

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

1 Monday, 20 September 2021

2 [Open session]

3 [The accused entered court]

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

5 PRESIDING JUDGE VELDT-FOGLIA: Good morning.

6 Court Officer, can you please call the case.

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

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 First of all, I kindly ask the parties and the Victims' Counsel
11 and the Registry to introduce themselves, starting with the
12 Specialist Prosecutor's Office.

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

19 Thank you, Your Honours.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 Victims' Counsel, please.

22 MS. PUES: Good morning, Your Honours. Good morning, everybody.
23 The Victims' Counsel's team is represented by myself, Anni Pues; by
24 my co-counsel, Liesbeth Zegveld; as well as Senior Legal Associate
25 Marie-Pier Barbeau.

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1 Thank you.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

3 And now the Defence, please. You have the floor.

4 MR. VON BONE: Good morning, Your Honour. Defence counsel is
5 present. My co-counsel is Mr. Betim Shala; investigator is
6 Mr. Fatmir Pelaj; and then myself, Julius von Bone, Lead Counsel.

7 Thank you.

8 PRESIDING JUDGE VELDT-FOGLIA: And for the record, your client,
9 Mr. Mustafa, is also present in the courtroom.

10 Now, I turn to the Registry, please.

11 MR. ROCHE: Good morning, Your Honours. I am Ralph Roche from
12 Judicial Services Division in the Registry.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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

18 Today we have planned for the testimony of the first SPO witness
19 in this case, W03593. We will sit in three sessions: 9.30 till
20 11.00; 11.30 till 1.00; and from 2.30 till 4.00.

21 Before we have the witness ushered into the courtroom, I address
22 first Mr. Mustafa.

23 Mr. Mustafa, I recall that you have the right to remain silent
24 and that such silence cannot be considered in a determination of your
25 innocence or guilt. And I also recall what we said to you on

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1 Wednesday, last week, and also to your counsel, Mr. von Bone, when
2 you already had left before the opening statements of the
3 Victims' Counsel. I will not allow for disruptive conduct, including
4 disrespectful language in this courtroom such as was done last week.
5 And it is in my power to have you temporarily removed from this
6 courtroom for that reason.

7 I trust that it's clear for you -- I saw your hand. I trust
8 that it's clear for you and that you have talked to your counsel
9 about this.

10 I saw you raise your hand. You are asking for the floor?
11 Please.

12 THE ACCUSED: [Interpretation] [Microphone not activated].

13 THE INTERPRETER: Microphone, please.

14 THE ACCUSED: [Interpretation] Your Honour, I would like to
15 address the Court before we start with the testimony of the witness.

16 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mustafa, I can give you, at a
17 certain moment of today, the floor. Also, last Wednesday, if you
18 would have asked for that, I would have given you the floor. But for
19 now, we have a schedule organised for today, so I first want to
20 proceed with that.

21 We will first examine the witness today. And at a proper
22 moment, I will give you the possibility to say what you want to say.
23 So that's what we are going to do. So, yes, you will have the floor
24 at a certain moment but not now.

25 THE ACCUSED: Okay, thank you.

1 PRESIDING JUDGE VELDT-FOGLIA: Can we please usher the witness
2 into the courtroom.

3 [The witness entered court]

4 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, good morning, and
5 welcome to the Specialist Chambers. Can you hear me?

6 Mr. Witness, good morning, and welcome to the Specialist
7 Chambers. Can you hear me? Can you hear me?

8 THE WITNESS: [Interpretation] Yes.

9 PRESIDING JUDGE VELDT-FOGLIA: Please be seated.

10 THE WITNESS: [Interpretation] Thank you.

11 PRESIDING JUDGE VELDT-FOGLIA: How are you doing, first of all?
12 Did you hear my question?

13 THE WITNESS: [Interpretation] If you could speak a bit louder,
14 please.

15 PRESIDING JUDGE VELDT-FOGLIA: I said: How are you, first of
16 all. Did you hear the question?

17 I don't know if Mr. Witness is hearing me.

18 Mr. Witness, do you hear my voice?

19 THE WITNESS: [Interpretation] Yes, but only if you could speak a
20 bit louder.

21 PRESIDING JUDGE VELDT-FOGLIA: I will put my microphone more
22 centred.

23 I will start over again, Mr. Witness. Good morning, welcome.
24 Can you hear me? Can you hear me?

25 THE WITNESS: [Interpretation] Yes, very good now.

1 PRESIDING JUDGE VELDT-FOGLIA: Good. How are you, first of all?

2 THE WITNESS: [Interpretation] I am well.

3 PRESIDING JUDGE VELDT-FOGLIA: Good, thank you, Mr. Witness.

4 Today we will start with your testimony. But before we begin, I
5 have several remarks. I would like first to explain to you, in clear
6 terms, the protective measures that you have been granted for your
7 testimony.

8 You have been assigned a pseudonym. This means that we will
9 never mention your name, but we will all refer to you as Mr. Witness,
10 to make sure that the public does not know your name.

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

14 When you answer questions that will not reveal your identity, we
15 will do so in open session, which means that the public can hear what
16 is said in the courtroom.

17 When you are asked to tell something that relates specifically
18 to you or to mention facts that might reveal your identity, we will
19 do so in a private session. And that means that there is no
20 broadcast and no one outside the courtroom can hear what is said in
21 the courtroom. And if anything is said during the open session that
22 may identify you, we will protect this information. Your testimony
23 will be broadcasted with a delay and we can remove any such
24 information from the broadcast that will be seen and heard by the
25 public and from the public transcript of the proceedings.

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1 And in addition to these protective measures, the Panel has
2 ordered, last Friday, 17 September 2021, four additional special
3 measures upon request by the Witness Protection and Support Office,
4 and I will refer to it as WPSO, pursuant to Rule 80(4)(c)(i) till
5 (iii) of the Rules, and that's filing F204 and F206, submitted on
6 16th and 17th September 2021. And these special measures are:
7 Shielding you from the direct view of the accused. You can see the
8 shield next to you. Attendance of a WPSO psychologist during your
9 testimony. In-court assistance by a WPSO staff member, who is
10 sitting on your left side, and providing you with reading assistance,
11 if it's necessary.

12 And this decision has been shared through the Court Management
13 Unit with the parties and the Victims' Counsel by e-mail of last
14 Friday.

15 And for the record, I mention that both a WPSO staff member and
16 a WPSO psychologist are present in the courtroom.

17 Mr. Witness, are the protective measures that I just explained
18 to you clear to you?

19 THE WITNESS: [Interpretation] Yes.

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

21 I request the parties and the Victims' Counsel to respect such
22 protective measures and pay the utmost attention in the course of
23 their examination, avoiding disclosure of confidential information in
24 open session. And this hearing will be in open session unless
25 otherwise requested by the parties and the Victims' Counsel or

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1 decided by us.

2 And I remind you to give me prior notice if you should require
3 going into private or closed session for the purpose of your
4 questioning or to make any other submissions. And I also remind the
5 parties and the Victims' Counsel to adhere to the procedure in
6 paragraph 43 and 44 with regard to the in-court redactions as
7 prescribed in the Decision in the Conduct of Proceedings.

8 If we all act diligently respecting the protective measures
9 granted for the witness, there should be minimal requests for
10 in-court redactions or even none - that would be the best, of
11 course - and that will help us focusing on the testimony of the
12 witness.

13 And, lastly, I remind the parties and the Victims' Counsel of
14 the usual courtroom rules about the pace of speaking, and I will not
15 repeat them. By now, we all know them, I think.

16 Mr. Witness, I turn back to you.

17 You are called to testify before the Specialist Chambers in the
18 case of Specialist Prosecutor versus Salih Mustafa to assist the
19 Panel of Judges to reach a verdict. And after you have taken your
20 solemn declaration to tell the truth, you will be asked questions by
21 the lawyers for the Prosecution, and you have been explained. They
22 are -- if you look at me, they are sitting over there, at your -- at
23 my -- at your left-hand side.

24 And if you look up, Mr. Witness, then you see the hand raised.
25 That's the lawyer of the Prosecution which will be asking questions

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1 to you.

2 Then the lawyers of the victims admitted to participate in this
3 case will be asking questions to you. And then the Defence counsel
4 of Mr. Mustafa, who is sitting at the other side, on the left side,
5 with the red robes on. And by us, the Judges of the Panel. This is
6 the Panel.

7 I would like to provide you with some guidance for answering the
8 questions that you will be asked. Mr. Witness, please, you should be
9 listening carefully to each question. If you do not understand, feel
10 free to ask the question to be repeated. And we want you to tell us
11 the truth and to tell us what you saw, your experience, you heard, or
12 sensed you yourself. If you did not see it or hear it yourself but
13 you found out in some other way, then you should say so and explain
14 us how.

15 You may not remember all the details of the event, and this is
16 perfectly fine. Please testify on what you remember. Do not guess.
17 Do not make things up. And there is nothing wrong in saying, "I
18 don't know" or "I don't remember."

19 Have you understood all this, Mr. Witness?

20 THE WITNESS: [Interpretation] Yes.

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

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness -- yes, very well.
24 In this way, the interpreters, Mr. Witness, can hear you better.

25 I would also like to give you some practical advice for your

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1 testimony, Mr. Witness. Everything that we say here is translated
2 and recorded, so it's important to speak into the microphone, to
3 speak clearly and at a slow pace to allow the interpreters to
4 translate everything. So don't talk too quick.

5 And you should only start speaking when the person asking you a
6 question has finished. And when a question is asked, please count in
7 your head till five, and then you can give the answer. And this
8 pause of five seconds is essential for us all to hear and translate
9 and record what you are saying.

10 If you have any questions, if you need a break, or you need
11 assistance of any kind, please do not hesitate to inform the WPSO
12 support officer sitting next to you, and then you can raise your hand
13 if you want to say something.

14 Have you understood all this, Mr. Witness? It's a lot of
15 information.

16 THE WITNESS: [Interpretation] Yes.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay. Now very well.

18 As we must do with every witness, I will now ask you to read
19 your solemn declaration to tell the truth. And I remind you that
20 it's an offence within the jurisdiction of the Specialist Chambers to
21 give false testimony.

22 Do you understand this, Mr. Witness?

23 THE WITNESS: [Interpretation] Yes.

24 PRESIDING JUDGE VELDT-FOGLIA: Okay.

25 Could you please assist the witness with his solemn declaration?

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1 Yes, thank you.

2 Mr. Witness, read the text provided to you.

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

7 WITNESS: W03593

8 [Witness answered through interpretation]

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

11 We can now begin with the testimony of Witness W3593, starting
12 with the questioning of the SPO. And I have decided not to start
13 with a free narration with regard to this witness.

14 Mr. Prosecutor, you have estimated seven hours for your
15 questioning of this witness. We expect you to stick to this estimate
16 and to inform us if you will use less time, for reasons of planning
17 of the Panel.

18 You have the floor.

19 MR. MICHALCZUK: Thank you, Your Honours. When it comes to
20 time, I will try to stick to the timeframe allocated to the
21 Prosecution. If there is at any point any need for more, but we will
22 see later on how it goes, we will definitely make a request in
23 advance to the Panel for its consideration.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

25 Examination by Mr. Michalczuk:

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Examination by Mr. Michalczuk

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1 Q. Mr. Witness, good morning.

2 A. Good morning.

3 Q. My name is Cezary Michalczuk, Prosecutor for the SPO, Specialist
4 Prosecutor's Office, and I will be asking you questions today.

5 MR. MICHALCZUK: Your Honours, could we go now into private
6 session.

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

9 THE COURT OFFICER: Yes, Your Honour. One moment.

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

11 THE COURT OFFICER: We are now in private session, Your Honour.

12 MR. MICHALCZUK: Your Honours, the reason why I have requested
13 for the private session is that the first questions posed to the
14 witness will deal with his personal data, and some of the
15 questions -- the first questions concerning the story of the witness
16 could also lead to the revealing of his data.

17 The first moment we are done with those questions and answers,
18 I'll request Your Honours to go back into open session.

19 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

20 MR. MICHALCZUK: Thank you.

21 Q. [REDACTED]

22 A. [REDACTED]

23 Q. [REDACTED]

24 A. [REDACTED]

25 Q. [REDACTED]

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1 A. Yes.

2 Q. Mr. Witness, I'm going to ask you to think back to 1999, the
3 early part of that year. At the time, where were you living?

4 A. [REDACTED]

5 Q. Were you working at that time?

6 A. Yes.

7 Q. What was the nature of your work at that time?

8 A. [REDACTED]

9 Q. At that time, were you a member of any political group or
10 political party?

11 A. No.

12 Q. Did something happen to you in April 1999?

13 A. Yes, something happened to me.

14 Q. Could you tell us what happened to you in April 1999.

15 A. I don't know where to start.

16 Q. Think back to April 1999. You said that something happened. Do
17 you remember the date when the thing happened, approximately?

18 A. No.

19 Q. The thing that happened to you, was it in April or in any other
20 month of that year?

21 A. I'm not sure.

22 Q. The thing that happened to you, did it happen at the beginning
23 of the year, the middle of the year, the end of the year?

24 A. It happened on the 4th. I remember it as a date. And I was in
25 Zllash until the 18th. What I know is that I was there for 18 days.

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1 Q. You said it happened on the 4th. By "the 4th," do you mean the
2 day or do you mean the month of that year?

3 A. The day, not the month. I don't know the month.

4 Q. So you said that you were there, you mentioned the name of
5 Zllash. You were in Zllash 18 days. Is that what you said?

6 A. Yes.

7 Q. How did you get there to Zllash?

8 A. I went to the school in [REDACTED] to visit some people to see
9 how
10 they were. Two persons came. They told me they were military police
11 and that I had to go with them. I didn't know who they were, but I
12 went with them. We started our journey, and midway there was a
13 vehicle, a jeep or something, and it took us. There were two persons
14 in the jeep. It was me and the two persons that took me. They put
15 me in the car. One of them, when in the car, asked me if I wanted a
16 chocolate or something. I said to him, "No, I don't want anything,"
17 but they forced me to take that chocolate or sweet. And as I was
18 about to eat it, they hit me, and I started bleeding. Then they put
19 a bag over my head. They took me to Zllash to a house. It was a
20 barn. They kicked me. They put me inside that barn. I fell on both
21 my knees. And there, I saw another person who was lying down, not
22 moving. After a while, I learned who he was.

22 Q. Could I stop you for a moment here. I would like to ask you a
23 few more detailed questions about that part of the story that you
24 have just told Court.

25 MR. MICHALCZUK: Your Honours, let's move back to the open

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1 session. I'm going to ask a few questions that will not reveal the
2 identity of the witness. But maybe for the benefit of the public,
3 the public should hear that.

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can we go
5 back into open session, please.

6 [Open session]

7 THE COURT OFFICER: Your Honour, we are now back in open
8 session.

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

10 Mr. Prosecutor, you have the floor.

11 MR. MICHALCZUK:

12 Q. Mr. Witness, you have told us that at some point you were
13 approached by two persons and you said that they were military
14 police. Can I ask you: The military police of which organisation?

15 A. Of the KLA.

16 Q. How were those two people dressed?

17 A. They had uniforms.

18 Q. Could you describe the uniforms that those two persons were
19 wearing?

20 A. They had camouflage clothes, those that were usually worn by the
21 KLA.

22 Q. Did you see any emblems or markings on those uniforms of those
23 two persons?

24 A. Can you please repeat it?

25 Q. Of course.

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1 A. No, I couldn't see anything. I could only see the uniform.

2 Q. Those two persons who approached you, were they armed?

3 A. Yes.

4 Q. Did they have long-barreled weapons, short-barreled weapons; if
5 you remember?

6 A. They had automatic weapons.

7 Q. What language did they speak to you?

8 A. Albanian, of course.

9 Q. You said that they were from the military police of the Kosovo
10 Liberation Army. How do you know that they were from the military
11 police of the KLA?

12 A. This is how they presented themselves, introduced themselves.

13 Q. You told us that they took you from there. Did they tell you
14 the reason why you should go with them?

15 A. No. They said, "We will only talk to you." At that time, I had
16 no idea why they were taking me.

17 Q. Did they show you any documentation based on which you are being
18 taken from that place?

19 A. No.

20 Q. Did you feel you had a choice not to come with them?

21 A. No. If I didn't go with them, I would have been killed by them
22 right there.

23 Q. How did you leave that place with them? Was it on foot? Was it
24 by some means of transportation?

25 A. On foot, halfway.

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1 Q. You told us a few minutes ago that at some point a car
2 approached you and take you; is that correct?

3 A. Yes.

4 Q. Do you remember the place from which that car approached you and
5 took you from there?

6 A. Well, somewhere halfway between [REDACTED] and Zllash, there was
7 this vehicle that I mentioned, a black vehicle. It resembled a jeep.

8 Q. Just one follow-up question coming back in time to the moment
9 that those two persons approached you at that school which you
10 mentioned before.

11 My question is: Did those two persons tell you that they were
12 taking you to Zllash? Do you remember anything like this?

13 A. Yes.

14 Q. So let's move on in time. So you are in that road, that car
15 approached you, and you said that there were two persons in that car;
16 correct?

17 A. Yes.

18 Q. Did you recognise those persons in the car?

19 A. No, none of them. I didn't recognise or know any of them. I
20 didn't know who they were.

21 Q. How were they dressed, those two persons in the car?

22 A. They too were wearing uniforms.

23 Q. The same uniforms as those two KLA police officers who took you
24 from that school?

25 A. Something like that.

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1 Q. Do you remember any markings or emblems on the uniforms of those
2 two persons in the car?

3 A. No. One of them had a red hat.

4 Q. I'm talking about the time in the car still. Are we talking
5 about the car? Because my question relates specifically to the point
6 at which a car approaches you and you are taken from that road.

7 A. You asked me if they had any insignia on them, these two persons
8 that were in the car. One of them had a red hat. I didn't see or
9 notice anything else, because I wasn't allowed to look.

10 Q. You said that you didn't know those persons in the car.

11 A. No, I didn't.

12 Q. Did they tell you who they were?

13 A. Of course not.

14 Q. Were they armed, those two persons in the car?

15 A. I couldn't see. They were seated. They were sitting in the
16 car. I was in the backseat. I couldn't see. They put immediately a
17 sack on -- over my head, so I couldn't see what they had on them or
18 who they were.

19 Q. Did those persons in the car tell you why they are taking you?

20 A. No, they didn't say anything. As I already explained, one of
21 them offered me a chocolate. I refused. He insisted, made me eat
22 that chocolate. And as I was about to eat it, he hit me, and I
23 started bleeding. And at that moment, they put this sack over my
24 head.

25 Q. We spoke a bit before about --

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1 THE INTERPRETER: Microphone, please.

2 MR. MICHALCZUK:

3 Q. We spoke a bit before about those two persons who were going
4 with you on the road and at some point the car approached you. When
5 the car with you started going, what happened with those two persons
6 whom you referred to as KLA military police?

7 A. From that point, we proceeded to Zllash all together in that
8 car.

9 Q. All together, you mean the four persons in uniforms and
10 yourself?

11 A. Yes, the two that were with me during the journey on foot,
12 myself, and the two that were in the car. I was the fifth person in
13 the car.

14 Q. Those two persons who approached in a car, I'm not sure whether
15 I asked you about the language that they used when referring to you.
16 What language did they use, those two persons in the car?

17 A. Albanian, of course.

18 Q. Did you feel that you had a choice not to enter that car?

19 A. Of course not. No way.

20 Q. On the way to Zllash, as you put it, did those persons in
21 uniforms, did they exchange amongst themselves any words?

22 A. No. The moment with the chocolate that I explained. They
23 offered me this chocolate, they made me eat it, and as I was about to
24 eat it, they hit me, I started bleeding, they put this sack over my
25 head, and they said then, "We will continue to give you chocolates

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1 once we arrive there."

2 Q. Do you know the direction in which you were going?

3 A. Yes. I'm born in that area. It's very close to me.

4 Q. So where were you going?

5 A. I knew we were going towards Zllash. I didn't know precisely
6 where we were going.

7 Q. While in the car, were your movements restrained in any way?

8 A. I didn't dare move. I had these two on both my sides and these
9 other two were in front, so there was no room for me to move. I
10 couldn't move.

11 Q. You told us a few minutes ago that a sack was put on your head.
12 Do you remember whether that sack was put on your head the moment you
13 entered the car or at some point on the way to Zllash?

14 A. When I entered the car.

15 Q. During that trip by car to Zllash, did you hear any of those
16 four uniformed men direct any threats towards you?

17 A. No, because it was a short journey, about ten minutes. And then
18 they took me to this place, to the room where I was kept.

19 Q. Did you reach that place, Zllash, on the same day?

20 A. Yes, on the same day. Immediately.

21 Q. How far is it from the place from which you were taken to Zllash
22 in terms of kilometres, more or less?

23 A. I would say about 10 kilometres, 7, 8 kilometres.

24 Q. Mr. Witness, what happened when you reached Zllash and the car
25 stopped? You told us already something in general terms, but could

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1 you precisely tell us what happened? So the car stops there, and
2 what happens then?

3 A. The car stopped. The bag was still over my head. Two persons
4 grabbed me by the arms, took me to this room where I was kept. When
5 we approached the door, they pushed me inside the room. I fell on
6 both my knees. Then some others came. I spent about an hour there,
7 then I was taken to another location, which was outside. It was cold
8 there.

9 Q. I have one last question.

10 MR. MICHALCZUK: And I will ask Your Honours to move into
11 private session.

12 Q. My last question to you, Mr. Witness, would be: When those
13 persons, these two persons from the car took you to that place, did
14 they stay there? Did they leave that place?

15 A. They pushed me inside, they locked the door, and they left. I
16 don't know where they went.

17 MR. MICHALCZUK: Your Honours, I would kindly ask to move into
18 private session now.

19 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
20 please let us go into private session.

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

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

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

24 MR. MICHALCZUK: Thank you, Your Honours. The reasons why I
25 have requested to go into private session is that it's possible that

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1 the remainder of the story, at least part of it, could lead to the
2 revealing of the identity of protected witnesses.

3 Q. Mr. Witness, so what did you see in that place when you were
4 pushed there, as you described it, by those people in uniforms?

5 A. I did not understand the question.

6 Q. So you were pushed by those two persons, you were inside that
7 place. What was that place? Could you describe it for us.

8 A. I can describe it. As I said, they took me to this place. I
9 had the sack over my head. I didn't know where I was being taken to.
10 So when we got to that place, they opened the door, they pushed me
11 inside, they locked the door and left, and then they came again
12 later.

13 Q. Was the sack removed before or after you entered that place?

14 A. Yes. Once I was in the room, the sack was removed.

15 Q. So you are in that room, the sack is removed. What did you see
16 in that room?

17 A. It was a barn, a shed for animals.

18 Q. Was that place big or small; do you remember?

19 A. Well, not more than 5 metres.

20 Q. Were you in that barn, as you put it, alone?

21 A. When I entered the barn, there was a person there lying down.

22 Q. Who was that person who was lying down?

23 A. He is a person who I knew from earlier. I did not recognise
24 him, but he recognised me. He called me by my name. This person is
25 [REDACTED]. He was there. I saw him.

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1 Q. Where do you know him from, that person, as you put it,

2 [REDACTED]?

3 A. Of course, I knew him from before.

4 Q. Where was he from?

5 A. [REDACTED]

6 Q. You said his name was [REDACTED]. Do you know him under any
7 other name?

8 A. No. [REDACTED]

9 Q. Do you know whether that person had any pseudonym or any
10 nickname?

11 A. I saw him lying down, and he said to me, "They will kill you."
12 And I said, "What can I do? There's nothing I can do." He could
13 hardly speak. He had been beaten. I didn't see the beatings, but
14 this is the state I found him in when I entered the barn.

15 Q. So could you describe what you saw on him when you entered that
16 barn? What did you see on his body, if anything?

17 A. I couldn't see his body. He was covered with something used for
18 covering horses, sort of a blanket. He couldn't stand up. He was
19 injured.

20 Q. Did he tell you what happened to him before as a result of which
21 he, as you put it, he was --

22 A. No, we were not allowed to speak with each other. Not at all.

23 Q. Let me come back to my previous question about that person,

24 [REDACTED]

25 My question was: Do you know whether he had any nickname?

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1 A. Not a nickname. [REDACTED] I don't know of any other nickname.

2 Q. Was that person, [REDACTED] restrained in any way when
3 you saw him lying there?

4 A. No, he was not. But he was, as I said, lying on the floor,
5 because he couldn't stand up. He was severely beaten.

6 Q. You said he was severely beaten. How do you know that he was
7 severely beaten?

8 A. I think I'm explaining things well. He said to me that -- he
9 said, "I cannot stand up because they beat the hell out of me."

10 Q. By saying "they beat the hell out of me," whom did he have in
11 mind saying "they"?

12 A. I don't know, because I wasn't there to see who beat him.

13 Q. A few minutes ago you said that [REDACTED] said to you, and I
14 quote, "They will kill you." And you said, "What can I do?"

15 Again, my question is: Do you know whom he was referring to
16 when he said "they will kill you"?

17 A. I don't know who he was particularly referring to, but we know
18 who they were, those who beat me. Now what exactly he meant, I don't
19 know.

20 Q. You said at some moment that those persons who put you there in
21 that place, in that barn, they locked the door; is that correct?

22 A. Yes.

23 Q. Do you remember whether there was any guard also outside? I'm
24 asking this question because you said that you were not allowed to
25 speak.

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1 A. Yes.

2 Q. Was your understanding that "they will kill you," this word,
3 "they," could be referring to those persons or this person who was
4 guarding or some other persons? What was your understanding of that
5 conversation with [REDACTED]

6 A. To my understanding, they beat him earlier. And when I entered
7 that room, he said, "They will kill you." And he could say no more,
8 because there was a guard outside. And if they heard us talking,
9 they would kill us.

10 Q. Did he mention, at least, anything that had been happening to
11 him before you entered that barn?

12 A. No.

13 Q. You said a few minutes ago that at some point you were removed
14 in that stable. And as far as I remember, you said it was more or
15 less after one hour; is that correct?

16 A. Yes.

17 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, allow me to
18 interrupt you. I'm looking at the clock, and we are approaching a
19 time for a -- no, at 11.00. Okay. Sorry. Sorry that I interrupted
20 you.

21 Please proceed.

22 MR. MICHALCZUK: No problem, Your Honours.

23 Your Honours, we can go back into open session now.

24 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, we can go
25 back into open session.

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[Open session]

1

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

2

3 now.

3

PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4

MR. MICHALCZUK:

5

Q. Mr. Witness, you told us that at some point you were taken from
7 that place, that barn, as you put it; is that correct?

7

8 A. Yes, it is.

8

9 Q. Could you tell us who took you from that barn?

9

10 A. It was three or four persons. So, like I said, the sack was
11 placed over my head, and they took me outside. So they grabbed me
12 and took me outside and they sent me to another place. It was
13 outside, like I said, and they started to beat me up. I didn't
14 exactly know who those people were.

10

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15 Q. From the moment you were removed and before the sack was put on
16 your head, do you remember whether those persons who took you from
17 there wore uniforms or civilian clothing? What did they wear?
18 That's my question.

15

16

17

18

19 A. So we didn't dare to see anyone. It was just impossible. We
20 didn't dare.

19

20

21 Q. No, I'm just -- I'm just -- maybe let me make myself clear. So
22 the moment you were taken from that barn, you told us that there were
23 a few of those persons. So you saw at least how many of them there
24 were.

21

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24

25 My question is: Those persons who removed you, took you from

25

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1 that barn, what were they wearing? How were they dressed?

2 A. I don't know if you are getting me or not. So in the moment in
3 time when we got inside, and so they told us to put our head down and
4 I didn't dare to see around. So I don't know who was around. We
5 were just told not to look at them, just to hold your head down. And
6 that was it. I don't know who was there. I don't know what they
7 were wearing either.

8 Q. When those persons came to take you from that barn, were they
9 saying anything to you?

10 A. They just got inside, they took the sack, they placed it over my
11 head, they dragged me, they just caught me from my arms and they
12 dragged me outside.

13 So it was a place, about 5, 6 metres away from the place I was
14 staying, and there were -- I mean, there were wood -- there were all
15 different sorts of stuff there, and it was there that they started to
16 beat me up.

17 Q. So you were placed into that second place. You told us that the
18 first one was a barn. What was the second place? How would you
19 describe that?

20 A. Well, the second place was kind of a -- I mean, it was covered
21 with something. I can't exactly tell you. And like I said, I was
22 not looking. I can't tell you.

23 Q. So what exactly happened when you were placed in that second
24 place, as you put it, 5, 6 metres away from that first barn?

25 A. Well, now they started to beat me.

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1 Q. Could you tell the Court how did the beating look.

2 A. Well, I don't know how they beat me. I can tell you that I
3 fainted a couple of times. Two, three times I fainted. I was hit
4 with wood. I was kicked. I was hit in different ways. I was hit; I
5 don't know what with. [REDACTED]

6 [REDACTED]

7 So that's all I can say.

8 Q. Do you remember how many people participated in that beating
9 that you are just describing?

10 A. No, I don't know. So probably three, four, five -- I don't
11 exactly know. But this is about the number.

12 Q. Can you tell whether those persons who took you from that first
13 barn were also participating in that beating or are you talking about
14 other people?

15 A. I don't know. I couldn't look at them. So, of course, I think
16 they should have been the same, but I don't know. I can't tell you
17 for a fact.

18 Q. Those persons beating you, were they saying anything to you?

19 A. They didn't say anything. They were just calling me names. So
20 they were speaking all different sorts of things. So they were
21 beating at me, they were swearing at me. So, like I said, they once
22 hit me in the head, so they kicked me, they hit me with a piece of
23 stick. I mean, that's all I can say. I don't really exactly know.

24 Q. Were they making any accusations in relation to you?

25 A. Yes -- no, no, they didn't say anything to me. But they were

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1 just accusing me of being a collaborator with the Serbs. [REDACTED]

2 [REDACTED]

3 [REDACTED] like I said, and there was no way not to be able to
4 talk to a Serb, because I had to make a living for my family, so I
5 had to talk with basically everyone.

6 Q. I understand. What language were those people using while
7 addressing you or talking amongst themselves?

8 A. Albanian, everyone.

9 Q. Did you recognise any of the people -- did you recognise any of
10 the people who were beating you?

11 A. No, I could not identify anyone. Because, like I said, I had
12 the sack over my head.

13 Q. Could you see, at least, how those persons beating you were
14 dressed?

15 A. No, not at all. And it was dark as well. So they were dealing
16 with some batteries, I think. But otherwise, it was very, very dark.

17 Q. What do you mean they were dealing with batteries? Could you
18 explain that.

19 A. So I am talking about -- we call them batteries, but they are
20 torch lights, so -- and they would use it now and then. But, yeah,
21 it was basically dark.

22 Q. Do you remember any of those persons beating you having any
23 headgear, anything to that effect?

24 A. No.

25 MR. MICHALCZUK: Excuse me, Your Honours.

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1 Q. How did that beating stop?

2 A. I have no idea how long they've been beating me up for, because
3 I didn't have a watch, there was no electricity. I don't know. So
4 probably it was two, three hours, four hours even. I can't tell. I
5 don't know.

6 Q. My question does not deal with time of your beating. My
7 question deals with the moment, the event, how did that beating end?
8 Because at some point it ended, I understand. And how did it end?
9 This is my question.

10 A. It's obvious. So they beat me up for a long period of time. So
11 I fainted a couple of times, they'd throw water upon me, and then
12 they'd drag me and send me to the other room. And I didn't know
13 anything back then, in that point in time. So I'd just lie down in
14 the water in the barn probably up until the next day. I don't know
15 what the time was back then, so -- but I know that I was standing
16 like that up until the next day.

17 Q. During that beating that you have just described, did any of the
18 perpetrators use any weapons at any point?

19 A. Yes.

20 Q. Could you tell us more about the use of this weapon.

21 A. When I was lying, one of them so -- got a revolver and he put
22 that in this place. So he put the revolver over here, and I heard --
23 I heard the sound. So I had the impression, like, I was being
24 killed. So for one moment -- so he made that noise with the
25 revolver, but the fact was that it didn't shoot. So -- and then that

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1 person said, "You know what? So let him be, because this man is
2 lucky."

3 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, Mr. Prosecutor. For
4 the record, I want to state that the witness pointed to his forehead,
5 to the middle of his forehead when he was talking, because the
6 translator cannot translate what he's indicating.

7 Please proceed.

8 MR. MICHALCZUK:

9 Q. You have just told us that the revolver made a noise. What was
10 that noise?

11 A. Well, so, he triggered it. The revolver clicked. But the
12 purpose of that person was not to kill me. He just wanted to make me
13 afraid, but I didn't know about that. So, like I said, when the
14 revolver was put on my head -- I mean, I heard the voice, but it
15 didn't shoot. But to tell you the truth, I wanted that man to kill
16 me, but the fact is that he didn't. I don't know why. Probably God
17 helped me. But this is what happened.

18 So in that moment in time, given the situation I was into, I
19 wanted to be dead. I wanted to be killed.

20 Q. That person who used that revolver against you, do you know who
21 this person was?

22 A. This is the person. This is the accused.

23 Q. Could you say his name?

24 A. So the person that I am here for today. So I don't want to
25 mention his name, but the person that is accused in these

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1 proceedings.

2 Q. Maybe you don't want to use his name, but perhaps you could use
3 his nickname, if he had any?

4 A. So, well, are you listening to me? I didn't know that person at
5 all back then. But afterwards, I got to know that he was the only
6 person wearing a red hat.

7 Q. Did that person who used that pistol was wearing a red hat
8 indeed?

9 A. In that moment, I don't know anything, because I didn't see
10 anything. It was dark. I didn't see anything. But this is the
11 person. I know that. So I know that he did that upon me.

12 Q. Did anybody refer to, as you said, that person during the
13 beating of yours that you have just described?

14 A. No. Only this person. So I heard him while saying that, "Don't
15 beat him anymore, because he is lucky." So in that moment in time,
16 they interrupted the beating. So about the timing, about how long
17 the beating took place for, I don't know. So it was probably, two,
18 three hours, but I don't know because I was in a very dire situation.
19 I was injured.

20 Q. During that beating of yours that you have just described, did
21 the perpetrators call each others by any names?

22 A. No, they didn't.

23 Q. You said a few minutes ago that the person who was there was the
24 accused. How do you know that?

25 A. I know it for a fact. How is it that I don't know it? Because

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1 that person was the main person over there.

2 Q. How do you know that he was the main person over there?

3 A. Well, I know. I know he was the main person.

4 Q. Mr. Witness, I appreciate this answer, but the Court would like
5 to know what is the basis for stating, as you put it, "I know that he
6 was that person."

7 A. I base my sayings that the other soldiers would not do a thing
8 without the accused telling them what to do, so the accused was the
9 main person, and that's what it is. So I know this but I haven't
10 seen anything, because, like I said, it was dark, and I didn't see
11 anything, and I can't say that I did see anything.

12 Q. Did you hear, during the beating of yours, anybody giving
13 anybody else orders or directions what to do?

14 A. No, I didn't. Only this one.

15 Q. That person who put the revolver to your head, as you just told
16 us, was he also one of those participating in the beating of yours?

17 A. Well, I don't know who hit me there. I can't know. And so
18 there were four, five persons, they beat me up in all ways possible
19 however they wished. And, like I said, I fainted for a couple of
20 times, and I don't know anything else.

21 Q. Do you remember whether other people were referring in any way
22 to that person who put that revolver to your forehead?

23 A. No.

24 Q. Yes, okay. So thank you very much for those answers.

25 You told us that at some point that beating stopped and you were

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1 taken from that place. Do you remember who took you from that place?

2 A. No.

3 Q. And where were you taken from that place where you were beaten?

4 A. That night. I don't know what the time was back then. But the
5 same night. So I was sent to the place where [REDACTED] was held. So
6 this

6 is the place where I was sent.

7 The next day --

8 MR. MICHALCZUK: Your Honours, could we go back to private
9 session.

10 PRESIDING JUDGE VELDT-FOGLIA: Yes. Madam Court Officer, could
11 we please go into private session. Madam Court Officer, could we
12 please go back into private session.

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

14 THE COURT OFFICER: Your Honour, we are now in private session.

15 PRESIDING JUDGE VELDT-FOGLIA: Prosecutor, please proceed.

16 MR. MICHALCZUK: Your Honours, I would like to first request for
17 expunging the name of the person mentioned by the witness, [REDACTED]
18 from

18 the records. And pursuant to your instructions, we will send also an
19 e-mail indicating from which line of the transcript of today's
20 session should be expunged.

21 PRESIDING JUDGE VELDT-FOGLIA: Very well.

22 MR. MICHALCZUK: So let's stay in the private session for the
23 moment.

24 Q. So you were taken back to the place where you were with [REDACTED]
25 Is that what you said?

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1 A. Yes.

2 Q. And what happened then? So you are back from that beating, you
3 are back in that barn with [REDACTED] What happened then?

4 A. The next day, I don't know what time it was, but -- so we were
5 taken, both of us, myself and [REDACTED] So, again, the sack was over my

6 head, and we were sent 15, 20 metres probably. We don't exactly
7 know, because we couldn't know, but we were sent to another barn.

8 Q. Before we move there and continue with that part of the story,
9 could you tell us how you felt after the first beating when you were
10 taken to the barn where [REDACTED] How did you feel?

11 A. Well, I felt myself dead. I didn't know anything, so ...

12 Q. Okay. We might come back to it a bit later, but let's move on
13 with your story.

14 So you were taken to that place together with [REDACTED] which
15 was at

16 a distance of between 15 to 20 metres away from that first barn. Is
17 that what you said?

18 A. Yes.

19 Q. So when you entered that place, what did you see?

20 A. So we were put inside immediately, and we found two or three
21 other people -- I am not sure. But we found two or three people in
22 the other barn.

23 Q. Did you recognise those people who were there?

24 A. No, I didn't. No.

25 Q. Did those persons introduce themselves to you in any way?

A. No, they didn't. Because, like I said, I mean, we didn't dare

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1 to even look at one another, so we couldn't speak. The guard was at
2 the door, and they could have killed us right away if we spoke. We
3 didn't dare to speak, no.

4 Q. So you were placed in that second place with [REDACTED] and those
5 three persons were also there already. Could you describe that place
6 to the Court?

7 A. It was about 15 to 20 metres away from the other barn.

8 Q. What was that place? Was it another barn, a room, a house?
9 What was it?

10 A. It was a barn where animals are kept. So it had water. There
11 was water there. And we have slept in water for 18 days.

12 Q. Did that place have any lighting, any windows?

13 A. No, no, not at all. Nothing.

14 Q. The moment you were placed there with [REDACTED] were the doors
15 locked after you?

16 A. So they opened the door -- and I don't know, because we had the
17 sacks in our heads. So they pushed that inside, they removed the
18 sack, and it's then that we saw the two other -- or two or three
19 other people. So this is how we got there.

20 Q. Do you know whether there were any guards outside of that place?

21 A. Yes, yes.

22 Q. So you said you were not allowed to talk - is that correct? - in
23 that second barn?

24 A. No.

25 Q. Did anybody tell you you were not allowed to talk, or you made

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All redactions applied are pursuant to Orders F493, F509 and CRSPD107I

1 that conclusion from some other circumstances?

2 A. No, we just were thinking about that. And there were bits and
3 pieces said by the guards as well. So they said that, "If you are
4 talking between yourselves, you will be killed immediately after
5 that." Yeah.

6 Q. Those guards, which language did they speak?

7 A. Albanian.

8 Q. Do you know how the guards were dressed?

9 A. Can you repeat the question again, please? Well, there were
10 people in uniform. There were people not wearing uniforms. I mean,
11 there were different sorts of people.

12 Q. Did you see any markings or emblems on the clothing of those
13 persons, be it uniforms or civilian clothing?

14 A. No, no.

15 Q. So you're sitting there in that second place -- excuse me, sir.

16 MR. MICHALCZUK: Excuse me, Your Honours.

17 Q. So you are there in that second place - yourself, [REDACTED]
those

18 three other persons?

19 A. Yes, yes.

20 Q. How much time did you spend there; do you remember?

21 A. I do not know. I know, though, that I have been staying there
22 for a total of 18 days. So for one night I slept in the first barn,
23 and then I was transferred to the second barn. So when I got out of
24 that place -- and, to tell you the truth, I didn't know the date or
25 the day, but I know that the date that I left the place. It was on

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1 the 18th, because it was the offensive on the 18th, and there was no
2 way out. They had to release us on the 18th.

3 Q. So you said there were five of you. Was anybody else -- apart
4 from the five, was anybody else brought there to that second place?

5 A. Yes, yes.

6 Q. Who was brought there?

7 A. So they were bringing people every night. We have been up to 17
8 people in that same room.

9 Q. Did you recognise anybody from those other people who were being
10 brought to that second place?

11 A. No, no.

12 Q. Did any of those people who were being brought tell you who they
13 were?

14 A. No, because they didn't dare talk.

15 Q. In that second place, did anything happen to you before you were
16 released, as you said, on the 18th day, the day of the offensive?

17 A. What is your question exactly? What are you thinking about?

18 Q. Did it happen that you left at some point that place but before
19 that day of 18th?

20 A. Yes.

21 Q. So what happened? Could you tell the Court.

22 A. For about six or seven days, so before the 18th day came and I
23 left, the accused took me -- so the two soldiers sent me in a room
24 upstairs. There was this room upstairs. And the accused started
25 asking questions to me. And so he asked questions like, "Who is a

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1 thief?" And I told him, "I don't know who a thief is and who is, you
2 know, dealing with robbing things." So they started to beat me. My
3 [REDACTED] because of his [REDACTED]

4 Q. You said that the accused took you. Could you tell us more
5 about it and that he was asking you those questions? Could you tell
6 us more what you remember, because it's very important.

7 A. What I recall is that I was sent upstairs in this room where
8 they used to stay, and he told me, "You have to tell us who the
9 biggest thief is. And if you do tell that to us, you will be
10 released. You'll go home." And I said, "I don't know." When I gave
11 this answer, he started beating me, and he beat me up for as long as
12 he wanted.

13 Q. How do you know it was the accused who asked you those questions
14 and who beat you?

15 A. I know. I didn't know it back then, but I got to know that he
16 was the person.

17 Q. On that occasion, how was he dressed?

18 A. He was wearing a uniform and he had a red hat. So if I see him
19 today, I would not recognise him. I would not recognise him because
20 he has no interest for me, and I hope that I never see this person in
21 my entire life.

22 Q. So you told us that he had that red hat. Did he also wear a
23 uniform?

24 A. Yes, the KLA uniform.

25 Q. Do you remember whether there were any markings of his uniform?

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All redactions applied are pursuant to Orders F493, F509 and CRSPD107I

1 A. Yes, there was the KLA insignia. It was -- yeah, the KLA
2 insignia.

3 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, it's almost time
4 for the first break. Do you want to complete this line of
5 questioning for a few minutes, and how long you think you will be
6 needing in that case?

7 MR. MICHALCZUK: Your Honours, I'm going to ask just one
8 question, we can go for a break, and then I'll continue after the
9 break.

10 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

11 MR. MICHALCZUK: I would like to simply finish the line of
12 questioning about the way that the person who was beating the witness
13 was dressed.

14 Q. So you told us that the person who asked you those questions
15 about the thieves and who beat you had a red hat. Could you describe
16 this red hat?

17 A. So it was like the other hats, but it was red. I think that was
18 for the fact for making him distinct from the others. He was the
19 only one to have a red hat. Nobody else had a red hat.

20 Q. Is there any Albanian word for that type of red hat that that
21 person was wearing?

22 A. I didn't understand you.

23 Q. Apart from the word "hat," is there any other word in Albanian
24 who could describe that red hat better?

25 A. No, I don't know of any other word for it.

Witness: W03593 (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 422

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1 MR. MICHALCZUK: Your Honours, for now I don't have questions.

2 We will resume with other questions after the break. Thank you.

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

4 I, therefore, ask the Court Usher to assist the witness in
5 exiting the courtroom.

6 [The witness stands down]

7 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, we can go
8 back into public session, and then I can tell, also for the public,
9 what we are doing.

10 [Open session]

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

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

14 It's now time for the first break. We will resume in
15 30 minutes.

16 The hearing is adjourned.

17 --- Recess taken at 11.04 a.m.

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

19 MR. VON BONE: Your Honour, may I briefly discuss a little
20 point?

21 PRESIDING JUDGE VELDT-FOGLIA: Give me, Mr. von Bone, please,
22 give me time to arrange for one thing --

23 MR. VON BONE: Sure.

24 PRESIDING JUDGE VELDT-FOGLIA: -- and then we will continue.

25 Welcome back after the break. Let me see.

Witness: W03593 (Open Session)

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Procedural Matters

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

1 MR. VON BONE: Put the volume up, the volume.

2 PRESIDING JUDGE VELDT-FOGLIA: Before we resume with the
3 testimony of the witness, Mr. von Bone, Defence counsel, you have
4 asked the floor.

5 MR. VON BONE: Yes, it's just an organisational matter,
6 Your Honour. Obviously, the situation in court is different than the
7 situation in the detention centre, but my client is a very heavy
8 smoker and that's why a long day like this will have difficulties
9 with that. So the question is whether there would be any place that
10 could be a smoking room or a smoking place, at least? It does not
11 have to be resolved at this moment, obviously. But if we can take a
12 look into the matter, that will be appreciated.

13 PRESIDING JUDGE VELDT-FOGLIA: We have taken notice of it. And,
14 as you said, it cannot be resolved right now, but we will get back to
15 that.

16 MR. VON BONE: Thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Good.

18 We resume with the testimony of Witness W03593.

19 Court Usher, could you please bring the witness back to the
20 courtroom.

21 [The witness takes the stand]

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

23 THE WITNESS: [Interpretation] Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: I have a look around. Are there
25 any changes in the composition of the teams? I see heads saying no,

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1 no, and in this part?

2 MR. VON BONE: No, Your Honour.

3 PRESIDING JUDGE VELDT-FOGLIA: No. Thank you.

4 Yes, Mr. Witness, I would like to ask you, kindly remind you
5 that before you start answering your question, the question that has
6 been posed to you, to count in your head till five, because that's
7 important for us to be able to note and to translate what you're
8 saying. Yes, I see you holding up your thumb as a sign of okay.

9 THE WITNESS: Okay.

10 PRESIDING JUDGE VELDT-FOGLIA: That's good. Thank you.

11 I now give the floor to the SPO to continue with its question.
12 Please proceed.

13 MR. MICHALCZUK: Thank you very much, Your Honour. Are we right
14 now in the open or private session? Because we -- if it's open, I
15 would like to kindly ask to move into private session.

16 PRESIDING JUDGE VELDT-FOGLIA: Thank you. We will -- by default
17 it's open. So every time you want me to go into private session --
18 so now we are in open session, and I would kindly ask the Court
19 Officer, who is already on the phone, to go into private session,
20 please.

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

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

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

25 Mr. Prosecutor, you have the floor.

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1 MR. MICHALCZUK: Thank you, Your Honour.

2 Q. Mr. Witness, we are now in private session, which means that
3 whatever you say cannot be heard by the public at large. Do you
4 understand that?

5 A. No, repeat it, please.

6 Q. We are now in the private session, which simply means that
7 whatever you say in reply to my questions will not be heard or seen
8 by anybody outside of this courtroom. Do you understand that?

9 A. Yes.

10 Q. I would like to make sure that you feel comfortable and you feel
11 safe while answering my questions. Do you feel comfortable and safe?

12 A. Yes.

13 Q. Before the break, you told us about a certain incident in Zllash
14 in which, as you put it, the accused beat you; correct?

15 A. Yes.

16 Q. I would like to get a few more details about that occasion. My
17 first question would be: Do you remember how the accused beat you?

18 A. I think I already spoke about this.

19 Q. Here on the record I have the line that [REDACTED]
20 [REDACTED] upon you. This is the line that I have and I
21 would like to explore with you more the way you were being beaten on
22 that occasion, more precisely.

23 A. That day I went to the second floor to the [REDACTED] and
24 there he hit me with a [REDACTED] whatever it's called, [REDACTED]
25 [REDACTED]

1 [REDACTED]

2 Q. Were you hit once or more than once?

3 A. About 200 times.

4 Q. Were you hit in the same hand or in other parts of your body?

5 A. In other parts of my body as well.

6 Q. Was that person whom you mentioned as the accused, the person in
7 the red hat, as you put it, and in the uniform, was he beating you on
8 his own or were also the others beating you?

9 A. Earlier I was beaten by others, and he was amongst them as well.
10 But upstairs, I was beaten solely by him.

11 Q. So just to clarify. So on that second occasion --

12 THE INTERPRETER: Microphone, please.

13 MR. MICHALCZUK: Excuse me, Your Honours, again.

14 Q. So on that second occasion he beat you with the, as you said,
15 [REDACTED] several times all over your body and it was just him.

16 Is that what you are saying? Just to recap what you said.

17 A. Yes, it was just him on the second occasion.

18 Q. During that second occasion, did anyone mention his name, a
19 nickname?

20 A. There? No.

21 Q. Did anyone refer to him by his name or nickname in any other
22 occasion?

23 A. No.

24 Q. So let's cast your mind back to that moment when you are being
25 beaten. You are, as you said, upstairs. My question to you is this:

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1 So you are being beaten. Did anybody refer to anybody there as a
2 commander?

3 A. I couldn't hear. I wasn't able to hear.

4 Q. I'm asking this question because a few minutes ago you yourself
5 used the word [REDACTED] as far as I recall.

6 So my question is in relation to that: Did anybody during that time,
7 that beating, maybe the previous beating, or any other time in Zllash
8 refer to anybody as a commander?

9 A. No, only that later I found out, I was told by others, that the
10 accused was at the location where I was kept and that he was the main
11 commander there.

12 Q. Who told you that he was the main -- that the accused was the
13 main commander there where you were kept?

14 A. Well, I spoke to people, and now I know that it was him.

15 Q. You have just said "I spoke to people." What people did you
16 speak to find out that he was, indeed, the commander there?

17 A. I spoke to different people who were in the KLA who knew me and
18 who told me that he was the main commander in that area.

19 Q. Who were those people from the KLA who told you that the accused
20 was the commander in that area? Who told you that of those KLA
21 people?

22 A. There were many of them. I spoke to many of them, and many of
23 them knew this fact.

24 Q. Do you remember any names, in particular, of those KLA members
25 who told you about it?

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

1 A. No.

2 Q. Were those KLA members from the region where you lived?

3 A. Yes.

4 Q. When did they tell you about the fact that the accused was the
5 commander in that place in Zllash? Was it after your release, much
6 later? Do you remember when you first heard about the accused being
7 the commander in Zllash?

8 A. I learned about this about a month or so after I was released.
9 That's when I heard that he was the commander.

10 Q. At any point --

11 THE INTERPRETER: Microphone, please.

12 MR. MICHALCZUK: Excuse me.

13 Q. At any point during your stay in Zllash, did he, perhaps,
14 introduce himself to you in any way?

15 A. No.

16 Q. A few minutes ago, you told us that he took part in that beating
17 with the [REDACTED], beating of yours. And you also told us that
18 during the beating of yours, that earlier he was also amongst them.
19 Could you tell us more about it?

20 A. I was taken by two other soldiers from that room, and they took
21 me upstairs to a room. The accused was there. And as I explained
22 earlier, I was asked who the main thieves were. And when I replied
23 that I didn't know who the thieves were, I was beaten.

24 Q. Mr. Witness, I apologise, because most likely it's my fault.

25 I'm not making myself clear. So let me ask this question again. A

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1 few minutes ago, you told us also that that person who beat you with
2 the [REDACTED], he also earlier was among them who beat you.

3 Are you referring to the situation in which you were first
4 beaten up, the one that you described to us earlier today?

5 A. Yes.

6 Q. Mr. Witness, how do you know that he was also participating --
7 I'm sorry, I take it back. How do you know, Mr. Witness, that he was
8 also present during the first beating of yours?

9 A. I know because while I was being beaten, I looked up once. I
10 saw a person, and that was the accused, and he had the red hat.
11 Nobody else had a red hat on their heads. So based on this fact,
12 when I was beaten the second time round, I knew that it was him.

13 Q. You said at some point "commander," referring to that person.
14 Commander is usually a person who is associated in being in charge.
15 Did you witness any moments or situations that made you believe that
16 that person in the red cap was in charge?

17 A. I never saw him again. Never.

18 Q. So let me rephrase the question: Did you hear at any point that
19 person in the red cap giving anybody orders at any point during the
20 beating of yours, the first beating, during the second beating, or at
21 any other point when you were in Zllash?

22 A. Of course, everywhere others follow what they're told by the
23 commander. I'm speaking now about the first occasion. I wasn't able
24 to hear, because I was being hit simultaneously by five, six persons.
25 I wasn't even aware what was happening to me. And on the second

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1 location, I was beaten by his very hand with the [REDACTED]

2 Q. So just to clarify the first beating of yours, when those people
3 were participating. Did you hear any orders being given by anybody?
4 Did you hear anything to that effect?

5 A. No.

6 Q. Did you perhaps see or did you notice whether any of the persons
7 was making any gestures directing the others to beat you?

8 A. I don't remember.

9 Q. Let's move on to this second beating, the one with the [REDACTED]
10 [REDACTED] Did you hear at any point any orders, instructions given
by

11 that person in the red cap with the [REDACTED] beating you giving
12 anybody orders? Did you hear anything like this?

13 A. No.

14 Q. I asked you that question before, but I need to ask it again.

15 MR. MICHALCZUK: And my apologies, Your Honours, for asking
16 that.

17 Q. Did you hear in Zllash -- irrespective of whether it was first
18 beating, second beating, or at any point in time there. Did you hear
19 that anybody was referring to that person, whom you described as a
20 commander, by name or nickname?

21 A. I remember a person whom they called [REDACTED]. That's all
22 I can remember. I heard others address him by that name.

23 Q. Was it during the first beating of yours or the second beating
24 of yours or at any other point in Zllash?

25 A. During the first beating. Not the second beating.

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1 Q. Do you remember whether he was one of the people participating
2 in that beating? Do you remember that?

3 A. He was there too, and he beat me too. And as I said, I heard
4 others call him [REDACTED].

5 Q. Did all the people -- I am talking about the first beating of
6 yours. Did all the people present in that place, did they all
7 participate in the beating of yours?

8 A. You are asking again. As I said, I don't even know how many of
9 them were there. It was five, six of them, and they were all hitting
10 me, and I'm actually surprised how I am still alive.

11 Q. You said that the name [REDACTED] was mentioned. In which
context,

12 if you remember, was that name mentioned?

13 A. While I was being beaten, "Hit him, [REDACTED]." In that sense.

14 Q. Do you know who was saying that, "Hit him, [REDACTED]"

15 A. No, I don't know. It was dark when I was beaten. I couldn't
16 hear. And as I said, I fainted several times. I was badly beaten.

17 Q. And if somebody was saying, "Hit him, [REDACTED]," do you know
18 whether [REDACTED] was following that; namely, hitting you?

19 A. Immediately.

20 Q. Did it sound like an order, like an instruction to [REDACTED] to
do

21 it?

22 A. Well, I guess, yes. Somebody was telling him "Hit him," "Stop."

23 Q. Apart from the name [REDACTED], during that first beating, did you
24 hear any other name?

25 A. No.

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

1 THE INTERPRETER: Microphone, please.

2 MR. MICHALCZUK:

3 Q. Today before you said that, also during that first beating of
4 yours, that person, as you said, the accused, took part in that
5 beating. Any other observations why it was him who was indeed there
6 taking part in that beating? Like, reasons why you think that he was
7 there.

8 A. I would see him every now and then with the red hat, as I
9 mentioned. And I assumed that he was the commander, that he was
10 giving the orders.

11 Q. But did you actually see him or hear him giving orders? For
12 example, you mentioned that [REDACTED], that, in your opinion, somebody
13 was telling [REDACTED] "Hit him" or "Stop." Did you hear that person
14 in
15 the red cap giving those orders to [REDACTED] or [REDACTED]?

16 A. No, I can't say who was saying those words. I just heard words.

17 Q. Mr. Witness, are you having difficulties in mentioning names in
18 this court?

19 A. I don't know. That's why I'm saying no. And I can't say yes
20 for something that I'm not sure of. I am here to tell the truth.

21 Q. Mr. Witness, do you remember giving a statement to the
22 Prosecutor of the Specialist Prosecutor's Office in [REDACTED]?

23 A. Yes, I do.

24 Q. In that statement, did you tell the Prosecutor the truth about
25 what happened to you in Zllash in 1999, April?

A. I think so.

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

1 Q. Did you describe, in that statement, the events that occurred to
2 you to the best of your knowledge and belief?

3 A. I think so.

4 Q. Did you give that statement voluntarily without any pressure,
5 thread, or coercion?

6 A. Yes.

7 Q. Did you give that statement without any promises or guarantees
8 in return for providing that statement?

9 A. No.

10 Q. What do you mean, "no"?

11 A. Can you please repeat the question again? I didn't understand.

12 Q. So you gave the statement at that time that you have just told
13 us that you did. So were any promises or guarantees given to you in
14 return for that statement?

15 A. No, nothing.

16 Q. Could you confirm that you had no objections to the manner or
17 process by which that statement was taken?

18 A. No, I have no objection. Nothing.

19 Q. I'm referring to that statement, because in that statement you,
20 indeed, mentioned on several occasions the name of that person, that
21 commander, that person in red cap in uniform and with KLA markings
22 who took part in the beating of yours with the [REDACTED], for
23 example. Do you confirm that you mentioned that name in the
24 statement to the Prosecutor at that time?

25 A. I have forgotten. I have given too many statements, and they

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1 have been confused to me.

2 Q. Yes, but do you recall giving a statement of that -- in which
3 you said the name of that person to the Prosecutor?

4 A. Yes.

5 Q. What name did you give to the Prosecutor?

6 A. I don't mention his name.

7 Q. Did you tell the Prosecutor the nickname of that person?

8 A. Yes.

9 Q. What nickname was it that you gave to the Prosecutor?

10 A. Well, this is the KLA. The marking of the KLA.

11 Q. My question deals with the person in the red cap in uniform who
12 hit you on multiple occasions with the [REDACTED]. Did you tell
13 the Prosecutor his nickname?

14 A. I have forgotten. So it might be that or not. I don't know.

15 MR. MICHALCZUK: Your Honours, I would like to --

16 THE INTERPRETER: Microphone, please.

17 MR. MICHALCZUK: My apologies, Your Honour.

18 Your Honour, I would like to refer the witness -- because he
19 might, indeed, not remember it or he's not giving the name for other
20 reasons. I would like to refer him to his prior statement. I'm just
21 going to maybe quote a very short passage first in which that
22 nickname is mentioned, indeed.

23 Q. So I'm talking about the statement given before the Specialist
24 Prosecutor's Office, and this is the interview number 061015-TR-ET
25 Part 2, Revised. And I'm referring especially to page 26 of that

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1 statement --

2 PRESIDING JUDGE VELDT-FOGLIA: Which redaction? That is
3 redaction 3?

4 MR. MICHALCZUK: RED3. Yes, this is the one, Your Honours.
5 This is the one. And I'm referring again to page 26. On that page,
6 I would like to start with the question of the Prosecutor, which
7 starts from line 9, and then a very short answer of the witness.
8 Q. Mr. Witness, please listen carefully first. The Prosecutor
9 asked you the following question:

10 "And during this time, did any of other detainees say -- did you
11 hear anyone say or describe the name or nicknames of any of the KLA
12 just among themselves? Did you hear people mention that something
13 had happened to this person or that person?"

14 And then your answer is:

15 "I told you earlier that I've heard that I've heard about this
16 person who feeds me, [REDACTED]. I've heard [REDACTED]. I haven't
17 heard
18 anyone else. I don't know anyone else."

19 So after having heard your answer to the Prosecutor's question,
20 do you confirm that you indeed said what I have just read back to
21 you?

22 A. Yes.

23 Q. To be clear, did you hear the name [REDACTED] while you were in
24 Zllash
25 in April 1999?

A. No.

Q. This passage suggests that, indeed, you heard the name
[REDACTED], and

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1 you told us a few minutes before that you gave that statement to the
2 Prosecutor and that statement was true, was voluntary, and you said
3 everything that was correct to the best of your knowledge and belief.

4 So my question again to you is: Did you hear in Zllash somebody
5 mentioning that person by the name or nickname of [REDACTED]?

6 A. No, because I've seen this person two times altogether; so the
7 first time that he beat me up and the other time, and I've never seen
8 him again in my life.

9 Q. First of all, I would like to remind you that we are in private
10 session. So whatever you say will not be divulged to the public. So
11 please feel comfortable and free while giving your answers.

12 My question didn't deal with him being present or not present,
13 but my question deals with the fact whether you heard his name or
14 nickname, [REDACTED], while you were being in Zllash in April 1999?

15 A. No, because I didn't have any dealings with him.

16 MR. MICHALCZUK: Your Honours, I need just another second to
17 find another passage, please.

18 Your Honours, I would like to read to the witness another
19 passage from the same statement, from the same part, Part 2, Revised,
20 and this is on page -- it starts with a question on page 28 from
21 line 22 and continues, very briefly, on the second page.

22 PRESIDING JUDGE VELDT-FOGLIA: Could you repeat the page number?

23 MR. MICHALCZUK: Of course, Your Honours. Page 28 of the same
24 part, Part 2, and it starts from line 22 and continues on the next
25 page, page 29.

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1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 MR. MICHALCZUK:

3 Q. Mr. Witness, listen carefully, first, to the question of the
4 Prosecutor:

5 "Right. But was this person on that second occasion, was this
6 person the same person as on the first time, the person who was
7 wearing the red military hat or someone else?"

8 Your answer is:

9 "Yes, that person, [REDACTED]. He was the person that put the
10 revolver there. It was that person."

11 And then the Prosecutor asks you:

12 "Right. And at any stage, did you hear the other KLA calling
13 this person by his name or by any name at all?"

14 And your answer is:

15 "Yes. I've heard one once. I remember one person saying once,
16 Here, here, here, [REDACTED]." And I heard that."

17 And then there is a next question of the Prosecutor to you:

18 "But you heard one referred to him as [REDACTED]?"

19 And your answer is:

20 "When I entered the room, [REDACTED], asked him what to do.
21 So I knew that this was [REDACTED]."

22 My question to you, Mr. Witness, would be: Is that true what
23 you stated in that statement to the Prosecutor in [REDACTED]?

24 A. Yes.

25 Q. So you indeed heard somebody mention the name of [REDACTED]; is
that

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1 correct?

2 A. Of course, yes.

3 Q. Thank you very much. Do you remember whether it was on the
4 first occasion during the first beating of yours or the second
5 beating? Do you remember that?

6 A. I can remember both, the first one and the second one.

7 Q. Now just one clarifying question and we'll move on. My question
8 relates to somebody calling [REDACTED], by this nickname, [REDACTED].
Did you
9 hear somebody calling [REDACTED] during the first beating of yours or
10 during the second beating of yours?

11 A. I do not recall.

12 Q. So let's come back to the end of this second beating. You told
13 us that you were beaten on several parts of your body by -- with a
14 [REDACTED] How did that beating end?

15 A. I was beaten up. I don't know for how long. Probably for one
16 hour or half an hour. And then two people were ordered to send me
17 again to the room.

18 Q. You said that you were asked a question or questions that
19 related to the fact that you might know some thieves. Do you
20 remember any other questions asked by that person to you?

21 A. He didn't say anything else. He just asked me on whether I knew
22 some thieves, "So you either tell us or otherwise we would kill you.
23 If you tell us, we will send you home." This is what he told me.

24 Q. After having received that second beating, were you returned to
25 that same place from which you had been taken before?

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1 A. Yes.

2 Q. After that second beating, do you remember how many days did you
3 remain in that place before you were released?

4 A. I do not remember exactly. It's about seven or eight days.

5 Q. You told us that that beating with the [REDACTED] occurred on
6 the upper floor; is that what you said?

7 A. Yes.

8 Q. Apart from you, was anybody else being taken from that place
9 where you were held to the upper floor?

10 A. I do not know. I don't know where they sent them.

11 Q. Did it happen that people who were with you in that barn on the
12 lower floor, did it ever happen that they were taken somewhere from
13 that barn?

14 A. Yes.

15 Q. How was that happening? Was somebody coming to take them from
16 there?

17 A. Yes, two soldiers would come, they took them, but I don't know
18 where they were sent because, like I said, we could not speak between
19 us.

20 Q. You said that there were several people with you before you
21 mentioned the two of you - yourself and [REDACTED] two other persons
22 were

there, and some other people were added to that group; correct?

23 A. So there were others joining us as well. So towards the end, we
24 were in total about 17 persons.

25 Q. You said that people were being taken from that place on the

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1 lower floor. Were all these persons who were taken who were with
2 you?

3 A. I do not remember on whether everybody was taken, but most of
4 them were taken. They sent them somewhere. I don't know where. And
5 they would be brought back again.

6 Q. When they are brought back again, did they look the same as
7 before they were taken?

8 A. No, every time they would come beaten up.

9 Q. How do you know that they were beaten up? Did you see that?
10 Did you hear that?

11 A. Well, you can figure out someone that has been beaten up. I
12 mean, that's noticeable. There are marks in the face and it's
13 visible.

14 Q. So did you see the marks on the bodies of those who were first
15 taken out and then brought back?

16 A. Yes.

17 Q. Could you tell the Court what marks did you see on those people
18 who were taken and then brought back.

19 A. I could see their faces. I mean, they were hit in the face.
20 About the body, I didn't see them in the body. But about the face, I
21 could see their faces, and they were hit in the face.

22 Q. So what did you see on their faces? Could you be more precise?
23 What signs of beating did you see on their faces?

24 A. So if you're hit here, I mean, that's visible. It gets bruised.
25 So it's visible.

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1 Q. Those persons who were taken and then brought back and, as you
2 said, they had bruises on their faces, did they tell you what was
3 happening to them while outside?

4 A. No, no.

5 Q. Did any mistreatment of anybody in that place, the lower place,
6 was happening in your presence?

7 A. Yes.

8 Q. Could you please tell the Court what you saw? What kind of
9 mistreatment you saw?

10 A. It happened there. For instance, so at about 2.00 or 3.00 in
11 the morning, I don't exactly know what the time was, but it was about
12 that hours -- those hours. I saw two soldiers enter the room, and
13 they slapped us and kicked us, all of us, the 17 people that were
14 there in that room. So that is something that happened on every
15 night.

16 Q. Did you recognise those soldiers? Do you know who they were?

17 A. No, none.

18 Q. But were they the same soldiers entering that lower place
19 beating you, or were they different soldiers coming two by two?

20 A. No, they would be interchangeable. Sometimes were a pair of
21 persons and some other times there were different persons. I didn't
22 know any of them, though.

23 Q. How were they dressed, these persons, do you remember, entering
24 that room to mistreat you?

25 A. Yes.

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1 Q. So how were they dressed?

2 A. They were wearing -- some of them were wearing uniforms and some
3 of them were in civilian clothing.

4 Q. Did they have any markings on their uniforms or on clothings, as
5 you described, which were not uniforms?

6 A. Some of them, yes; some of them, no. But it's not that I was
7 interested to see on whether they had on any markings.

8 Q. Some of them those who had those markings, what were the
9 markings?

10 A. The markings of the KLA.

11 Q. Those persons entering that lower building to mistreat you, were
12 they saying something to you?

13 A. They would swear at us.

14 Q. Did you hear any accusations being thrown at you? Not only at
15 you personally, but at anybody else in that group.

16 A. No.

17 Q. Do you recall how many times did those beatings in that lower
18 building take part during the time you were in Zllash?

19 A. To tell you the truth, it happened three times for one night.
20 Once it happened twice. So every night we would be maltreated alike.
21 So -- and this was true for everyone there.

22 Q. Was anybody -- from that group of people being maltreated, was
23 anybody maltreated differently than the others?

24 A. No. There inside we were maltreated the same.

25 Q. Were any instruments used in the maltreatment of yours in that

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1 lower room?

2 A. No.

3 Q. My question does not relate only to you personally. My question
4 relates to anybody in that group. So I put it again: Did anyone
5 from that group was mistreated with the use of any instruments?

6 A. No. There, inside the room? No.

7 Q. Do you know whether any instruments were used to mistreat any of
8 those persons while they were taken outside of that lower place?

9 A. No. I don't know what they've done outside.

10 Q. Did you see --

11 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, Mr. Prosecutor. Just
12 to double-check: We are still in private session, and I just wanted
13 to double-check with you that that's what -- that is the way we
14 should proceed?

15 MR. MICHALCZUK: Your Honours, give me a second to consult with
16 my colleagues. The reason why I was asking my questions in the
17 private session was because of the well-being of the witness and his
18 condition. I wanted just --

19 PRESIDING JUDGE VELDT-FOGLIA: No, I saw that.

20 MR. MICHALCZUK: I just wanted him to feel secure.

21 PRESIDING JUDGE VELDT-FOGLIA: I was just trying to balance how
22 much we should do in private and not in a -- I did understand your
23 approach. But it's a double-check. I leave it for now for your
24 consideration, but I just wanted to share it with you that I'm giving
25 it a thought too.

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1 MR. MICHALCZUK: I understand, Your Honour. Just if you could
2 please give me a second for a short consultation.

3 [Specialist Prosecutor confers]

4 MR. MICHALCZUK: Your Honours, I would request to remain in a
5 private session just for a few minutes because I would like to ask
6 the witness a couple of questions that might elicit from him some
7 answers about some names that should still remain confidential. Once
8 I'm done, I'll ask Your Honours to move back to the open session.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay, thank you. Please proceed.

10 MR. MICHALCZUK:

11 Q. Mr. Witness, you told me -- you told the Court and all of us
12 that you told truth in the statement that you had given to the
13 Prosecutor, and I quoted already a few lines from that statement. I
14 would like to ask you a question that deals with the identities of
15 some of the people that were together with you in that lower place
16 that you mentioned.

17 Did you tell the Prosecutor back in [REDACTED] some names of
18 those who were kept with you in that lower place, lower barn?

19 A. Yes.

20 Q. Do you remember what names you gave the Prosecutors? And I
21 remind you again that we are in the private session, so nothing you
22 will say will leave this courtroom.

23 A. Well, I knew the names of two persons. One of them was [REDACTED]
24 And the other one was called [REDACTED] Whoever came in from the
25 soldiers would say to him, "Hey, [REDACTED] what's up?" And then they

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1 would hit him and do different things to him. So these are the two
2 names that I know.

3 Q. So you said that they would hit him and do other things to him.
4 What other things you are talking about that they were doing to
5 [REDACTED]

6 A. You are asking me about names of persons that I saw. So these
7 two are the persons that I know by name: [REDACTED] I don't
8 know, the others, what their names were.

9 Q. No, I understand. But you said that they were entering that
10 place. They were mistreating him. And you also said that they were
11 doing some other things to him. What other things they were doing to
12 him?

13 A. Those two were the ones who were mistreated the most, to tell
14 you the truth.

15 Q. Okay, we might come back to this a little bit later.

16 So let's focus on this person, [REDACTED] Do you know where he
17 was from?

18 A. I do know. He was [REDACTED]

19 Q. Do you remember, more or less, how old he was?

20 A. He was young. [REDACTED] I don't know.

21 Q. Did he tell you -- and did he tell any of you -- in particular,
22 did he tell you anything about himself, anything more other than he
23 was from [REDACTED]

24 A. No.

25 Q. And those who were entering that lower part, that barn to

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1 mistreat him, were they telling anything to him, to that [REDACTED]

2 A. As I said, we didn't dare talk to each other. We didn't say --
3 dare say a word.

4 MR. MICHALCZUK: Your Honours, I would like to show --

5 THE INTERPRETER: Microphone, please.

6 MR. MICHALCZUK: Your Honours, I would like to show the witness
7 a document, and the ERN number of this document would be
8 [REDACTED]

9 [REDACTED]

10 please.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 Madam Court Officer, could you please proceed.

13 MR. MICHALCZUK: Your Honours, the full ERN number, because -- I
14 apologise for that. I just noted the particular page, but it was
15 released via Legal Workflow under the longer range, one number more.
16 So it goes from [REDACTED]

17 So this is a two-pager, this document.

18 PRESIDING JUDGE VELDT-FOGLIA: So 6 and 7 at the end.

19 MR. MICHALCZUK: 6 and 7 at the end, yes, Your Honours.

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

21 MR. MICHALCZUK: RED, also. RED.

22 PRESIDING JUDGE VELDT-FOGLIA: I have it here, but I cannot load
23 it, I think, from here.

24 MR. MICHALCZUK: It's also on my screen, so I believe -- I think
25 everybody in the courtroom might have this, this document.

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

2 MR. MICHALCZUK:

3 Q. Mr. Witness, can you see the photograph in front of you?

4 A. To tell you the truth, I don't remember this person.

5 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, Mr. Witness. We are
6 having a technical rearrangement.

7 Yes, thank you. Please proceed.

8 MR. MICHALCZUK:

9 Q. So what is your answer, Witness? Could you please repeat,
10 because I did not hear.

11 A. I don't remember this person. I can't say I recognise him.

12 MR. MICHALCZUK: Could I ask Madam Court Officer to maybe
13 enlarge the photograph. It's a small one here. So maybe the bigger
14 version will assist the witness.

15 Q. So do you recognise that person now? Does it jog your memory
16 now?

17 A. No, really.

18 Q. Mr. Witness, in [REDACTED] during your interview as a witness with
19 UNMIK, you were shown the photograph of a man. Do you remember that
20 fact, that you were shown a photograph?

21 A. I know that I was shown a photograph, but at this moment I swear
22 I can't recognise this person.

23 MR. MICHALCZUK: Your Honours, I would like to show the witness
24 another document, which is [REDACTED] But it's, again, a
25 bigger range. Yes. The range -- the range would be [REDACTED] and

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1 it ends with [REDACTED]

2 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor?

3 MR. MICHALCZUK: Yes.

4 PRESIDING JUDGE VELDT-FOGLIA: I saw Mr. Mustafa raise his hand,
5 and I just want to be sure that everything is well with regard to the
6 showing of the evidence. If it's something else, we will discuss it
7 afterwards. But if it has something to do with the evidence, then we
8 must help you.

9 Mr. Mustafa.

10 THE ACCUSED: [Interpretation] Yes, Your Honour. I'm not able to
11 see the documents that are being presented by the Prosecutor. I
12 can't see them on my screen.

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

14 MR. VON BONE: Your Honour, one more thing. This document,
15 I'm --

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

17 MR. VON BONE: I'm sorry.

18 PRESIDING JUDGE VELDT-FOGLIA: I will -- want first --

19 MR. VON BONE: Yes, okay.

20 PRESIDING JUDGE VELDT-FOGLIA: -- to finish with Mr. Mustafa --

21 MR. VON BONE: Yes.

22 PRESIDING JUDGE VELDT-FOGLIA: -- to ensure myself that he is
23 doing fine with regard to being able to see the evidence. And then,
24 of course, we will ...

25 Mr. Mustafa, are you now able to see the material shown by the

Witness: W03593 (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 449

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1 Specialist Prosecutor's Office?

2 THE ACCUSED: [Interpretation] No. Now I see them coming up.

3 PRESIDING JUDGE VELDT-FOGLIA: Okay.

4 Mr. Mustafa, at the moment we have not received yet the
5 instructions which document to put on the screen. So as soon as that
6 will be done, it should also appear on your screen.

7 And when the Prosecutor has finished his line of questioning
8 with regard to the document he will be showing to us now, I would
9 like to go back to the picture you showed before because Mr. Mustafa
10 has not seen that one. So I would like for him to be able to see
11 that one too, but then so we have to go back a moment.

12 So, yes? Okay.

13 THE ACCUSED: [Interpretation] Thank you, Your Honour.

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, please, you have
15 the floor.

16 MR. VON BONE: Yes, just a brief question, Your Honour. We have
17 received the list of materials for direct examination. And is it
18 correct that the document that you are about to show, is that under
19 tab 1?

20 PRESIDING JUDGE VELDT-FOGLIA: I should ask the question to the
21 Specialist Prosecutor.

22 MR. VON BONE: Because --

23 MR. MICHALCZUK: It is tab 1, indeed.

24 MR. VON BONE: Yes. So -- and the previous document, what would
25 that tab be? Because that might help us, actually, easier.

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1 MR. MICHALCZUK: It was -- it is -- it was tab 15. But we
2 will --

3 MR. VON BONE: Thank you very much.

4 MR. MICHALCZUK: -- come back to it later on.

5 MR. VON BONE: Yes, that's all I wanted to know. Thank you.

6 PRESIDING JUDGE VELDT-FOGLIA: Yes? Okay. If this is all
7 clarified, Mr. Prosecutor, you may proceed.

8 MR. MICHALCZUK: Your Honours, I would like to refer the witness
9 to the page [REDACTED] first.

10 Q. Mr. Witness, can you see that document, that photograph?

11 A. Yes.

12 Q. Do you recognise the signature on this page? Whose signature is
13 it?

14 A. Mine.

15 Q. Thank you very much. So --

16 THE INTERPRETER: Microphone, please.

17 MR. MICHALCZUK: Excuse me.

18 Q. So this photograph, which is of a worse, lesser quality than the
19 colourful one that we showed you before, depicts the man whom you
20 recognised. Do you remember who that photograph was depicting when
21 you put that signature on [REDACTED]?

22 A. When I gave that statement, I most probably could recognise him.
23 But now, I really can't. I don't know who this person is.

24 MR. MICHALCZUK: Your Honours, pursuant to Article 143(1) of the
25 Rules of Procedure, I would like to refresh the witness's memory and

Witness: W03593 (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 451

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1 to go back to a very short part of his statement of UNMIK from this
2 year, [REDACTED] With your permission, Your Honours, I would like to
do
3 it now.

4 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

5 MR. MICHALCZUK: I would like to refer the witness to a page of
6 this document, of the same document that we are -- at which we are
7 right now under the reference number [REDACTED] And this is
8 Albanian version of it.

9 In English, for Your Honours and for everybody who is following
10 an English script, it would be [REDACTED] These are corresponding
11 pages in Albanian and English, respectively.

12 Q. There is a question to Mr. Witness asked by UNMIK investigator,
13 after having shown him that photograph, that photograph that we have
14 spent a few minutes on. And that is a question to the witness:

15 "Do you recognise anyone in this photograph?"

16 And there is an answer:

17 "I'm 100 per cent sure that this is [REDACTED] but I don't want
to
18 be involved in any other case."

19 My question is to the witness: Do you confirm that, indeed, you
20 said to UNMIK investigators then that you recognised [REDACTED] on that
21 photograph? Do you remember it now?

22 A. At that time, I most probably recognised him. As I said, right
23 now I can't recognise him. I really don't remember. I don't know.

24 MR. MICHALCZUK: Your Honour, just a second. A consultation.

25 [Specialist Prosecutor confers]

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1 MR. MICHALCZUK: Your Honours, just I would like to have a line
2 of instruction from yourselves. Shall we tender into evidence
3 documents as we go, or shall we tender into evidence the documents
4 that we referred the witness to at the end of the session at some
5 point during the session?

6 PRESIDING JUDGE VELDT-FOGLIA: I have a preference to do it at
7 the end of the session. But at this moment in time, before you
8 proceed, there is still one photograph that the accused has not seen.

9 So before we continue, I really would like him to see that
10 specific photograph.

11 MR. MICHALCZUK: Of course, Your Honour. So let's move back and
12 let's show again to everybody in the courtroom the photograph, which
13 [REDACTED] And the photograph is on the second
14 page. So this is the one we can see.

15 Can the accused see that photograph now?

16 PRESIDING JUDGE VELDT-FOGLIA: Is this okay, Mr. Mustafa? Yes,
17 okay. Thumbs up. Okay. We can proceed.

18 MR. MICHALCZUK:

19 Q. Mr. Witness, you told us that in that second place on the lower
20 floor, as you put it, you recognised there was a person,
21 [REDACTED] And my question is: Did you tell
22 the Prosecutor that you also recognised there another person?

23 A. Yes.

24 Q. Could you please tell the Court who was that third person that
25 you recognised being there.

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1 A. [REDACTED].

2 Q. Where do you know that person from?

3 A. I saw him there. He was brought there, too. I didn't know him
4 from before.

5 Q. But what do you know about [REDACTED]? You didn't know him
6 from before, but what do you know now about him?

7 A. Nothing. I didn't know him. I didn't know who he was. I only
8 know that we spent there at least 12 or 13 days together, and we
9 slept under the same blanket.

10 Q. But you know -- but you told us that you know that person. Did
11 he introduce himself to you? Did somebody else mention his name to
12 you? Did anybody mention his name in general and this is why you
13 know it?

14 A. He told me himself.

15 Q. Do you know anything about him belonging to any political party?

16 A. I think he was LDK. He was something there.

17 Q. Mr. Witness, you told us a few minutes ago about all of you
18 being mistreated, and you described, indeed, the mistreatment. Was
19 [REDACTED] one of those also mistreated in the way that you
20 described before?

21 A. Yes, he was slapped just as I was.

22 Q. Did it ever happen that [REDACTED] was taken from that lower
23 place somewhere outside and then he returned, as you described that
24 several people were taken and returned? Was he one of them?

25 A. No, nobody took him outside.

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1 Q. Let's go back to [REDACTED], who you mentioned before, [REDACTED]
2 for a second. Was he one of those persons who were taken outside and
3 then returned, as you described before?

4 A. Yes.

5 Q. When he was returned after having been taken, how did he look?

6 A. He looked destroyed of the beatings.

7 Q. Could you tell the Court a bit more. You said he looked
8 destroyed after the beating. What did you see? Why are you saying
9 he looked destroyed? Could you please tell us more about it?

10 A. I saw his stomach area. There was a burn mark there. Whether
11 he was burned with an iron rod or something, I don't know. And I
12 don't know who inflicted that burn injury, but I know that I saw that
13 burn injury on his stomach?

14 Q. Did you see also any injuries on his face?

15 A. Yes, there were marks on his face as well and on other parts.

16 Q. The marks on his face, were there bruises? You said that some
17 of the people had bruises after coming back, so did you see bruises?
18 Are these the marks you are talking about?

19 A. Yes, bruises. There were signs of bruises.

20 Q. Did you see any blood on his body?

21 A. No. Not blood per se, but I could see that he was -- he had
22 been beaten by something all over his body.

23 Q. In that second place, in the lower place, was [REDACTED]

24 [REDACTED]

25 A. Yes.

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1 Q. [REDACTED]

2 A. [REDACTED]

3 And I used to feed him, because I really felt sorry about him. He
4 wasn't able to eat by himself.

5 Q. Why wasn't he able to eat by himself?

6 A. [REDACTED]

7 Q. Did he tell you at any point what was happening to him while he
8 was outside of that lower place?

9 A. No. He, too, could not speak, because he knew the consequences.
10 Something worse would happen.

11 MR. MICHALCZUK: Your Honours, maybe we could go back into
12 public session now.

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

14 I am also looking at the clock, and it's 1.00, so I would like
15 to go, after I have discussed something else, into the lunch break,
16 unless you would like to proceed with somehow a line of questioning
17 which you think it's important to continue at this point in time.

18 MR. MICHALCZUK: No, Your Honours. We are fine with the break,
19 and we will recommence with another line of questioning after it.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

21 Madam Court Officer, could we go into public session.

22 [Open session]

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

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

25 Mr. Witness, we are now going to have a break, and I will ask

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1 the Court Usher to assist you in exiting the courtroom, and then we
2 will see you back at half past 2.00.

3 [The witness stands down]

4 PRESIDING JUDGE VELDT-FOGLIA: Before we go into -- before we
5 have our lunch break, Mr. Mustafa, I want to get back to you. You
6 asked for the floor this morning. And the Defence was invited to
7 file a motion on this matter and has indicated that you might give an
8 unsworn statement before or during the opening statement of the
9 Defence.

10 That is not scheduled for today. However, I will allow you to
11 make a statement today at the end of the last session if you agree to
12 the following conditions: That your statement will not be longer
13 than ten minutes, that you will not repeat what you already shared in
14 the pre-trial phase in front of the Pre-Trial Judge. We have taken
15 notice of the transcripts of the hearing and that it's public,
16 accessible for everyone, and we have read it too.

17 If you agree with these conditions, I will give you the floor
18 later on.

19 THE ACCUSED: [Interpretation] That's fine, Your Honour.

20 PRESIDING JUDGE VELDT-FOGLIA: Very well.

21 Then it's time for lunch break. See you all back at 2.30.

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

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

24 [The accused not present]

25 PRESIDING JUDGE VELDT-FOGLIA: My computer is not working. It's

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1 completely black. My computer is completely black. So before we
2 proceed, we should make it work again.

3 Okay, it's working again. Thank you, Madam Court Officer. Let
4 us see.

5 Welcome back. That took a little bit more than I planned, but
6 welcome back. Before we resume with the testimony of Witness 3593,
7 there is another issue.

8 Mr. von Bone, I was informed again, like I was last Wednesday,
9 that your client does not want to attend the hearing today any
10 further. I recall the procedure under Rule 68(4) of the Rules, which
11 provides for the possibility for the accused not to appear in court.

12 Specialist Counsel, do you want to make any submissions in this
13 regard?

14 MR. VON BONE: Yes, Your Honour, indeed, he would like to not
15 further attend for today.

16 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, Mr. von Bone, I'm
17 not --

18 MR. VON BONE: My microphone?

19 PRESIDING JUDGE VELDT-FOGLIA: Yes, that's it. Please proceed.

20 MR. VON BONE: Sorry, Your Honour. Let me start again.

21 Yes, indeed, Your Honour, I would like to inform the Panel that
22 my client does not want to attend further the proceedings of today's
23 witness. He will not make any unsworn statement today or so.

24 And I was not very clear on one thing: I believe that the Panel
25 said that we would like to ask some question to the accused if the

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1 witness has completed his testimony.

2 Now, just for the sake of clarity, is that the completion of the
3 testimony after the Defence has questioned the witness, or is that
4 after the Prosecution and Victims' Counsel would have asked
5 questions?

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, I don't think I
7 understand your question very well.

8 MR. VON BONE: Okay.

9 PRESIDING JUDGE VELDT-FOGLIA: So can you rephrase it or repeat
10 it?

11 MR. VON BONE: I'll repeat it, Your Honour -- rephrase it.

12 I believe it was that Your Honour said that the Panel would like
13 to have the possibility to ask a question to Mr. Mustafa regarding
14 the testimony of a witness once that has been completed.

15 And my question is: With the completion, do you mean after when
16 the Defence has also questioned the witness, or is that after Victims
17 and Prosecution have asked their questions?

18 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. Look,
19 now we are going into -- what is it? No, no, no. We are discussing
20 two different things at the moment, or maybe they are related --

21 MR. VON BONE: [Microphone not activated]. Yes, they are
22 related. Absolutely positive, otherwise I would not ask the
23 question.

24 PRESIDING JUDGE VELDT-FOGLIA: Because we will be asking your
25 client questions of -- we will first have examination-in-chief, we

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1 will have the Victims' Counsel, then we have the cross-examination,
2 and then maybe we will have a redirect and a rejoinder. So
3 everything will be finished.

4 The Panel might be asking questions. That is how I foresee it.
5 And if that is done, then I will ask Mr. Mustafa if he could answer
6 some questions. That is how I foresee it.

7 MR. VON BONE: Thank you very much, Your Honour. It is relevant
8 because at this point Mr. Mustafa would not respond to any particular
9 question of the Panel, if that would be the case today or even
10 tomorrow. So that was the reason why I asked it.

11 And he just does not want to join for today. And if there is a
12 possibility to do that through video-link tomorrow, I think that
13 would be the preference of the accused.

14 PRESIDING JUDGE VELDT-FOGLIA: If I may repeat what you just
15 said. Your client is not going to be here this afternoon. And with
16 respect to tomorrow --

17 MR. VON BONE: Yes.

18 PRESIDING JUDGE VELDT-FOGLIA: -- you're saying that he might
19 also not appear?

20 MR. VON BONE: [Microphone not activated]. Yes, he would like
21 to attend through video. He would like to attend through video-link.

22 PRESIDING JUDGE VELDT-FOGLIA: But do I understand that that is
23 something that you would like to do -- that he would like to do every
24 day? Because there are more witnesses coming up --

25 MR. VON BONE: Yes.

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1 PRESIDING JUDGE VELDT-FOGLIA: -- of course. Please, mic.

2 MR. VON BONE: So, sorry.

3 PRESIDING JUDGE VELDT-FOGLIA: No, no, we have to get used to
4 the all of it, including myself.

5 MR. VON BONE: No, not for every day. And not for every
6 witness. There is, obviously, a range of witnesses in which I am
7 sure positive that he would attend.

8 PRESIDING JUDGE VELDT-FOGLIA: That he would attend?

9 MR. VON BONE: Yes. And today's witness is not one of those.

10 PRESIDING JUDGE VELDT-FOGLIA: Our decision after I will have
11 made a round with the other party and the Victims' Counsel will only
12 apply for today, like I said also last Wednesday. And as soon as we
13 deem it necessary, your client will have to appear. But that depends
14 on at which date we are in the proceedings.

15 And with regards to your remark that Mr. Mustafa already wants
16 to anticipate that he is not going to answer apparently any questions
17 from the Panel? Is that what I understood?

18 MR. VON BONE: That is correct.

19 PRESIDING JUDGE VELDT-FOGLIA: I will discuss that matter also
20 with him and not only through his counsel. So it's good to have it
21 on record, saying it to us. But I would like to discuss it also with
22 him.

23 MR. VON BONE: It's not a problem. It's just that I wanted to
24 know -- to make sure that today there would be no further questions
25 from the side of the Panel regarding this, and that's why I said,

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1 well, I can be sure that he will not answer any questions today. So
2 that is why I asked that.

3 PRESIDING JUDGE VELDT-FOGLIA: I understand. But would you
4 continue to make your submissions then with regard to
5 paragraph 68(4)? Because all the conditions should be met --

6 MR. VON BONE: Yes.

7 PRESIDING JUDGE VELDT-FOGLIA: -- like we discussed the other
8 day. But if you can confirm that he is required to be present and
9 that he has unequivocally and voluntarily waived his right to be
10 present, which is very important.

11 MR. VON BONE: Yes.

12 PRESIDING JUDGE VELDT-FOGLIA: Because if --

13 MR. VON BONE: That is for sure.

14 PRESIDING JUDGE VELDT-FOGLIA: That is for sure. Because if we
15 would allow for it, he could be missing part of the examination.
16 There will -- if we allow for it, there will be a video-link in the
17 Detention Unit, but he will be missing a part of it when he's being
18 transported there.

19 MR. VON BONE: It's not necessary for today, I would say. But
20 if there is a video-link situation, and that is established, then it
21 would be better to establish that video-link so that he can
22 participate through video-link. And, you know, at that time, if
23 there are any particular questions to be answered to the Panel, that
24 could be done also through the video-link.

25 Not for this particular witness, once again --

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1 PRESIDING JUDGE VELDT-FOGLIA: Okay. But in general.

2 MR. VON BONE: But for -- you know, in general I say this. But,
3 obviously, the Defence has also reviewed a little bit the witnesses,
4 and so has Mr. Mustafa himself.

5 PRESIDING JUDGE VELDT-FOGLIA: And could you give some more
6 clarification about the position of your client in this regard, this
7 yes, no - yes, no?

8 MR. VON BONE: Your Honours, I'm not completely at liberty to
9 exchange that with the Panel. But the generality is that, obviously,
10 there is witnesses that he finds more important than other witnesses.
11 Not to say that there is -- where there is particular questions to be
12 asked or something in that line.

13 And other than that -- other than that, he simply does not want
14 to attend.

15 PRESIDING JUDGE VELDT-FOGLIA: The last thing is completely
16 clear to me.

17 MR. VON BONE: Yes.

18 PRESIDING JUDGE VELDT-FOGLIA: That I see. But in order to
19 understand what you just brought up. You said some witnesses are
20 more important than others, and then you made a remark about putting
21 questions to them.

22 MR. VON BONE: Yes.

23 PRESIDING JUDGE VELDT-FOGLIA: You mean questions --

24 MR. VON BONE: No, not by Mr. Mustafa, but through the counsel.
25 I confirm about that.

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1 PRESIDING JUDGE VELDT-FOGLIA: I just don't hear it very well.

2 I think in some ways --

3 MR. VON BONE: Okay. Not by Mr. Mustafa himself --

4 PRESIDING JUDGE VELDT-FOGLIA: Yes.

5 MR. VON BONE: -- but through his counsel, that we will address
6 the witness to that particular point. And then I think the response
7 to those questions, I think, are relevant for Mr. Mustafa.

8 PRESIDING JUDGE VELDT-FOGLIA: But if the questions are put, of
9 course, through you, I don't see very well what his being or not
10 being here, in that specific case, makes a difference?

11 MR. VON BONE: In such occasion, maybe we can consult on one or
12 two issues regarding that particular witness. That is the only
13 difference.

14 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good -- not good, but this
15 is as it is. But we have not finished with all the conditions.

16 You will be present here, yes?

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

18 PRESIDING JUDGE VELDT-FOGLIA: Okay. And you will represent his
19 interests during this hearing?

20 MR. VON BONE: Absolutely.

21 PRESIDING JUDGE VELDT-FOGLIA: Okay. I ask them to you
22 because --

23 MR. VON BONE: No, of course, Your Honour. In my view I will be
24 here --

25 THE INTERPRETER: Could the speakers kindly be asked not to

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1 overlap --

2 MR. VON BONE: Oh, sorry.

3 THE INTERPRETER: -- because of the interpretation. Thank you
4 very much.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay. Did you --

6 MR. VON BONE: So the conditions, in the view of the Defence,
7 are met. And I will, of course, be here. He has unequivocally
8 waived his right to be present -- tried in his presence. And other
9 than that, I do not believe that for this particular witness there is
10 any particular presence of the accused required.

11 PRESIDING JUDGE VELDT-FOGLIA: Okay. I've heard your
12 submissions.

13 I look now at the Specialist Prosecution Office. You have the
14 floor if you want to give your views.

15 MR. MICHALCZUK: Your Honours, very, very briefly. Could we get
16 from Mr. von Bone maybe some more precise reasons why Mr. Mustafa
17 doesn't want to be here, or is it just a simple: No, I don't want to
18 attend this hearing? Does he know, perhaps, some more particular
19 reasons of his non-attendance right now?

20 This is a question for Mr. von Bone.

21 PRESIDING JUDGE VELDT-FOGLIA: I understand the question. But
22 you have not any further specific submissions other than this
23 question? I think he already gave reasons.

24 I will first give the floor to the Victims' Counsel.

25 MS. PUES: Yes, Your Honours. Very briefly, although, in

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1 principle last week I very clearly stated my preference for presence.
2 However, in this particular case, given the circumstances of the
3 witness who we are hearing today and the need for the screen that we
4 had earlier, it might, indeed, not be -- the presence might not be
5 required or might -- no, let me phrase this differently: It might
6 not be just as urgent as other times for the accused to be here.

7 What I would ask, should the Panel authorise his absence, that
8 WPSO informs the witness before re-entering about the change and the
9 absence of the accused, just so that the witness has the ability to
10 prepare himself for this.

11 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

12 Yes, I see your hand raised. Please.

13 MR. MICHALCZUK: So, I just wanted to echo what the
14 Victims' Counsel has just said. I wanted to say exactly the same.

15 Apart from that, if this is going to be a more regular practice
16 of the absence of the accused, maybe we should get from the accused
17 on the record that he understands the implications of him not being
18 present, that he's aware of his rights and obligations, and that the
19 session can continue without him, so he should probably say that so
20 that we have it on the record. Because from what you can see, it
21 might at some point become a regular practice in relation to this
22 particular accused.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

24 MR. MICHALCZUK: Thank you, Your Honour.

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. von Bone, second round to --

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1 MR. VON BONE: I think I answered the questions already in the
2 first round. And other than that, I think that participation through
3 video-link is a regular means for each of the participants in the
4 trial, so including the accused. And, therefore, participation is
5 not necessarily that he is not participating when he is through a
6 video-link appearing.

7 PRESIDING JUDGE VELDT-FOGLIA: Okay, good. Is this what you
8 want to say about it?

9 MR. VON BONE: Yes. Yes, Your Honour.

10 MR. MICHALCZUK: No further submissions, Your Honour, on the
11 part of the Prosecution.

12 PRESIDING JUDGE VELDT-FOGLIA: Nothing to add by the SPO and by
13 the Victims' Counsel. Good.

14 I will refer with the colleagues, and we won't be doing that
15 here in the courtroom.

16 So we will go back and we will join you in some minutes.

17 --- Recess taken at 2.48 p.m.

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

19 PRESIDING JUDGE VELDT-FOGLIA: I will now give an oral order.

20 Under Rule 68(4) of the Rules, I note that in the present case
21 there has been an Initial Appearance, the accused has been duly
22 notified that he is required to be present, he has unequivocally and
23 voluntarily waived his right to be present. His counsel is present
24 and will represent his interests during this hearing, and
25 furthermore, in the specific circumstance of this case, the Panel is

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1 of the opinion that the presence of the accused is not necessary for
2 this specific hearing.

3 So, therefore, we authorise that the accused is not present this
4 afternoon.

5 However, tomorrow morning, we deem it necessary for the accused
6 to be present in order to discuss his presence in this courtroom for
7 future proceedings. We order him to be here at 9.30.

8 This concludes my oral order.

9 And, Mr. von Bone, yes, I would -- could you please advise your
10 client on -- or explain to him why the Panel would like to see him
11 and talk directly to him on this issue, because we consider it a very
12 important right to be present for his own proceedings. And I would
13 rather, and I did not say that in my oral order, but I would rather
14 also discuss it with him than only through you.

15 MR. VON BONE: I will certainly do so, Your Honour.

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

17 I see your hand raised, Mr. Specialist Prosecutor. You have the
18 floor.

19 MR. MICHALCZUK: Your Honours, sorry for taking the floor.
20 Again, the same issue, but we would like to be sure that the witness,
21 when he comes back to continue with his testimony, is advised on the
22 fact that the accused is no longer present. He will not be able to
23 see that through the shield, so we need to advise him.

24 PRESIDING JUDGE VELDT-FOGLIA: Yes.

25 MR. MICHALCZUK: Thank you.

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1 [Trial Panel and Court Officer confers]

2 PRESIDING JUDGE VELDT-FOGLIA: Good. I was informed that the
3 WPSO is following the proceedings, of course, through video-link. So
4 if I say from here to WPSO if they can please inform the witness that
5 Mr. Mustafa is not present anymore in the courtroom before he enters
6 the courtroom, that would be very much appreciated.

7 Let me see. I will do some formalities now, and that will give
8 the time for the member of WPSO to communicate this with Mr. Witness.
9 I don't see any changes in the composition. I should have started
10 with that, but that is arranged for.

11 I will now ask the Court Usher, can we please bring the witness
12 back? Thank you.

13 [The witness takes the stand]

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

15 THE INTERPRETER: Microphone, please.

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

17 THE WITNESS: [Interpretation] Thank you.

18 PRESIDING JUDGE VELDT-FOGLIA: We are now going to proceed with
19 the questions put to you by the Specialist Prosecutor, and I give now
20 the floor to the Specialist Prosecutor. But not before I ask you
21 that -- if you have been informed that Mr. Mustafa is not present
22 anymore in the courtroom. You know that?

23 THE WITNESS: [Interpretation] Yes.

24 PRESIDING JUDGE VELDT-FOGLIA: Good.

25 Mr. Prosecutor, you have the floor.

Witness: W03593 (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 469

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1 MR. MICHALCZUK: Thank you very much.

2 Q. Mr. Witness, good afternoon.

3 A. Good afternoon.

4 Q. Are you ready to answer a couple of more questions from me?

5 A. Yes.

6 Q. Before the break, we briefly made the reference to a statement,
7 certain statement that you gave in [REDACTED] to UNMIK. What you told
8 UNMIK officers, what is contained in that statement, is that true?

9 A. Yes.

10 Q. All the facts and circumstances described in that statement,
11 were they correct to the best of your knowledge and belief?

12 A. Yes.

13 Q. Did you make that statement voluntarily, without any pressure,
14 coercion?

15 A. Yes.

16 MR. MICHALCZUK: Your Honours, I'm going to ask just one
17 question in relation to that statement from [REDACTED] But before I
do

18 it, I would like to ask Your Honours that we move into private
19 session. We will not spend there much time. I just need to ask
20 questions that might reveal the identity of some protected people.

21 PRESIDING JUDGE VELDT-FOGLIA: Yes, Mr. Prosecutor.

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

23 ~~[Private session]~~ [Open session]

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

25 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

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1 MR. MICHALCZUK: Yes. I would like to refer to the statement,
2 and I quoted the ERN of that statement before, SPOE00127751 to
3 00127769RED4. So this is the range. And I would like to refer the
4 witness, especially, to page SPOE00127754. This is the English
5 version. And the Albanian would be on page SPOE00127764.

6 Q. Before I read part of that statement back to you, Mr. Witness, I
7 would like to ask you a question: Did you provide, in that
8 statement, in [REDACTED] any other name that relates to the person whom
9 you today later on referred to as [REDACTED]

10 A. Yes.

11 Q. What name did you provide to talk about that person, to mention
12 that person, [REDACTED]

13 A. I don't quite understand.

14 Q. Today you told us that there was a certain person together with
15 you in Zllash whose name was [REDACTED] and my question is: Did
16 you, in that statement of [REDACTED] you have before you, mention any
17 other
18 name of that person; and if so, what it was?

19 A. [REDACTED]

20 Q. Did you mention any surname of that person [REDACTED]

21 A. I don't know. Maybe I did. This was more than 15 years ago.
22 Maybe I forgot.

23 Q. Not a problem. I would like to read back to you part of that
24 statement.

25 MR. MICHALCZUK: And this is on that page that I referred to,
and I am talking about the English version. It's on paragraph --

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1 seventh paragraph from the top of the page. It starts with the
2 question:

3 "What were their names?

4 It's towards the bottom of the page.

5 Q. So the question that the UNMIK police officer asked you was:

6 "What were their names?", referring to the people you stayed
7 with in Zllash.

8 And your answer was:

9 [REDACTED] another person that they called

10 [REDACTED] I don't recall the other

11 names because we were not allowed to talk. To tell you the truth I
12 was not interested to know their names."

13 So my question is: Amongst those names whom I have just
14 mentioned, did you, indeed, say that one of those persons was
15 [REDACTED]? Do you confirm that?

16 A. Yes.

17 Q. Thank you. To be crystal clear --

18 THE INTERPRETER: Microphone, please.

19 MR. MICHALCZUK:

20 Q. To be crystal clear about this issue, I would like to also refer
21 you to the statement that you gave to the Specialist Prosecutor's
22 Office when there is a reference to this paragraph.

23 MR. MICHALCZUK: And the statement is 061015-TR-ET Part 2,
24 Revised. And we have, on page 15, the following exchange between the
25 witness and the Prosecutor conducting that interview. I'm referring

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1 again to page 15. And we start from line 16 on that statement -- on
2 that page.

3 Q. So the Prosecutor, Mr. Witness, is quoting that paragraph from
4 UNMIK statement in which he said:

5 [REDACTED] and another person they called

6 [REDACTED] I don't recall the other names

7 because we were not allowed to talk. To tell you the truth, I was
8 not interested to know their names.'" "

9 And your answer was:

10 "That is the way it is."

11 The Prosecutor asks you then:

12 "Is that correct?"

13 And you said:

14 "Yes."

15 Then the Prosecutor goes on to saying:

16 "So is the [REDACTED] are they different
17 people?"

18 And on the next page, page 16, your answer is:

19 "No, it's one person. It is the same person."

20 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, excuse me.

21 Mr. Prosecutor, we don't have the Albanian version for the witness of
22 this statement.

23 MR. MICHALCZUK: Right. All right. This is -- are we talking
24 about -- Your Honours, are we talking about the statement of the --
25 taken by the Specialist Prosecutor or by UNMIK? The transcript.

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1 PRESIDING JUDGE VELDT-FOGLIA: I think it's --

2 MR. MICHALCZUK: Okay. So I will immediately give the ERN
3 number for this. So the number of the Albanian transcript would be
4 061015-TR-AD Part 2, Revised. And let me quickly locate. Yes, it is
5 on page 18. And there is at the very beginning of the page the
6 quotation of the statement of UNMIK, at the very beginning, from
7 line 1. And then the exchange about [REDACTED]
8 [REDACTED] is at line 13, 14, and 15. It's the exact translation
9 into Albanian of the lines that I mentioned before in the English
10 statement.

11 Q. So my question to you, Mr. Witness, would be was [REDACTED],
12 indeed, [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q. Okay. Thank you very much. I have a question in relation to
17 that person. And again, I'm going to remind you that we are in the
18 private session. You said before the break that you saw some
19 burnings on his body. Is that correct?

20 A. Yes.

21 Q. Do you know whether [REDACTED] as you put
22 this name -- made this -- mentioned this name before, was he also
23 subjected to other similar types of brutal mistreatment?

24 A. Yes.

25 Q. So apart from burning his body, as you told us before, what

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1 sorts of mistreatment was [REDACTED] subjected to in Zllash?

2 A. He had marks on his face which were visible. These were scars
3 from the beatings. And then there were these burn marks. He had
4 been burned with something. With what, I don't know.

5 Q. You spoke about several people kept in that barn with you, in
6 the lower part of that place. Did any of those persons mention at
7 any point being electrocuted?

8 A. It was mentioned, but I don't know by whom.

9 Q. Maybe one or two questions about that person, [REDACTED]
10 [REDACTED] You told us that there was a moment when you were being
11 transferred from that first barn to that second barn. Could
12 [REDACTED] walk on his own from the first place to that second
13 place?

14 A. Yes, because he was a very strong man.

15 Q. At some point before the break, you told us that people were
16 coming to that lower part and they were taking people outside. You
17 also told us that that person, [REDACTED], [REDACTED], was one of those
18 being taken outside. When he was being taken, was he walking out of
19 that stable on his own or was he taken by the people? How do you
20 remember that?

21 A. The two persons would take him and bring him back, holding him
22 by his arms.

23 Q. Holding him by his arms, because they wanted to hold him or why?
24 What was the reason why they were holding him by his arms?

25 A. I don't know. But they would take him away, holding him by his

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1 arms, and they would bring him back again holding him by his arms.

2 Q. I understand.

3 MR. MICHALCZUK: Your Honours, we can go back into open session.

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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

6 [Open session]

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

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

9 Mr. Prosecutor, you may proceed.

10 MR. MICHALCZUK: Excuse me for a second.

11 [Specialist Prosecutors confer]

12 MR. MICHALCZUK:

13 Q. Mr. Witness, when you were in that second stable, in that second
14 part, lower part of that place, were you aware of where your captors
15 were? Where they were staying?

16 A. No.

17 Q. Do you know whether they were staying in the same building
18 somewhere or in another building?

19 A. We were staying separately from them. I don't know where
20 exactly they were staying.

21 Q. You told us already that you and the other people in that barn
22 were staying in the lower part of that structure. What was upstairs?

23 A. I know that on the lower part where I was staying, the barn, I
24 was taken once upstairs where I was beaten. And I wasn't allowed to
25 look around when I was taken upstairs. And when they took me from

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1 the lower place to upstairs, I had a bag over my head. I didn't know
2 at the time where they were taking me to.

3 Q. When you were in that lower part of that building in that barn,
4 could you hear what was happening upstairs?

5 A. Yes, we couldn't sleep at all because the upper part was just
6 with wood, covered with wood. And while people were being beaten up
7 upstairs, we just couldn't sleep because we were scared.

8 Q. Are you saying that the ceiling above the place you were staying
9 was made of wood?

10 A. They were simple wooden planks. Up there, they used to keep
11 food for the animals, but they were using it as a room.

12 Q. You said that you could hear something that was happening above
13 and that you couldn't sleep. Could you tell the Court what did you
14 hear that made it impossible for you or difficult for you to sleep?

15 A. We could hear people screaming, and we could hear hard sounds.
16 And we simply couldn't sleep because we were scared that at any time
17 they would come down and bring us upstairs as well.

18 Q. You have just said that you heard some hard sounds. Could you
19 tell us, could you describe what sounds did you hear?

20 A. These were sounds of people being beaten and their screams.

21 Q. How often during the time you spent in that lower part of the
22 building did you hear those screams and, as you put it, the sounds of
23 people being beaten?

24 A. I didn't count to tell you the truth, but many, many times.
25 Almost every night.

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1 Q. Before the break, you told us that very often people were being
2 taken out from that lower building, taken somewhere, and they were
3 coming back in a worse state than before they left. You mentioned
4 that they were being beaten.

5 So my question is: Those persons removed from the stable often,
6 were they those whose screams you heard?

7 A. We didn't know exactly who was being beaten upstairs, because we
8 couldn't see anything. But those people that were being taken from
9 downstairs to upstairs, those were the ones who were being beaten.

10 Q. From the place downstairs where you were hearing all those
11 noises, all those voices of the people, did you hear any
12 conversations, any exchanges of words between people being upstairs?

13 A. No, you could not hear words, but you could hear noises.

14 Q. Mr. Witness, hearing all those voices of people being beaten, as
15 you put it, screaming, how did you feel? Could you tell the Court
16 how did you yourself feel?

17 A. We felt very badly, because we were thinking about ourselves and
18 we were thinking that we would have the same chance as them.

19 Q. I would like to ask you a couple of questions that relate to the
20 conditions of your detention. Let's start from food. What were you
21 fed?

22 A. There, we were given just a piece of bread, stale bread, and it
23 was possible as well that we could not eat for 48 straight hours. We
24 did not eat a thing, because there was nothing to be served. Of
25 course, it was the wartime and probably they didn't have bread. But

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1 they would bring bread to us every two days or every day. I mean,
2 whenever they could, I think.

3 Q. In your view, were you given sufficient amount of this bread?

4 A. No, I am telling you exactly how that was. So we were gave just
5 a piece of bread, a single piece of bread just to keep us alive.

6 Q. And you're referring to yourself and also the others, correct,
7 who was there in that lower --

8 A. Not only me, but everybody else who was in the same room with me
9 would be given the same.

10 Q. I understand. How about something to drink? Did you have --
11 were you given something to drink during that time in Zllash?

12 A. We didn't even have enough water to drink.

13 Q. How much water, if you remember, were you provided during that
14 time in Zllash?

15 A. So they brought us some -- container of water. So they just
16 brought this container and that was it.

17 Q. Did you consider it sufficient for you and the others?

18 A. No, not at all.

19 Q. What was the temperature in that barn where you were kept?

20 A. It was very cold. Where we slept, where we lied down, in order
21 to sleep, it was almost all water. It was wet.

22 Q. Did you have any beds, any bedding to sleep on?

23 A. Nothing.

24 Q. Were you able to wash yourself during your detention time in
25 Zllash?

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1 A. We couldn't even drink water, let alone washing ourselves and
2 getting cleaned.

3 Q. And you're referring to yourself and also the other detainees;
4 is that correct?

5 A. Yes, I am talking for everyone. I am not talking only about
6 myself. I am talking about everybody that was there in the same
7 room.

8 Q. Were any of you able to change --
9 THE INTERPRETER: Microphone, please.

10 MR. MICHALCZUK:

11 Q. Were any of you able to change your clothing during your stay in
12 Zllash?

13 A. Where could we take them? We didn't have a place where to take
14 anything, so only the clothes that we were wearing by the time that
15 we went there.

16 Q. I understand that, but maybe you were provided with some
17 clothing to change. You said it was wet, you slept in water. Were
18 you offered any clothing to change?

19 A. I'm telling you that we only have this blankets -- those
20 blankets that are used to cover horses, and that was all. We didn't
21 have pillows. We didn't have anything else at all. So that was the
22 only place we could sleep. But most of the time, we were awake. So
23 we were not let to sleep either.

24 Q. Were you able to use the toilet whenever you needed to?

25 A. So in the big toilet -- I mean, there was this -- a toilet

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1 outside. And we would be accompanied outside. So we were
2 accompanied by two persons when we had to go outside; whereas,
3 otherwise, we had to pee inside.

4 Q. Those two persons who were, as you put it, were accompanying you
5 outside. Who are these people?

6 A. I could not know possibly who those people were. So they were
7 guarding us at the door, and we didn't even dare to look at them. So
8 they were just accompanying us. They were sending us to the toilet
9 and that was it, so we could not know who these people were.

10 Q. When they were escorting you outside, were they armed?

11 A. Of course, normally so, because they were holding automatic
12 weapons.

13 Q. Were any of you provided any medical attention while in Zllash?

14 A. So we did not even dare to say that we were sick. No.

15 Q. Why are you saying that? Why are you saying that you didn't
16 dare to mention that you were sick?

17 A. Because if you said that you were sick, you were brought outside
18 and you would have been killed immediately. So it was not possible
19 to say a thing.

20 Q. Did any of you ever try to say "I need medical attention"?

21 A. Nobody out of all of us dared to say such a thing.

22 Q. Did any of you have access to your families or to the outside
23 world while you were being kept in Zllash?

24 A. No.

25 Q. Was anyone kept there visited by any of their family members?

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1 A. I do not know. I do not think so.

2 Q. Mr. Witness, how did you feel psychologically during that whole
3 stay in Zllash?

4 A. I don't know what to say. I was lost. I didn't know what was
5 happening to us.

6 Q. At that time, did you have family? You don't have to tell us
7 anything more. Just "yes" or "no" will suffice for an answer.

8 A. Yes, I had family. But my family could not come there, because
9 they were not allowed to.

10 Q. Did they know where you were at that time?

11 A. Yes, they did.

12 Q. How did they know that you were there?

13 A. [REDACTED]

14 [REDACTED]

15 Q. I understand. Let's move on to the time when your detention in
16 Zllash in that place ended. How did you leave that place?

17 A. Well, I left -- I don't remember the day, but it was the day of
18 the offensive. So they came, they opened up the doors, and they told
19 us, "Go whenever you want to." And so we left the place, and we
20 headed towards Prishtine from Zllash where we were.

21 So back then there were too many refugees, people, and we joined
22 those columns, and we went towards Prishtine.

23 Q. Who released you from that place where you were being held?

24 A. I do not know. One of them. He was wearing a uniform. So he
25 opened the door, he called us by names, we got out, and he told us,

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1 "You can go whenever you want. You are free." So the offensive is
2 approaching, and this is how we got out.

3 Q. Do you remember -- because you have just told us that that
4 person was calling you by names. Do I understand correctly that he
5 was calling you individually out, saying "Mr. This," "Mr. That,"
6 "Go." How was it? Could you please tell us a bit more precisely.

7 A. Yes, this is how it happened.

8 Q. Do you remember in the order of people leaving that place, you
9 left as the first person, the second person, the third? Do you
10 remember that?

11 A. I was the penultimate person.

12 Q. You have just told us that when you left, there were people
13 outside; is that correct? Did you say that?

14 A. A lot.

15 Q. Who were these people?

16 A. I didn't know them. I didn't know who they were. But they were
17 many.

18 Q. How were these people dressed? Those people whom you saw
19 outside.

20 A. There were people wearing uniforms. There were people that were
21 not wearing uniforms. But to tell you the truth, I was not looking
22 at them. I was not interested to see what they were wearing, because
23 I just wanted to run away and to go away.

24 Q. Let's, for a moment, focus on those without uniforms. Did you
25 see where these persons were coming out from?

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1 A. Yes. So there were soldiers both wearing uniforms and not in
2 uniforms.

3 Q. Yes, we understand that. My question relates only to those
4 without uniforms. When you left that place, that barn, did you see
5 where those people in civilian clothing were coming from?

6 A. No, I could not see them like that. But while we entered the
7 column, we went towards Prishtine. And I saw people that were
8 staying there, and I saw people that were in civilian clothings, and
9 that is it.

10 Q. Did you speak to any of those persons in civilian clothing
11 either shortly after you had come out of that barn or later on when
12 you formed that column that you have just mentioned?

13 A. No, man. So it was two or three hours in the column. So we
14 placed ourselves as part of the column, and I just saw one person,
15 one person that I saw before. I saw that person in the column as
16 well. So he was before myself and he was kind of running himself to
17 leave the place.

18 MR. MICHALCZUK: Your Honours, could we now move briefly to the
19 private session.

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

22 ~~[Private session]~~ [Open session]

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

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

25 MR. MICHALCZUK:

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1 Q. Mr. Witness, so you told us that at some point somebody opened
2 the door, called you by your names, you started leaving that barn.
3 My question is: Who was released? Whose names mentioned by that
4 soldier -- by that person do you remember?

5 A. It was us. So the persons that were there. I was the person
6 before the last. Almost the 17 people, I think. So we left the
7 place, and I left just one person behind. So at the end, it was only
8 three of us. So I stopped and then I left two other persons there
9 when I left. When I left the building, I left two people behind
10 myself.

11 Q. Could you, by the names, tell us who of those persons who were
12 released and who of those persons stayed behind? So let's start from
13 those who were released. So it was yourself and who else?

14 A. It was myself, [REDACTED]

15 Q. You also said that there was a third person released. Do you
16 remember the name of that third person?

17 A. No, I don't. I don't know. Myself and [REDACTED] we went
18 together to Prishtine.

19 Q. You also mentioned that two persons were not released. Who are
20 those persons?

21 A. Yes. So those two persons are this [REDACTED] So these
22 are the persons that were left behind.

23 Q. Please cast your mind back to that moment when you were leaving
24 that place. Somebody called your name, you were leaving the place.
25 Those two persons whom you have just mentioned are behind. Did you

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1 have a chance to take a look in which state they were the moment you
2 were leaving that barn?

3 A. They were left behind. So they were standing, both of them. So
4 to tell you the truth, I was worried about myself. I just wanted to
5 leave the place as soon as possible.

6 MR. MICHALCZUK: Your Honours, just a second. We are consulting
7 the minutes of this session.

8 [Specialist Prosecutor confers]

9 MR. MICHALCZUK:

10 Q. So you were released. You said at some point you formed a
11 column, as I understand correctly. So where did you go from there in
12 that column?

13 A. We headed towards Prishtine, straight to Prishtine.

14 Q. Just to come back to the moment of the release. That person
15 releasing you, did he provide you with any documents being the basis
16 of your release or any -- no, let's start with the documents.

17 A. No, nothing. They didn't give any documents or anything else.
18 They just told us, "Go whenever you want."

19 Q. So did he say anything else for the reason why he's releasing
20 you?

21 A. No. He only told us, "Go wherever you want, because the
22 offensive is approaching and we don't know where to go ourselves."
23 And that was it. So "Do whatever you want," that was what was told
24 to us.

25 Q. Did he say why he's not releasing those two persons who stayed

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1 behind, [REDACTED]?

2 A. No, we didn't have those kinds of discussions with them, because
3 I was not interested in [REDACTED] but, I was instead interested
4 to leave that place as soon as possible.

5 Q. You were not told by this person why they were left behind, but
6 maybe you know why they were left behind.

7 A. He didn't say anything to me. So he just said, "Go away" and
8 that's it. So we didn't talk any further than that.

9 Q. I understand. So did you have any contact later after having
10 been released from Zllash with the families or family of those who
11 stayed behind?

12 A. No.

13 Q. In your statement to the Prosecutor, and also the statement that
14 you gave to UNMIK, and before we quoted both statements, you made the
15 reference to a certain visit that you paid shortly after you had been
16 released from Zllash. Do you remember about any visit of such a
17 sort?

18 A. Well, when I was released from Zllash I went to [REDACTED]
19 [REDACTED]

20 [REDACTED] And, unfortunately, I didn't know a thing. But when I
21 went there, I found my family at the same place.

22 Q. I understand. Did you at any point immediately after the
23 release or later [REDACTED]

24 A. Yes.

25 Q. When was that?

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1 A. The same day. So we went out together with [REDACTED]
2 we went to [REDACTED]
3 because we did not eat a thing for three, four days, [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 Q. Did you tell [REDACTED]

9 Zllash?

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. Today a bit earlier you mentioned certain injuries on [REDACTED]
15 body, and you mentioned that he was mistreated. Did you tell about
16 all this [REDACTED]

17 A. No, no, no. [REDACTED]

18 Q. You told us that also [REDACTED] was with you there. Did
19 [REDACTED] mention to what was happening [REDACTED]
20 in detention?

21 A. No, nothing. No, man, nothing. How could we mention that?
22 [REDACTED] No,
23 nothing.

24 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, it's almost time
25 to conclude our session for today. Do you want to continue your line

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1 of questioning for a few minutes, and in that case how much do you
2 need, or can we come to a kind of wrapping up for today?

3 MR. MICHALCZUK: Your Honour, just a few minutes and then I'm
4 going to finish with this line of questioning and we can continue
5 tomorrow on something else.

6 PRESIDING JUDGE VELDT-FOGLIA: I have an oral order to give and
7 some matters still to discuss.

8 MR. MICHALCZUK: Of course. Your Honour, how about two, three
9 questions, not more than that, and I will finish for today.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay, good.

11 MR. MICHALCZUK: Thank you.

12 Q. Mr. Witness, apart from [REDACTED]

13 [REDACTED]

14 [REDACTED] there?

15 A. Yes.

16 Q. Do you know who they were? [REDACTED] Who else?

17 A. [REDACTED]

18 Q. Do you remember their names?

19 A. No, I don't. No, I don't know.

20 Q. You said that those who visited [REDACTED]

21 yourself and [REDACTED] Was there anybody else from the people
22 kept with you in Zllash [REDACTED]

23 A. I do not know. I do not recall.

24 MR. MICHALCZUK: Your Honour, that would conclude this line of
25 questioning. Thank you for today. Thank you.

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1 the request pursuant to paragraph 48 of the Decision on Conduct of
2 Proceedings, and the SPO submits that it does not have any objections
3 to assurances being provided to Witness 4600.

4 Now, I shall now give an oral order on this matter.

5 Having considered the request and the SPO views, the Panel
6 considers it appropriate to grant a request and will accordingly
7 provide Witness 4600 with assurances in accordance with Rule 151(3)
8 of the Rules immediately before the commencement of his testimony.

9 The Panel orders the Registry to notify the counsel for
10 Witness 4600 of the present oral order.

11 This concludes the oral order of the Panel.

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

13 [Open session]

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

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

16 There is a disclosure issue which I would like to discuss with
17 the SPO.

18 The Panel would appreciate very much if we could receive a
19 conversion table with the old reference numbers of the documents
20 shown to the accused changing them into the new reference numbers,
21 because the Panel is having some difficulties to retrieve some of the
22 documents shown to the accused in the suspect interviews done by the
23 SPO, and specifically I am referring to ERN 069404-TR-ET Part 1 till
24 Part 8.

25 I give you the possibility to react.

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1 MR. MICHALCZUK: Your Honours, we will provide that.

2 Just one matter of clarification. Have Your Honours received a
3 conversion table in relation to the statement of this witness we are
4 having today? Just as a matter of clarification.

5 PRESIDING JUDGE VELDT-FOGLIA: I received it today during the
6 day. It has been filed. At least I think I saw that one.

7 MR. MICHALCZUK: It was also -- I believe it was also sent last
8 week already on Thursday, just in the run-up for today's session. So
9 I believe Your Honour should have that. But if not, please revert
10 back to us --

11 PRESIDING JUDGE VELDT-FOGLIA: I have all --

12 MR. MICHALCZUK: -- if there is any unclarity.

13 PRESIDING JUDGE VELDT-FOGLIA: I have all the documents that you
14 were -- that had to be shown, I have seen them. So I think that the
15 conversion table in that table has been applied. But this one we
16 have not received. At least to our understanding.

17 MR. MICHALCZUK: Your Honours, we will provide that conversion
18 table also.

19 PRESIDING JUDGE VELDT-FOGLIA: Okay, okay.

20 Then I hereby order the SPO to provide a conversion table with
21 the old and the current ERN numbers of all the documents shown to the
22 accused during his SPO interview carrying ERN number 069404-TR-ET
23 Part 1 to Part 8.

24 This concludes my oral order.

25 Then two more remarks. The time used by the SPO for today up to

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1 1540, so we are already a little bit more ahead, is three hours and
2 one minute, and this time excludes any discussion that were more than
3 one minute which did -- so that's important for you to know, three
4 hours and one minute, till 1540 of today.

5 And to be more precise, Mr. Prosecutor, I was just informed that
6 exactly three hours and 20 minutes till the end of the day. Good.

7 And then, yes, the Specialist Prosecutor asked earlier today a
8 clarification as regards to the tendering of material with regard to
9 the witness. I refer to Filing 170, paragraph 36 to 38. But in
10 summary, it can be done until the end of the month for the witnesses
11 whose testimony finish within that month. And if there are any more
12 questions, please refer them to the Panel.

13 Let me see. I think that if the parties - I look - and the
14 Victims' Counsel have not anything more to raise? And I see a no.
15 Then we will resume tomorrow with the questioning of Witness 3593,
16 but we will first start at 9.30 to discuss with the accused,
17 Mr. Mustafa, his future presence, or not, in the courtroom.

18 I thank the parties and the Victims' Counsel and the Registry
19 for their attendance. I also wish to thank the interpreters, the
20 stenographer, and the audio-visual technicians, and the security
21 personnel for their assistance today.

22 The hearing is adjourned until tomorrow, 9.30.

23 --- Whereupon the hearing adjourned at 4.08 p.m.

24

25