25 THE WITNESS: [Interpretation] Thank you very much.

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1 [The witness withdrew]

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

3 Yes, it's almost the end of this session and also the end of the
4 hearing for today. I have a look if there is something to raise by
5 the Specialist Prosecutor's Office.

6 MS. D'ASCOLI: Nothing further, Your Honours.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

8 And the Victims' Counsel.

9 MS. ZEGVELD: No, thank you, Your Honours.

10 PRESIDING JUDGE VELDT-FOGLIA: Very well.

11 Defence Counsel.

12 MR. VON BONE: No, thank you, Your Honour.

13 PRESIDING JUDGE VELDT-FOGLIA: At this point in time, I
14 discussed the information that will be shared about the translation.

15 We will resume on Monday at 9.30 with the testimony of W04391.

16 I thank the parties and the Victims' Counsel for their
17 attendance. I thank the interpreters - and also for their
18 flexibility to help us in this translation issue - the stenographer,
19 and security, and the audio-visual booth for their assistance.

20 The hearing is adjourned.

21 --- Whereupon the hearing adjourned at 11.10 a.m.

22

23

24

25