

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

1 Tuesday, 21 September 2021

2 [Open session]

3 [The accused entered court]

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

5 PRESIDING JUDGE VELDT-FOGLIA: Good morning and welcome.

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, Madam Court Officer.

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

13 You have the floor.

14 MR. MICHALCZUK: Your Honours, everybody, good morning. Today
15 the Prosecution is represented by myself, Cezary Michalczuk,
16 Prosecutor; Silvia D'Ascoli, Associate Prosecutor;
17 Filippo de Minicis, another Associate Prosecutor; Alex Whiting,
18 Deputy Specialist Prosecutor; and Julie Mann, who is the
19 Case Manager.

20 Thank you.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

22 Victims' Counsel, please.

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

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1 myself, Anni Pues.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Counsel.

3 And now the Defence, please.

4 MR. VON BONE: Good morning, Your Honour. Defence is being
5 represented by myself, Julius von Bone, lead counsel; my co-counsel,
6 Mr. Betim Shala; investigator is Mr. Fatmir Pelaj. And as you can
7 see, today the accused is also in the courtroom.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

9 For the record, my colleagues for Trial Panel I are Judge
10 Roland Dekkers, Judge Gilbert Bitti, and Judge Vladimir Mikula,
11 Reserve Judge, and I am Mappie Veldt-Foglia, Presiding Judge for
12 Trial Panel I.

13 Before we continue with the questioning of Witness 3593 by the
14 SPO, the Panel would like to address Mr. Mustafa.

15 Mr. Mustafa, the Panel requested your presence today at the
16 hearing. You have the right to remain silent and such silence cannot
17 be considered in the determination of your innocence or guilt.

18 Yesterday you indicated, for the second time, that you did not
19 want to attend the hearing; is that correct?

20 THE ACCUSED: [Interpretation] Can I take the floor, Your Honour?

21 PRESIDING JUDGE VELDT-FOGLIA: You can say something.

22 THE ACCUSED: Yes --

23 PRESIDING JUDGE VELDT-FOGLIA: Go ahead.

24 THE ACCUSED: Thank you.

25 [Interpretation] Your Honour, so, thank you very much for giving

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1 me the opportunity to take the floor in this courtroom.

2 I just wish to tell you from the beginning that it's not my wish
3 or intention to not respect yourselves or the Panel --

4 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated]. Can
5 you talk a little bit more slowly --

6 THE ACCUSED: Yes.

7 PRESIDING JUDGE VELDT-FOGLIA: -- because it has to be --

8 THE ACCUSED: Yes.

9 PRESIDING JUDGE VELDT-FOGLIA: -- interpreted. Yes?

10 THE ACCUSED: Okay.

11 [Interpretation] From the outset, I wish to tell you that it is
12 neither my wish nor my intent to be disregarding of the Panel and the
13 parties in this courtroom, nor is it my intention to disregard and
14 not respect the counsel that is sitting in front of me. Because it
15 is not part of my conviction whatsoever, nor part of my culture, to
16 behave like that. But recently I have suffered a stress, and I have
17 to say that the stress is incumbent and is caused because of many
18 other different factors, and I wish to tell you what the problem is
19 right now.

20 After 12 months in detention, so it was only last weekend that I
21 had the first physical visit with my children and with my wife.

[REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mustafa, we will now go into
6 private session and then you can continue.

7 Madam Court Officer, could we go into private session.

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

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

10 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mustafa, you can continue.

11 THE ACCUSED: [Interpretation] This is the reason why,
12 Your Honour, this situation has caused some major stress upon myself
13 and upon my children as well.

14 The second reason. During the day-time, I cannot have frequent
15 telephone calls with neither my wife or my children. So, in other
16 words, I don't have access to telephone calls. So there is only a
17 certain moment in time that is assigned to myself to make telephone
18 calls as per the wish of the director of the detention centre. For
19 instance, I approximately know the timing of my children, when they
20 are available. So I know that my children, so at 12.00 at noon
21 or 6.00 in the evening they go out to play sports or to take care of
22 their daily activities. Therefore, if I want to talk to my children
23 at 10.00 in the morning, so the director will tell me that you can't
24 do that but you can instead talk to your children at 1.00, but I
25 can't do that because my children are busy at 1.00.

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1 So when it comes to the food, I take -- I receive the food once
2 a day for the 24 hours of that same day.

3 So this is why I just want to tell you that I feel stress. So
4 it is very difficult for me to concentrate if I don't have a smoke
5 break.

6 And I have to say that all these things taken together have
7 caused a major stress on myself over the last days or so. So all
8 these are additional burdens on top of the segregation order that has
9 been released on my behalf from 20 August this year, and all these
10 things taken together are aggravating my mental situation.

11 So right now I'm isolated, I'm segregated within the detention
12 facility. I feel myself more relaxed if I attend the hearings
13 through videolinks, because it's easier for myself to concentrate
14 better and have a better coverage of all the topics that are covered
15 in this court of law.

16 So through the video-conference or the videolink, it's easier
17 for me to concentrate, and I believe that it helps me into being
18 better concentrated, because if I follow the hearings, so through the
19 video-conferences or videolinks, so during the pauses I can take a
20 smoking break but I can as well eat something.

21 So in a few words, in sum, I have to say that I feel myself more
22 comfortable if you allow me to follow the hearings through the
23 video-conferencing network. Therefore, so the failure of myself to
24 be physically present here in the court of law in no way shows
25 disregard and lack of respect. So it should not be understood as

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1 lack of respect on my side towards the Court and witnesses. There
2 are many witnesses of the Prosecution. Therefore, so my absence in
3 the courtroom shall not be permanent. But I believe that some
4 witnesses are more important than other witnesses in the case in
5 question, in my case.

6 Therefore, I'd kindly ask you to understand that my absence in
7 the proceedings is not part of any strategy. I fully understand that
8 it can sound strange to you, but in real truth I believe that it
9 would be best for me to attend the proceedings through the
10 video-conferencing network rather than being physically present here.

11 I will not give a statement that is not under oath. Therefore,
12 what I'm saying today should be considered as a statement that is not
13 given under the oath; that is, an unsworn statement. So I'm going to
14 give an unsworn statement in a later phase in the proceedings.

15 In conclusion, if I'm allowed to take part in the proceedings
16 through the videolink, I believe that it will be smoother and easier
17 for the proceedings itself as well. I really think that the
18 rigorousness of segregation for practical reasons is being rather
19 counterproductive. So probably you reason that with a further
20 protection and stronger protection of the witnesses. But first and
21 above all, I am a human being as well. I am not a robot myself. And
22 this is causing a lot of stress to me. So it's causing a lack of
23 concentration, and I'm feeling myself under ongoing pressure.

24 Therefore, once again, at the end, I'm just telling you that if
25 the Court or the Victims' Counsel has considered my wish for not

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1 being present here as a lack of respect or disregard, so once again I
2 wish to very sincerely and frankly and convincingly tell you that
3 this is not something intended by me, and this is not going to happen
4 in the future either.

5 As I said before, so there are other factors having an impact
6 upon myself, and it is not something that relates to the way in how I
7 behave here and what is happening in this court of law.

8 Thank you very much, Your Honour.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Mustafa. This is
10 your trial, so it is important that you give clarification as to the
11 reasons you didn't want to be in the courtroom.

12 Allow me to ask you some further questions. If you would be
13 able to smoke at the premises, would that change your request?

14 THE ACCUSED: [Interpretation] So you are talking about the
15 pauses; right?

16 PRESIDING JUDGE VELDT-FOGLIA: Yes, I am.

17 THE ACCUSED: [Interpretation] Of course. It will be much easier
18 for myself, of course.

19 PRESIDING JUDGE VELDT-FOGLIA: So your -- I see two requests
20 from your side. And one is if you would be permitted to smoke during
21 the breaks at the premises of the KSC when we are having hearings,
22 you would come to the premises; is that correct?

23 THE ACCUSED: [Interpretation] Your Honour, if possible, I'd ask
24 for the facilitation of my measures such as, for instance, I would
25 ask for the possibility of speaking with my children during the day

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1 when they are available, if at all possible.

2 PRESIDING JUDGE VELDT-FOGLIA: I understand that. But my
3 question was another one. I've heard you saying what your request
4 is, and we have taken a decision on that, and I have taken now note
5 of it.

6 But my question was if smoking possibilities would facilitate
7 you coming to the premises.

8 THE ACCUSED: [Interpretation] If you see it fit for me to be in
9 the courtroom, I will come.

10 PRESIDING JUDGE VELDT-FOGLIA: And you say -- I now hear you
11 saying that you're requesting for a videolink at the detention
12 facilities. And you say it's not permanent -- I'm trying to make a
13 summary. You would not be permanent there, but you would come to the
14 court hearings -- sometimes you would be coming and sometimes not.

15 Do I understand that well? Yes, I see you nodding.

16 THE ACCUSED: [Interpretation] Yes, correct.

17 PRESIDING JUDGE VELDT-FOGLIA: Of course, you would have to give
18 due notice in advance. Do you understand that? If we would decide
19 that.

20 THE ACCUSED: [Interpretation] Yes.

21 PRESIDING JUDGE VELDT-FOGLIA: I'm going to ask observations of
22 the SPO and the Victims' Counsel, because what we have now had both
23 on Wednesday and yesterday is that, from a practical point of view,
24 if you at once disappear it creates a kind of disorganisation for the
25 trial, which I would not like to have every day.

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1 Do you understand that?

2 THE ACCUSED: [Interpretation] I understand. I think it was a
3 misunderstanding, and I think that it was a result of the
4 non-recognition of the rules. I mean, I think that was what it was.

5 PRESIDING JUDGE VELDT-FOGLIA: What we noted is yesterday that
6 you would be there in the afternoon, and then we were informed that
7 you were not there. That's what happened. And the same happened on
8 Wednesday.

9 And I repeat to you that that's a way we would not like to
10 proceed.

11 THE ACCUSED: [Interpretation] Your Honour, I lost concentration.
12 I needed some break.

13 PRESIDING JUDGE VELDT-FOGLIA: I heard what you have said about
14 the stressful situation you are in, so that will be a part of our
15 consideration.

16 What I will now do is ask the views of the Specialist
17 Prosecutor's Office and the Victims' Counsel with both regard the
18 presence or not - although we have the rules, Rule 68, which is clear
19 on what the rights of the accused are. But I would like to hear your
20 views on that - and on the possibility of a videolink at the
21 detention facilities, because under the legal framework of the
22 Specialist Chambers it's not explicitly provided, and I am excluding
23 the pre-trial phase, to participate via videolink with the exception
24 of Rule 68(6) of the Rules, where the Panel can make provisions for
25 the accused or shall make provisions for the accused to observe the

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1 proceedings and instruct Specialist Counsel from outside the
2 courtroom, if the detained accused is not physically fit to follow
3 the proceedings in person in the courtroom. And also when the
4 accused is removed from the courtroom because of disruptive conduct,
5 this obligation for the Panel to organise such proceedings applies.

6 But what -- sorry for that. So, yes. But before I give you the
7 floor on that, I first look to Mr. von Bone.

8 Is there -- in addition to what your client has just shared with
9 the Panel and the parties and the Victims' Counsel, is there
10 something you would like to add, or do you want to make a formal
11 request with regard to any of the observations your client has made?

12 MR. VON BONE: Yes, Your Honour. I just want to add, once
13 again, that it in no means has to be disruptive, as we had on
14 Wednesday and yesterday. And in order to smoothen it out, I think
15 that the proceedings would really benefit for that. And in
16 organisational matter, it would benefit the accused for having meals,
17 able to have contact during breaks with, maybe, family. He can
18 organise that easier in detention -- in the detention centre rather
19 than here. Here is just -- there is no real opportunities for that.

20 So I think it has caused a lot of stress. And, indeed,
21 Your Honour, that is what the result is of obviously measures that
22 were taken. And I do not think that, once again, it will happen with
23 all the witnesses. But as Mr. Mustafa already said, there is some
24 witnesses that he will be present.

25 By the way, what I forgot to say is in the lunch break, which is

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1 usually one and a half hour, we can have a Zoom meeting with him to
2 have contact with him, if we would have any consultations. So
3 organisationally, that would not be any problem at all for us as
4 well.

5 So in that sense, I just want to take that into consideration.
6 And, once again, I think that the presence of the accused via
7 videolink is an equal presence than being physically present in the
8 courtroom. We had that in pre-trial phases and at that stage there
9 was no particular problem about that, so I do not think that it would
10 cause any problem as well for that.

11 So that is what I want to add to what Mr. Mustafa said. So,
12 basically, I would request, if such opportunity is there, a
13 possibility is there, I think, for the benefit of a smooth
14 proceedings, I think it would be really good to put it in this -- in
15 this format. And, obviously, we will notify each time, like we did
16 at the pre-trial phase, through a message that he is attending either
17 via videolink or that he will be present.

18 I think that concludes my submission regarding this. And if you
19 take it as a request, then I make it a request.

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

21 Before I turn to the Specialist Prosecutor and the
22 Victims' Counsel, I have a question for the Registry.

23 Would it be possible to organise not only a videolink from the
24 detention facilities, and I was informed that that was possible, but
25 also the possibility to instruct Specialist Counsel from here to --

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1 to have contacts with his client? Because I heard Mr. von Bone
2 saying that he foresaw that possibility, but I would like to have
3 it -- to hear it from you what is possible. Please.

4 MR. ROCHE: Thank you, Your Honour.

5 Yes, that can be done with immediate effect. The measures are
6 already in place to allow for counsel to consult with his client from
7 the court to the detention facilities.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay, that is clear. Thank you.

9 [Trial Panel confers]

10 PRESIDING JUDGE VELDT-FOGLIA: Specialist Prosecutor, you have
11 the floor if you have observations, if any.

12 MR. MICHALCZUK: Yes, thank you, Your Honour.

13 The most important thing here is that the accused must have
14 facilities to meaningfully participate in the proceedings. And as
15 long as there is a clear record that he will have these meaningful
16 means, whether he's present here or remotely is of secondary
17 relevance. So we defer to the Honourable Panel the decision in this
18 regard.

19 But he must have the right at any point, during any session, to
20 consult his counsel. He must have means to ask questions to the
21 witnesses, if he wishes. And he must have a possibility to be
22 present, even if he's not physically present. But as I say, we defer
23 the decision to the Court.

24 If there is a decision - if, and I underline this - if there is
25 a decision to allow the accused to participate remotely, perhaps it

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1 would be reasonable to check from time to time whether, indeed, all
2 those conditions for a meaningful participation are indeed met. To
3 check, for example, whether there is a possibility of the contact
4 between the accused and his counsel, whether he could really ask
5 questions, participate in his own defence. Just to check it
6 periodically whether those conditions are still in place because, as
7 I said before, meaningful participation of the accused is key.

8 Thank you.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Prosecutor.
10 Victims' Counsel, you have the floor.

11 MS. PUES: Yes, Your Honours, and Mr. Mustafa.

12 Thank you, first of all, for the explanation offered, which I
13 thought was helpful.

14 Regarding the requests, I think there are two issues here to be
15 addressed. The one is the situation of the accused in detention and
16 during break times, where I think an effort needs to be made to sort
17 out that a smoker can smoke, especially during trial proceedings;
18 although, I, myself, do not smoke, but I think it's not the time to
19 stop or to force someone to go for prolonged periods of time without.
20 Also, things like meals at a regular time. Not just once a day or
21 so. There were a few issues there where I thought, obviously, some
22 improvement could be made which, in my view, all adds to overall
23 fairness of the proceedings. So that is the one point.

24 The other point is the presence of the accused and where the
25 law, indeed, clearly says physical presence is the primary goal or is

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1 the primary purpose of the trial proceedings. However, should this
2 not be possible because concentration is lacking and the conditions,
3 as we have heard now, allow for meaningful participation, then we
4 won't object to this at this time.

5 One last thing, though, would be necessary: A notification in
6 advance also to allow future witnesses to prepare themselves for the
7 situation they will find in the courtroom, and presence or
8 non-presence in a physical manner of the accused can be of key
9 relevance to them.

10 So I ultimately leave it to you, but those are points that I
11 would like to highlight here.

12 Thank you.

13 Apologies. May I just --

14 PRESIDING JUDGE VELDT-FOGLIA: No --

15 MS. PUES: -- take the floor once again.

16 PRESIDING JUDGE VELDT-FOGLIA: -- of course. We are here to
17 gather as much information as possible to take an informed decision
18 at the end. So, please.

19 MS. PUES: There is -- there's maybe one more thing which, of
20 course, relates to any technical errors that might occur. Say if we
21 have a videolink, can we, for example, always ensure that, where
22 necessary, we've got a pixelated appearance of a witness? Where,
23 here, if there's a physical barrier, this physical barrier is there.
24 Those kind of things. Is there a clear monitoring system in place to
25 ensure that there are no technical flaws? Because I think we all

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1 know by now that IT systems are fragile and we, at least, have
2 experienced quite a number of issues along the way. Which weren't
3 in -- anybody's fault but just a matter of technique that needs to be
4 taken into account.

5 Thank you.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you for that observation.
7 I think I can say that the Court does its utmost and is doing its
8 utmost to assure that.

9 Now we have exchanged all our -- of your oral submissions on
10 this point. Is there any --

11 I see your finger. You're asking for the floor, Mr. von Bone,
12 please.

13 MR. VON BONE: Lastly, indeed, my client is a heavy smoker,
14 obviously, and he can smoke during sessions that we have on Zoom with
15 him. But, obviously, he will not smoke during court sessions. To
16 clarify that.

17 PRESIDING JUDGE VELDT-FOGLIA: Okay, thank you for that. But I
18 trusted that he would not do that, I can assure you.

19 MR. VON BONE: No. It's just the practicalities, I think, they
20 will work out well. I mean, as they have until now, they work out
21 fine. So I trust that that will be taken into account, the
22 technicalities of the implementation of such a videolink, so I do not
23 foresee any trouble with that.

24 PRESIDING JUDGE VELDT-FOGLIA: Okay. We have now been
25 exchanging -- or you have been exchanging your views here in court

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1 orally. Is there any need to ask also for written submissions in
2 this regard, or has everybody enough been able to take the floor to
3 express what needed to be submitted?

4 I'm looking at the Specialist Prosecutor, Victims' Counsel,
5 Mr. von Bone? No, not. No.

6 We will be taking a decision and we will do that as soon as
7 possible. And it can be in writing, but it can also be an oral
8 order. We will reflect on that.

9 What I now would like to do is to continue with the hearing and
10 with the examination of the witness, and we proceed as we had
11 scheduled for today.

12 Let us now revert to the testimony of Witness 3593. And what I
13 will now do is I will go back into open session.

14 Thank you. Madam Court Officer, could we please - I see you're
15 on the phone - go into open session.

16 [Open session]

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

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

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

21 [The witness takes the stand]

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

23 THE WITNESS: [Interpretation] [No interpretation].

24 PRESIDING JUDGE VELDT-FOGLIA: And welcome back. How are you
25 doing today?

Witness: W03593 (Resumed) (Open Session)

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Examination by Mr. Michalczuk (Continued)

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1 THE INTERPRETER: Microphone, please.

2 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, good morning and
3 welcome back. How are you doing today?

4 THE WITNESS: [Interpretation] Good morning. I'm okay, thank
5 you.

6 PRESIDING JUDGE VELDT-FOGLIA: Did you rest?

7 THE WITNESS: [Interpretation] Yes.

8 PRESIDING JUDGE VELDT-FOGLIA: Very well, Mr. Witness. Now I
9 will give the floor to the Specialist Prosecution Office which will
10 complete its questioning.

11 And let me remind you, Mr. Witness, that you are still under
12 oath to tell the truth. Do you understand that?

13 THE WITNESS: [Interpretation] Yes.

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, you have the
15 floor. You have three hours and 40 minutes left from your estimated
16 seven hours.

17 MR. MICHALCZUK: Thank you, Your Honours.

18 WITNESS: W03593 [Resumed]

19 [Witness answered through interpretation]

20 Examination by Mr. Michalczuk: [Continued]

21 MR. MICHALCZUK:

22 Q. Good morning, Mr. Witness.

23 A. Good morning.

24 Q. I will ask you a few follow-up questions, as we call them, that
25 relate to some parts of your testimony that you gave yesterday.

Witness: W03593 (Resumed) (Open Session)

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Examination by Mr. Michalczuk (Continued)

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1 Yesterday you told us that there was one person, and you said
2 that that person had some signs of burning on his body, and you also
3 told us that this person [REDACTED] to the point
4 that he could not eat.

5 My question is: Apart from that person [REDACTED],
6 was there anybody else in that barn where you were held also [REDACTED]
7 like him?

8 A. No, it was only him.

9 Q. During your stay in Zllash over all those days, were you ever
10 brought before a judge or a prosecutor?

11 A. No.

12 Q. I would like you to think back to the moment that you described
13 to us yesterday, and I am talking about the moment when, as you
14 claimed, the [REDACTED] My
15 question is, because in your statement of yesterday, you said the
16 following thing after the end of that beating, and please listen what
17 you said yesterday:

18 [REDACTED]

19 [REDACTED]

20 Do you remember saying that, that [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q. My question does not relate to [REDACTED] because, as you

Witness: W03593 (Resumed) (Open Session)

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Examination by Mr. Michalczuk (Continued)

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1 said, you don't know [REDACTED] and I appreciate that. But my

2 question relates to the issue of the word [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A. Yes, the person who beat me is the person who [REDACTED]

6 Q. I understand. I am going to tell you one word, and I would like

7 to apologise to you for my horrible Albanian language: Does the word

8 "Skiffterat" mean anything to you in the context of this case?

9 A. I don't know. I just heard words, but I don't know who

10 Skiffterat were.

11 Q. Do you know whether there is any association, any link between

12 Skiffterat and the accused?

13 A. Of course, the accused was with Skiffterat.

14 Q. I understand that the accused was with Skiffterat. But to your

15 understanding, what was Skiffterat?

16 A. At the time, I didn't know. Later on, I heard that those there

17 were Skiffterat.

18 Q. Could you clarify? Because you said "those there were" with

19 "Skiffterat" or "were Skiffterat." What were you referring to, to

20 which place, which moment, which time?

21 A. At the location where I was, I later heard that those there were

22 Skiffterat. And even today, I don't know what Skiffterat were.

23 Q. You said that "those there were Skiffterat." Are you talking

24 about the place in Zllash where you were held? Is that what you're

25 saying?

Witness: W03593 (Resumed) (Open Session)

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Examination by Mr. Michalczuk (Continued)

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1 A. Yes.

2 Q. Let me ask you this question: Was Skifterat any sort of unit;
3 if you know that?

4 A. I don't know what they were.

5 Q. Let's move on then. Mr. Witness, I would like to show you a
6 certain photograph.

7 MR. MICHALCZUK: Madam Court Officer, this photograph can be
8 also shown to the public. This photograph is within the following
9 ERN range: SPOE00128386 to 00128420, so this is the range. And the
10 photograph I'm going to show bears the following ERN number:
11 SPOE00128388. And could we show that photo to the witness.

12 Can the witness see this photograph? I don't have it in front
13 of me, so that's why I'm asking.

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

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

16 MR. MICHALCZUK: This is tab 14 for -- just to facilitate the
17 Defence counsel to find it. Yes, I can see that now. This is the
18 photograph.

19 Q. Mr. Witness, do you have this photograph in front of you?

20 A. Yes.

21 Q. What does this photograph depict?

22 A. Say again, please?

23 Q. What does this photograph show?

24 A. I think it's the location where they handled me there in the
25 basement.

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Examination by Mr. Michalczuk (Continued)

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

1 Q. So does it depict the place in Zllash when you were held? Is
2 that what you are saying?

3 A. Yes.

4 Q. Could you tell the Court in which building? Because on this
5 photograph, we clearly have three buildings: The tallest one,
6 adjacent to it which is a bit lower, and there is the third one which
7 is black or dark in colour.

8 So my question is: Could you tell the Court in which building
9 you were held?

10 A. The one on two floors, there's a basement beneath. And that's
11 where I stayed.

12 Q. Are you referring to the tallest building on the right-hand side
13 of this photograph? Is that the one?

14 A. Yes.

15 Q. So you're saying that you were held in the basement of this
16 building? Is that what you're saying?

17 A. Yes.

18 Q. Yesterday you told us that from the place where you were held,
19 together with other detainees, you could hear upstairs screams of
20 people. Could you tell the Court whether this upstairs is also on
21 this building, this place where you heard those screams from?

22 A. To tell you the truth, I think that the location, as I said, I
23 couldn't see because my eyes were covered, but it is most probably
24 that.

25 MR. MICHALCZUK: Your Honours, I would like to show the witness

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Examination by Mr. Michalczuk (Continued)

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1 another photograph. But this time, if I might -- if I could kindly
2 ask Madam Court Officer not to show it to the public. And this would
3 be the photograph number 100968. And let me find you very quickly
4 the full ERN range. Yes, the full ERN range is 100966-100969.

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

6 MR. MICHALCZUK: For the Defence, this is tab 12. And I would
7 like to show just to the witness and everybody present in this
8 courtroom just this photograph that I mentioned before, and the ERN
9 number is 100968. Yes, this is the one.

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

11 A. Yes.

12 Q. This photograph is the same photograph or is the same
13 photograph. However, there are some differences. Can you see your
14 signature there on this photograph?

15 A. Yes.

16 Q. There are some circles. We can see the big circle. The line is
17 blue. Do you remember that you yourself drew that circle?

18 A. Yes.

19 Q. So what is that encircled building? Could you say that again?

20 A. I already told you. This is the place where I was mistreated
21 and where I was kept in the basement.

22 Q. Thank you very much. There is also a smaller circle. I don't
23 know whether you can see that. There is a small circle. There is
24 the tallest building, and you have the smaller circle at the verge of
25 this building in the lower part on the left-hand side. Can you see

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Examination by Mr. Michalczuk (Continued)

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1 that circle?

2 A. No.

3 MR. MICHALCZUK: Could we enlarge the photograph? I know that
4 this circle is marked with a blue marker, and it might not be seen
5 very, very well.

6 Q. So after having enlarged that photograph, Mr. Witness, can you
7 see the circle? The smaller one.

8 A. Yes.

9 Q. So what is encircled there?

10 A. This is the door to the place where I was mistreated.

11 Q. You told us about -- yesterday you told us about the day when
12 you were released. Were you released through that door; do you
13 remember that?

14 A. No.

15 Q. So you don't remember or you were not released through that
16 door? What is your answer?

17 A. We were not allowed to look. They just showed us the door and
18 said, "Get out of here. Go wherever you can."

19 Q. I understand. I would like to also show you another photograph.
20 I would like to show you another photograph.

21 MR. MICHALCZUK: And the number of this photograph, for the
22 record, would be SITF00072231. But we should not broadcast it to the
23 public; just to the witness and everybody in the courtroom. Tab 9.

24 Q. Mr. Witness, can you see that photograph?

25 A. Yes.

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Examination by Mr. Michalczuk (Continued)

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1 Q. Do you recognise your signature there?

2 A. Yes.

3 MR. MICHALCZUK: Your Honours, this the same photograph taken at
4 the same time. However, it was shown to the witness during another
5 interview.

6 Q. Mr. Witness, do you remember having been shown this photograph
7 during your interview with UNMIK in [REDACTED]

8 A. Yes.

9 Q. One question before we move on. So, please, cast your mind back
10 to the moment you were being released. You told us yesterday that
11 when you were released you saw many people outside; is that correct?

12 A. I told you yesterday that when I went out to the yard, I saw
13 there many people. And we all just wanted to run away as soon as we
14 could. That's why I didn't look around. I was not interested to
15 look around. I was just concerned about my own life.

16 Q. I understand. Yesterday you told us also that you knew the
17 place where you were being taken; is that correct? I am talking
18 about -- because you had this conversation yesterday, your testimony
19 yesterday, in which you said that you knew where you were going, that
20 you knew where you were. You mentioned the name of that place.

21 And my question is: Upon release, focusing on that moment of
22 your release, was there any moment in that group of people that you
23 could take a look around you, take a look at the place, the area
24 where you were? Did you have such a moment?

25 A. To tell you the truth, it was war. Nobody cared about others,

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1 and everybody was trying to get away as soon as they could, because
2 that day was the day of the offensive.

3 Q. Yes, I understand that. At the same time today, or also in
4 [REDACTED]

5 when you gave your statement to UNMIK, and also in [REDACTED] when you
6 gave

7 the statement to the Prosecutor, and also in [REDACTED], earlier this
8 year,

9 when you gave another statement, you said that this was the building
10 where you were held. And we would like to know how do you know that
11 this was, indeed, that building where you were held?

12 A. It's normal -- it's not that I have seen in full, but I have
13 seen a little bit to know where I was.

14 Q. Did you see enough of that building to be able to recognise that
15 building on those photographs later?

16 A. Yes, I did.

17 MR. MICHALCZUK: Your Honours, I would like to show the witness
18 another document. But, again, I would like to kindly ask
19 Madam Court Officer not to show it to the general public. And this
20 will be a certain sketch, and the ERN number of it is 061013, and the
21 ERN range would be 061012 to 061015, with the corresponding Albanian
22 translation also. This is tab 11.

23 Q. Mr. Witness, can you see that sketch in front of you?

24 A. Yes.

25 Q. Do you see your signature underneath?

A. Yes.

Q. Can you tell the Court what does this sketch show?

A. To tell the truth, a very long period of time has passed by, and

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1 I have forgotten. I do not know. It's normal that that's the house,
2 but I don't know. So there is the door there, and I think that I --
3 I've tried to do that, to make the sketch that way.

4 Q. On this sketch there is number 2 above, a little bit above. And
5 there is also -- and this on the left-hand side of it, we've got a
6 certain -- certain square divided into two parts. The upper part has
7 got number 2, and there is also the lower part. Do you remember what
8 those parts represent; the upper part and the lower part of that
9 sketch?

10 A. I have tried to show that I have stayed in the lower part and
11 that in the upper part there was another room.

12 Q. The other room -- because on this sketch - on this sketch - it's
13 written in English that it was the room for beating, and on the other
14 one it says "stable." Is that what the sketch is, indeed, showing,
15 that there was a room used for beatings above and a stable in the
16 lower part?

17 A. Yes. So we were staying in the lower part. Whereas, the
18 soldiers - the police, the army, I don't know what they were - they
19 were staying in the upper part.

20 Q. I understand. I would like to show you yet another drawing.
21 It's going to be the last drawing.

22 MR. MICHALCZUK: And I'm thanking Your Honours for your
23 patience. Maybe I'm taking too much time, but we need to explore
24 this.

25 Could we show the witness another drawing, and the number of it

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1 would be 061014. And let me quickly find the range. It's the same
2 one as before, from 061012 to 061015, and the tab would be, as
3 previously, number 11. Again, I would like to show it only to the
4 witness.

5 Q. Mr. Witness, can you see your signature under this drawing?

6 A. Yes.

7 Q. Do you remember making that drawing yourself?

8 A. Yes.

9 Q. This drawing has got, as you can see, two parts, and I would
10 like you to comment on those. On the right-hand side, you mentioned
11 somebody's name. What is that name? Could you tell the Court.

12 A. Yes, this was a commander of the KLA. It's Fatmir Sopi.

13 Q. I am not going to ask you any questions about that person. I
14 would like you to comment on the other side, on the other part of
15 this sketch. What name do we have on that other left-hand side of
16 this sketch?

17 A. I do not know. I do not recall.

18 Q. I would like you -- because this drawing contains a number of
19 elements, so let me draw your attention to the left-hand side of it.
20 I am talking about the bottom of that drawing, bottom left. What
21 name did you put there?

22 A. I do not remember. I can't remember.

23 Q. Yes, you might not remember. However, as you said, it is your
24 drawing, and on the left-hand side, bottom left-hand side, there is a
25 name stated there. And could you, for the record, tell the Court

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1 what name you put there when you made that drawing?

2 A. Yes, I understand. This is the name of the accused. So I
3 refuse to mention his name. I said that yesterday as well, and I
4 don't want to ever mention his name in my life.

5 Q. I understand. Looking at the drawing, you divided the drawing
6 into two parts: One, on the right-hand side, you said Fatmir Sopi;
7 on the other side there is, as you put it, the accused. What does
8 this drawing represent? Could you tell the Court.

9 A. This drawing -- at the time that I gave the statement, the
10 declaration. So these two places are about 1 kilometre away from one
11 another. On the right-hand side, it was the army; whereas, here was
12 the military police.

13 MR. MICHALCZUK: Your Honours, I would need a second for a very
14 short consultation.

15 PRESIDING JUDGE VELDT-FOGLIA: Please, go ahead.

16 [Specialist Prosecutors confer]

17 MR. MICHALCZUK: I don't have any questions on this particular
18 drawing. I have some more questions about some other things that
19 relate to the outcome of the stay in Zllash on the health of the
20 witness. And I have a line of questions, and I'm also looking at
21 Your Honours and at the clock.

22 PRESIDING JUDGE VELDT-FOGLIA: Yes. Before you enter into that,
23 Mr. Prosecutor, we could also -- you were asking some questions. We
24 could also go into private session, and you could reassure the
25 witness in this regard. I leave it up to you, but I offer it to you

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1 as a possibility.

2 MR. MICHALCZUK: Your Honour, so I would kindly request to go
3 into private session but for a very, very brief moment just to
4 address one or two issues, and then we'll go back into open session.

5 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
6 please revert us to private session please.

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

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

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 Mr. Prosecutor, you have the floor.

11 MR. MICHALCZUK: Thank you, Your Honours.

12 Q. Mr. Witness, coming back very shortly to that drawing. And I
13 would like to assure you that right now we are in a private session,
14 nobody can see you, nobody can hear you. Only people in this
15 courtroom can. And you can feel safe, and nothing you will say will
16 leak from this courtroom. Do you understand that?

17 A. Yes.

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 MR. MICHALCZUK: Having heard that answer, Your Honour, we can
12 go back into open session.

13 PRESIDING JUDGE VELDT-FOGLIA: Okay. Madam Court Officer, would
14 you please [Microphone not activated] open session, please.

15 [Open session]

16 THE COURT OFFICER: We are back in open session, Your Honours.

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

18 Mr. Prosecutor, you have the floor.

19 MR. MICHALCZUK: Your Honours, how much time do we have? Do we
20 have still ten minutes to go?

21 PRESIDING JUDGE VELDT-FOGLIA: You have still ten minutes, yes.

22 MR. MICHALCZUK: So, in this case, I will proceed with a few
23 questions that can be asked and answered in the open session. And
24 after that, we'll have a break and we'll continue. I'll ask, very
25 kindly, to go into private session for the rest of my questioning --

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1 PRESIDING JUDGE VELDT-FOGLIA: That's after 11.30, you mean?

2 MR. MICHALCZUK: Yes.

3 PRESIDING JUDGE VELDT-FOGLIA: Okay.

4 MR. MICHALCZUK: Yes.

5 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

6 MR. MICHALCZUK: Thank you very much.

7 Q. Mr. Witness, let's move on. I would like to ask you some
8 questions that relate to the outcome on your health, the outcome of
9 your stay in Zllash.

10 And my first question would be: What injuries did you suffer
11 from as a result of things that happened to you in Zllash?

12 A. So this [REDACTED]

13 [REDACTED] - [REDACTED]. Upon release, I didn't know it
14 right away but -- so in one day I have [REDACTED]

15 [REDACTED]

16 [REDACTED] And the

17 reason for that was the beating.

18 So these are the consequences: [REDACTED]

19 [REDACTED]

20 Q. Could we just discuss this issue one by one. So you mentioned
21 first your hand, and I understand you to have pointed out at your
22 [REDACTED] is that correct?

23 A. I went to see a normal doctor. I went to Prishtine. About the
24 [REDACTED] I had my [REDACTED] done in [REDACTED]

25 Q. I understand. But I would like you to go one by one. So let's

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1 discuss first your [REDACTED]

2 A few minutes ago you showed us, as I understand correctly, your
3 [REDACTED] is that right? Are we talking about the injuries of your
4 [REDACTED]

5 A. Yes.

6 Q. And you showed us your [REDACTED]

7 A. [REDACTED] In three places.

8 Q. You also -- excuse me, please continue. Please continue.

9 A. I am not [REDACTED]

10 [REDACTED] And from this Court, I ask
11 for compensation. I need compensation because I am made unable.

12 Q. Mr. Witness, you also mentioned a [REDACTED] that was broken or
13 damaged. What [REDACTED] are we talking about?

14 A. Yes, this one. This one here.

15 Q. So the [REDACTED]; correct?

16 A. Yes.

17 Q. You also mentioned a few minutes ago certain injuries to
18 [REDACTED]

19 [REDACTED] correct?

20 A. Yes.

21 Q. Could you show the Court which part of your [REDACTED] got
22 injured?

23 You also mentioned [REDACTED]. So could you show the Court which
24 part [REDACTED] was damaged [REDACTED]?

25 A. This part over here. I have a [REDACTED]

[REDACTED] it.

PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I would like to

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1 add for the record that Mr. Witness is pointing at [REDACTED]

2 [REDACTED]

3 MR. MICHALCZUK: Yes.

4 Q. We will come back to this part a bit later on about the
[REDACTED]

5 [REDACTED] a bit later in the private session.

6 But before we do that, I would like to ask you a question about
7 your treatment immediately after you were released from Zllash. So,
8 again, cast your mind back to the moment that you left Zllash. Were
9 you treated later on somehow not in the hospital but in private
10 settings, privately somehow?

11 A. Yes, after a time -- after some time. I mean, because of the
12 war situation, we couldn't go anywhere. I couldn't go for a checkup
13 or to get cured. After a certain period of time passed, [REDACTED]
14 [REDACTED]

15 [REDACTED] Afterwards, I had the [REDACTED] and in that moment
16 in time so [REDACTED]

17 Q. We will discuss it a bit later. My question deals more with the
18 immediate treatment that you received after you were released from
19 Zllash. You described a few injuries. You described the injury of
20 your -- please wait a second. You described a [REDACTED]

21 [REDACTED]

22 [REDACTED] So before you went to hospital, how had you been
23 treated?

24 A. Back then I had some treatment in my own house with all
25 different types of normal house treatments, because there were no

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1 doctors, like I said. And after a certain period of time, I went to
2 see the doctor.

3 Q. You also mentioned some damage to your [REDACTED] Could you tell
4 the Court more what happened to your [REDACTED]

5 A. My [REDACTED] I -- I mean, here and here [REDACTED]
6 [REDACTED], so they have been hitting me - I don't know with what.
7 But [REDACTED] And also the [REDACTED] was
8 harmed. And I have to say that for three, four months I was not
9 recovered. And as we speak, I am not fully recovered either.

10 Q. Did you undergo any medical treatment to fix your [REDACTED]?

11 A. Yes.

12 MR. MICHALCZUK: Your Honours, for now that would be the end of
13 my questions that I was going to pose in the open session, but I will
14 come back to this topic in more precise fashion after the break, and
15 I'll ask for the private session.

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

17 It's now time for the first break. I, therefore, ask the
18 Court Usher to assist the witness in exiting the room.

19 We will resume in 30 minutes, and the hearing is adjourned.

20 [The witness stands down]

21 --- Recess taken at 10.57 a.m.

22 --- On resuming at 11.29 a.m.

23 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. We resume the
24 testimony of Witness 3593, and we will do that - and I look at the
25 Specialist Prosecutor - we will do that in private session. Am I

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1 right?

2 MR. MICHALCZUK: Yes, Your Honour.

3 PRESIDING JUDGE VELDT-FOGLIA: Court Usher -- could you please,
4 Madam Court Officer, ask for private session.

5 ~~[Private session]~~ [Open session]

6 THE COURT OFFICER: We are in private session, Your Honours.

7 PRESIDING JUDGE VELDT-FOGLIA: Okay, thank you.

8 Court Usher, can you please bring the witness back to the
9 courtroom.

10 MR. MICHALCZUK: Your Honour, just before the witness comes out,
11 I would like to give a notice that we will finish today with our
12 questionings. I mean, we will finish within this short session
13 before lunch.

14 PRESIDING JUDGE VELDT-FOGLIA: Ah, okay, very well.

15 MR. MICHALCZUK: This is our intention at least, Your Honour.

16 PRESIDING JUDGE VELDT-FOGLIA: I understand. Thank you.

17 [The witness takes the stand]

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

19 Before --

20 THE WITNESS: [Interpretation] Thank you.

21 PRESIDING JUDGE VELDT-FOGLIA: Before I give the floor to the
22 Specialist Prosecutor Office again, I first want to say the
23 following.

24 This morning, I did not formally register the presence of the
25 Registry. For the record, we have registered it now that you,

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1 Mr. Roche, are present here.

2 And looking at the compositions of the different teams, I see
3 the same faces. Yes, okay, very well.

4 Mr. Prosecutor, you have the floor.

5 MR. MICHALCZUK: Thank you very much, Your Honour.

6 Q. Mr. Witness, can we continue? I've got just a few last
7 questions.

8 A. Yes.

9 Q. Before the break, we were discussing your injuries. You
10 mentioned, amongst those, the [REDACTED] And I would
11 like to ask you a few follow-up questions only with regard to the
12 [REDACTED]

13 You told us before that you sought medical attention and you
14 underwent [REDACTED] for that [REDACTED] is that correct?

15 A. Yes.

16 Q. Before we move on, I would like to remind you that we are in
17 private session. So, again, whatever you say to us is not going to
18 be revealed outside of this courtroom. You understand that?

19 A. Yes.

20 Q. Mr. Witness, do you remember where you had that medical
21 treatment regarding the [REDACTED]

22 A. [REDACTED]

23 Q. Were you given any medical papers after that [REDACTED], after
that

24 [REDACTED]

25 A. Yes.

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1 Q. Do you remember providing those medical documents to the
2 Prosecutor during your interview?

3 A. Yes.

4 MR. MICHALCZUK: Your Honours, I would like to show the witness
5 just one document, and the range within which this document is
6 included goes as follows: SITF00296103 to 00296121, and this is the
7 Albanian range; English translations is within the same numbers, at
8 the end we have -ET, English translation.

9 And within this range, I would like to show the witness just one
10 document, which is on page SITF00296103, with the corresponding -- of
11 course, with the corresponding English translation. Could we show it
12 to the witness, this document.

13 Q. Mr. Witness, can you see this document in front of you that we
14 have just displayed?

15 A. Yes.

16 Q. Do you recognise this document as one of those that you gave to
17 the Prosecutor during your interview?

18 A. Yes.

19 Q. Mr. Witness, I would like to ask you one question. When you
20 [REDACTED] what did
21 you tell the doctors as a reason why you sustained that [REDACTED]

22 A. To tell you the truth, I told the doctor that I fell, that I
23 slipped and fell, because I was ashamed to say to the doctor what had
24 caused my injuries.

25 Q. So did you tell the doctors -- so the reason why you didn't tell

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1 the doctors that those injuries were caused by those events in
2 Zllash, the reason was that you were ashamed to tell them that it was
3 indeed what happened there; correct?

4 A. Yes, I was ashamed.

5 Q. Thank you very much.

6 MR. MICHALCZUK: Your Honours, I am not going to ask any more
7 questions, and I'm not going to make the witness comment what is on
8 that paper because it is just medical jargon and he's not a medical
9 specialist, but I would like to still use the opportunity, as we are
10 still in the private session, to ask the witness a few final closing
11 questions. But I would like to have a very short consultation
12 before, just one minute. Not more than that.

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

14 [Specialist Prosecutor confers]

15 MR. MICHALCZUK:

16 Q. So, Mr. Witness, I have just the last set of questions. Very
17 few questions, indeed. And I would like to again remind you that you
18 are in the private session, so nobody outside of this courtroom can
19 hear what you are saying. They cannot hear my questions. They
20 cannot hear your answers. Do you understand that, that you are right
21 now in the safe settings?

22 A. Yes.

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 531

Examination by Mr. Michalczuk (Continued)

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

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 THE INTERPRETER: Microphone, please.

11 MR. MICHALCZUK:

12 Q. And then I'll ask you the last questions.

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 A. [In English] okay.

20 Q. -- about something different.

21 A. [Interpretation] I just wanted to mention this once again before

22 I forget. I really don't understand your question.

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 532

Examination by Mr. Michalczuk (Continued)

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

1 A. No, because I didn't speak to anyone. I don't have to speak to
2 anyone.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. Okay. Thank you, Mr. Witness.

25 MR. MICHALCZUK: Your Honours, before we conclude, I would like

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 533

Examination by Mr. Michalczuk (Continued)

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1 to list, very briefly, all the exhibits that we'd like to tender into
2 evidence. I'm aware of your directions from yesterday, that we
3 should submit a list after this session. And we will, of course, do
4 it in paper, in writing. However, for the benefit of the Defence
5 counsel, just to give him an advanced notice before his
6 cross-examination, I would like to list, for the record, very briefly
7 just the tab numbers of those exhibits that we are going to -- that
8 we are hereby tendering into evidence.

9 So, for the record, the SPO hereby tenders the following
10 exhibits into evidence: Tab 1, tab 5 -- okay, maybe shall I also
11 give descriptions of those very briefly? So maybe for the record
12 quickly I could do that.

13 So tab 1 is redacted version of the UNMIK statement of W03593.

14 Tab 5, as I said before, this is audio-video recording of SPO
15 interview with W03593, dated [REDACTED] Even if we did not play
16 this recording, this is the -- this matches the corresponding
17 transcript that we used yesterday, and this transcript is the next
18 one we are going to tender into evidence.

19 It's tab 6, and this is redacted version of SPO transcript of
20 interview of Witness W03593.

21 Tab 7, audio-video recording of SPO interview with W03593, dated
22 [REDACTED]

23 Tab 8, redacted version of SPO transcript of interview of
24 Witness W03593.

25 Tab 9, which is photograph of a building in Zllash, shown to

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 534

Examination by Mr. Michalczuk (Continued)

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

1 W03593. Date stamp on photo is [REDACTED]

2 Tab 10, medical -- redacted medical documents, W03593.

3 Tab 11, SPO Official Note of Interview of Witness W03593.

4 Tab 12, four attachments, photos to SPO interview of

5 Witness W03593.

6 Tab 13, 1-3, redacted version of Official Note of audio-video

7 interview of Witness W03593.

8 Your Honours, also this should be tab 14. This is the UNMIK
9 photo album from [REDACTED] We showed just one photograph from that
10 album, but we have to tender, I understand, the whole range. So
11 that's why I'm giving this range. So it was tab 14.

12 And, finally, tab 15, which is [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 there is a bigger range. We are not tendering that bigger one, only
16 these two pages. And that's it.

17 Thank you, Your Honours. This concludes the
18 examination-in-chief of this witness.

19 Q. Thank you, Mr. Witness.

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

21 Mr. Witness --

22 THE INTERPRETER: Microphone, please.

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

24 Mr. Witness, the Specialist Prosecution Office has now finished
25 its questioning of you, and I will now address myself to the

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) *Reclassified pursuant to F493* Page 535

Examination by Mr. Michalczuk (Continued)

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

1 Victims' Counsel to see whether she wants to pose questions to the
2 witness, and if she would like to do it right away or that we first -
3 although, yes, it's very early for lunch, but we can arrange
4 different timeframes because we are really getting into something new
5 now.

6 MS. PUES: Your Honours, I think it would be in the interests of
7 the -- with the witness as well, if his statement was over as quickly
8 as possible. So we would be ready. We've prepared while we were
9 going along to pose those questions that we have now.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you,
11 Victims' Counsel. I am waiting to see how much time you have for
12 your questioning, and that's one hour and five minutes. That's very
13 exact. According to our Decision on the Conduct of Proceedings. You
14 have the floor.

15 MS. PUES: Thank you. Just give me a minute to set up.

16 PRESIDING JUDGE VELDT-FOGLIA: Yes.

17 Mr. Witness. Mr. Witness, the Victims' Counsel is now going to
18 pose questions to you. Do you understand that?

19 THE WITNESS: Okay.

20 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, we are first
21 going to do something else.

22 Madam Court Officer, I would like to revert from private session
23 to public session.

24 [Open session]

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

Witness: W03593 (Resumed) (Open Session)

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Questioned by Ms. Pues

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

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

2 We completed the questioning by Witness 3593 by the SPO, and now
3 we will continue with the questioning by the Victims' Counsel. She
4 has - you have - one hour and five minutes, according to our Decision
5 on the Conduct of Proceedings, and I give you now the floor.

6 Please proceed.

7 MS. PUES: Thank you, Your Honours.

8 Questioned by Ms. Pues:

9 Q. And thank you, Mr. Witness. I apologise, actually, that I have
10 to follow-up with questions after you've already provided us with so
11 much information. I really do appreciate that - and for us lawyers,
12 and actually, for the whole Court - it is important to hear
13 everything in a lot of detail. So please be patient with us. And,
14 again, I'm sorry it takes so long.

15 I will ask you questions that will hopefully help us better
16 understand how the crimes have changed your life.

17 MS. PUES: But before starting those questions, Your Honours, I
18 would like to ask that we move back into private session for the
19 entirety of my questioning because the questions refer to
20 circumstances that are so private and that provide so much
21 information that could potentially be identifiable that I deem it the
22 right thing to do.

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

24 Madam Court Officer, could you please revert us to private
25 session.

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 537

Questioned by Ms. Pues

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

1 MS. PUES: Thank you very much.

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

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

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

5 You have the floor.

6 MS. PUES: Thank you.

7 Q. Let's start with your circumstances once more. You told us,
8 Mr. Witness, that you worked as a [REDACTED] and also
9 [REDACTED] So both heavy work. You also told us or we
10 heard that you were severely injured and that you were unable to work
11 after this period in April 1999.

12 What income, what kind of income did you actually have after
13 that period?

14 A. I tried to work as a [REDACTED] And for the last
15 [REDACTED]
16 [REDACTED]

17 Q. But that was only for the [REDACTED] so after you've
18 reached [REDACTED] Okay, thank you.

19 A. Yes.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 538

Questioned by Ms. Pues

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1 Q. Okay, thank you. You have already described that [REDACTED]
2 [REDACTED] And that you weren't able
3 to do any heavy -- or, no, let me ask this: Were you actually able
4 to do any [REDACTED], for example, [REDACTED] when you were
5 doing [REDACTED]

6 A. I can only [REDACTED], not more than that.

7 Q. Okay, thank you.

8 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel, please, could
9 you switch off your microphone when the question is finished? I was
10 advised to share that with you.

11 MS. PUES: Thank you. I do that.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

13 MS. PUES:

14 Q. And is [REDACTED] still painful?

15 A. Yes.

16 Q. You also mention [REDACTED] and we heard
17 that you didn't have any access to medical treatment at first because
18 it was the war and that you tried, sort of, other treatments in the
19 house. How long did the acute pain actually last for [REDACTED]
20 [REDACTED]?

21 A. For five or six months. And to this day, I still have pain on
22 [REDACTED].

23 Q. Thank you. Can you actually remember - you said four, five --
24 no, five or six months - when the first time was that you were able
25 to receive professional medical treatment?

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 539

Questioned by Ms. Pues

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1 A. [REDACTED]

2 Q. Also, we've already heard, you already described that [REDACTED]

3 [REDACTED] And you described that you were struck when you

4 were first taken into the car that took you to Zllash.

5 Here is my first question on this part: Did your [REDACTED]

6 [REDACTED] at once?

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Q. Thank you. I can understand that it's very, very difficult to

13 remember those details, and it's very helpful how you manage to

14 describe all this.

15 You did mention before that you got bread, sometimes stale

16 bread, during that time in Zllash. With [REDACTED]

17 [REDACTED] this stale bread?

18 A. I had to. I had to live.

19 Q. So did this cause extra pain?

20 A. Of course, yes.

21 Q. Did you lose weight during your time in Zllash?

22 A. [REDACTED] at least.

23 Q. [REDACTED] is that right?

24 A. Yes.

25 Q. Did you have to pay for this treatment?

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Questioned by Ms. PUES

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1 A. Yes, I did. Of course.

2 Q. How much did you have to pay for that?

3 A. I have forgotten the exact amount, but about [REDACTED]

4 Q. Was that a lot of money for you or easy to pay?

5 A. It was a huge amount for me, because I didn't have much.

6 Q. Thank you. Now, can you tell us about - I mean, we've covered a
7 lot on your injuries already, but just to get the full picture -
8 about any other injuries that you have suffered from that time in
9 Zllash? Also, if you have any other [REDACTED] that you can
10 point to, please do so.

11 A. No, I don't have [REDACTED]
12 yes.

13 MS. PUES: Just one minute.

14 [Victims' Counsel confers]

15 MS. PUES:

16 Q. You did already point to the [REDACTED]
17 [REDACTED] that might be useful for us
18 to know about?

19 A. [REDACTED] Here, and here. So the
20 [REDACTED]
21 [REDACTED]

22 Q. Thank you. Now, Mr. Witness, since that time, can you still
23 enjoy sunshine?

24 A. Yes.

25 Q. Okay, thank you. You did mention to us today that you haven't

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Questioned by Ms. Pues

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1 fully recovered yet. Did you feel any other effects, [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 A. Yes, of course.

13 Q. I'm sorry I've got to ask you all these things. It is helpful
14 for the Court to fully understand your situation.

15 Now, if you had to compare yourself, the man you were before
16 April 1999 and the man you were after April 1999, how have you
17 changed?

18 A. I apologise. I did not understand the question right.

19 Q. I'll try to rephrase that, okay?

20 PRESIDING JUDGE VELDT-FOGLIA: Madam Victims' Counsel, I have a
21 question. Up till the moment of your questions with regard to the
22 [REDACTED] it could have been also possible, I think, to do it in
23 public
24 session. I think -- I should be cautious with what we do in private
25 session and what we do in public session.

25 So I will give back the floor to you now, but I would rather not

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1 do everything in private session if it's not referring to really
2 identifying information -- if it's not about identifying information.

3 MS. PUES: Well, given that I will now also address the impact
4 on the family, I think, yes.

5 PRESIDING JUDGE VELDT-FOGLIA: Okay. That is what it is. But
6 we should really all try to pay close attention -- and it's not only
7 for you. I also realised it yesterday large parts were done, of
8 course, in private session. And we should do our utmost all to have
9 as much as possible in public.

10 MS. PUES: Yes, I agree. And thank you for that reminder.

11 Q. So you've mentioned all the pain, Mr. Witness, and the
12 [REDACTED]. Did you feel that you have changed as a person because of
13 the events in Zllash?

14 A. Very little.

15 Q. Did your loss of work, of paid work, change the situation of
16 your family, Mr. Witness?

17 A. Of course. It has changed the course of my family life, my
18 status of life, and my life in general. Because you know that you
19 [REDACTED]

20 Q. When you say it has changed your status of life, can you try to
21 explain that a bit more, please.

22 A. Well, it has changed my life. The reason for that is that I'm
23 not able to work. So [REDACTED]

24 [REDACTED]

25 [REDACTED]

Witness: W03593 (Resumed) (~~Private Session~~) (Open Session) Reclassified pursuant to F493 Page 543

Questioned by Ms. Pues

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1 Q. [REDACTED] do you know? If you can't
2 remember, don't worry. But if you can, that would be good.

3 A. [REDACTED]
4 [REDACTED]

5 Q. And are there any other effects, any other way these events have
6 impacted on your life that you haven't mentioned yet?

7 A. I already told you. So my life has changed from 1999.

8 MS. PUES: Could I - just before we finish up, because we are
9 actually nearly done with our questions - have just a very brief
10 pause for consultation with my team.

11 [Victims' Counsel confers]

12 MS. PUES:

13 Q. One last question I have for you, Mr. Witness.

14 Actually, we've heard that you weren't able to earn any money.

15 [REDACTED]

16 [REDACTED]

17 A. No.

18 Q. Thank you. Those are all the questions I have, and I thank you
19 very much for your information.

20 A. Thank you.

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

22 I am looking at the clock. It's now quarter past 12.00. It
23 would now be the moment for the Defence to start its -- for the
24 Defence team to start its questioning.

25 Mr. von Bone, would you like to start?

Procedural Matters

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

1 Before I ask this question, I should first go back to public
2 session.

3 Madam Court Officer, could you please go back to public session.

4 [Open session]

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

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

7 Thank you, Victims' Counsel, for the questioning.

8 I now turn to the Defence. And, Mr. von Bone, it's now the time
9 for you to question the witness. Do you have a preference to start
10 right away, or do you prefer to take some time and then after lunch
11 start with it?

12 MR. VON BONE: Your Honour, thank you very much. I think we
13 would rather start after lunch.

14 PRESIDING JUDGE VELDT-FOGLIA: Okay.

15 MR. VON BONE: I would just want to ask one thing briefly to
16 my ...

17 [Specialist Counsel confers]

18 MR. VON BONE: Yes, Your Honour, I'd rather say this now than in
19 a later stage. And even if there has not been any ruling on the
20 request that I previously did this morning regarding the issues
21 concerning Mr. Mustafa and his presence in the courtroom, I envisage
22 that I would ask - during the break, again - that he would rather go
23 back to the detention centre. And I ask that now, as I do not wish
24 to do that to interrupt, and I would say, you know, it's better to do
25 that now than at a later stage, because then we get the whole -- we

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1 have to go through the same motions again, so to speak, and I would
2 not like to do that.

3 So my question would be whether it would be possible if
4 Mr. Mustafa would go back to the detention centre, even during the
5 questioning of myself.

6 PRESIDING JUDGE VELDT-FOGLIA: Could you talk a little bit
7 louder?

8 MR. VON BONE: Yes.

9 PRESIDING JUDGE VELDT-FOGLIA: Or maybe the microphone -- yes.

10 MR. VON BONE: I have some trouble too with the microphone
11 sometimes.

12 But my question is, actually, as I said this morning earlier.
13 We started with this situation regarding Mr. Mustafa and that he
14 would rather be going back to the detention centre, as he has a lot
15 of difficulties and stress from a lot of factors. We have discussed
16 that this morning.

17 But as I did yesterday, I did that during the lunch break. I
18 rather do this -- I bring up the subject now rather than during the
19 lunch break this. And then we would, you know, start later again.
20 So that's why I'm asking now whether that would be made possible.
21 Without, you know, that there is any particular ruling on the issue
22 that we discussed this morning. In general terms, there was clearly
23 something that was requested.

24 But just for the afternoon session, that it is clear that
25 Mr. Mustafa could return then to the detention centre.

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1 PRESIDING JUDGE VELDT-FOGLIA: Good.

2 MR. VON BONE: Is my question clear enough?

3 PRESIDING JUDGE VELDT-FOGLIA: Your question is very clear.

4 MR. VON BONE: Okay.

5 PRESIDING JUDGE VELDT-FOGLIA: And if you would not have put
6 that question to us, I would have --

7 MR. VON BONE: Just a minute, please.

8 PRESIDING JUDGE VELDT-FOGLIA: -- put the question to you.

9 MR. VON BONE: I'm sorry, I'm sorry.

10 PRESIDING JUDGE VELDT-FOGLIA: Oh.

11 MR. VON BONE: Can somebody help me with the microphone, because
12 this machine, I don't hear anything here. Maybe I change it. There
13 we are again. So now I hear something.

14 Okay, so that was the question that I had.

15 PRESIDING JUDGE VELDT-FOGLIA: If you would not have informed
16 the Panel by yourself, it would have been my question, of course, to
17 see where we stand on this point.

18 Because we are now entering into this discussion, what I want to
19 do is let -- because I've heard that you said, that you want to start
20 after the lunch break.

21 What I want to do is to tell Mr. Witness: Thank you for
22 answering the questions this morning. You may now leave, and we will
23 expect you back at 2.30. Yes? Okay.

24 Yes, you may usher the witness out.

25 [The witness stands down]

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1 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

2 I saw the hand raised by the Specialist Prosecutor's Office.

3 Please, Mr. Prosecutor.

4 MR. MICHALCZUK: Your Honours, my point is a little bit moot
5 now, but I would kindly ask that if such issues of the defendant
6 being -- the accused being present or absent or reasons for that be
7 rather discussed not in the presence of the witness. But right now,
8 as I said, this point is moot, because he is gone and we have
9 discussed this issue.

10 But for future reference, maybe if we have such -- such matters,
11 and it might pop up tomorrow, the day after tomorrow. Perhaps the
12 witnesses should not be privy to those exchanges between us and
13 discussions in court.

14 Thank you.

15 PRESIDING JUDGE VELDT-FOGLIA: We noted that, Mr. Prosecutor.

16 We will deliberate during the break. And until that moment,
17 Mr. Mustafa cannot leave yet. And after the break, we will come back
18 and then I will tell you how we're going to proceed.

19 For the record, I want to mention something I mentioned in the
20 private session, and that was the presence of the Registry. I said
21 that in a private session, but it should be on record, of course, in
22 the public transcript. So the Registry is present. And I also want
23 to mention in the public session that the composition of all the
24 persons present this morning has not changed.

25 We will have today a break, a lunch break a little bit longer

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1 than normal. We will adjourn now and then we will resume our session
2 at 2.30 at the normal time.

3 The hearing is adjourned.

4 --- Luncheon recess taken at 12.25 p.m.

5 --- On resuming at 3.07 p.m.

6 [Trial Panel and Court Officer confers]

7 PRESIDING JUDGE VELDT-FOGLIA: Welcome back. I don't see any
8 changes in the composition at my right-hand side. And, of course, I
9 do see a change not in the composition of the Defence team but
10 Mr. Mustafa is not here anymore.

11 We have started with a little delay, and I understood that has
12 been explained to you.

13 [Trial Panel confers]

14 PRESIDING JUDGE VELDT-FOGLIA: Mr. Mustafa, welcome to you too.
15 You raised your hand.

16 THE ACCUSED: [via videolink] [Interpretation] Thank you,
17 Your Honour.

18 PRESIDING JUDGE VELDT-FOGLIA: I saw you raised your hand. Did
19 you want to say something?

20 THE ACCUSED: [via videolink] [Interpretation] You just said,
21 Your Honour, that I was not present, and I just wanted to let you
22 know that I am following the proceedings.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Mustafa. I was
24 mentioning the people in the courtroom. So I see that you are
25 present, and I was informed that you are present through

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1 video-conference, but I meant in the courtroom.

2 I will now give an oral order on the issue we discussed this
3 morning with regard to the presence of the accused at the proceedings
4 in this courtroom.

5 The Panel notes the submissions of Mr. Mustafa who requests
6 leave to follow the trial proceedings from the Specialist Chambers
7 detention facilities via videolink in order to avoid decreases in his
8 level of concentration due to reasons expressed this morning in
9 private session.

10 The Panel further notes the Registry's submission, that
11 videolink, including a direct line of communication with
12 Mr. Mustafa's counsel in the courtroom, may be set up and is set up
13 now from the Specialist Chambers detention facilities so as to enable
14 Mr. Mustafa to follow the trial proceedings and instruct his counsel
15 remotely.

16 At the outset, the Panel recalls that Rule 68(1) of the Rules
17 establishes a presumption in favour of the presence of the accused at
18 trial, which is reflected in the right of the accused to be tried in
19 his presence under Article 21(4)(e) of the Law.

20 The Panel further recalls that participation via videolink from
21 the detention facilities, or from within the premises of the
22 Specialist Chambers, is in principle only allowed in the
23 circumstances provided for under Rule 61(2) and Rule 68(6) of the
24 Rules; namely, following removal of the accused from the courtroom on
25 account of his disruptive behaviour or when the accused is not

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1 physically fit to be present at the proceedings.

2 However, pursuant to Article 40(2) of the Law and Rule 116(1) of
3 the Rules, the Panel has the power to adopt such procedures and
4 modalities as are necessary to facilitate the fair and expeditious
5 conduct of the trial proceedings.

6 The Panel considers that the current situation whereby
7 Mr. Mustafa, with little or no notice, wishes to be absent himself
8 from the proceedings has an impact on the expeditious conduct of the
9 trial. The Panel further considers that participation through
10 videolink from the detention facilities does not prejudice
11 Mr. Mustafa, insofar as he will be able to follow the proceedings and
12 communicate with counsel who will be present in the courtroom.

13 This will allow Mr. Mustafa, as stated by his counsel, to have a
14 meaningful participation as if he was physically present in the
15 courtroom and to instruct counsel when needed. This is, without
16 prejudice, to the right of Mr. Mustafa to attend in person any
17 hearing, if he wishes to do so, and the power of the Panel to order
18 Mr. Mustafa to attend in person any hearing where the Panel considers
19 his physical presence necessary or when the rules impose such a
20 presence. See example for the pronouncement of the trial judgement
21 in Rule 159.

22 Accordingly, the Panel authorises Mr. Mustafa to attend the
23 remainder of the trial proceedings remotely from the Specialist
24 Chambers detention facilities and orders the Registrar to make
25 necessary arrangements to set up videolink and a direct line of

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1 communication between Mr. Mustafa and counsel in the courtroom.

2 In addition, the Panel orders the Defence to inform the Panel,
3 the SPO, and Victims' Counsel via e-mail through Court Management
4 Unit whether Mr. Mustafa intends, from now on, to be physically
5 present in the courtroom at least one day prior to each hearing,
6 including if it is on a Sunday for the next day.

7 This concludes the oral order.

8 Have you understood, Mr. Mustafa? I see you nodding.

9 THE ACCUSED: [via videolink] [Interpretation] Yes, Your Honour.

10 PRESIDING JUDGE VELDT-FOGLIA: Okay, good. Then we proceed.

11 We completed the questioning by the SPO and by the
12 Victims' Counsel. Now, I address Defence counsel, Mr. von Bone.

13 In accordance with our Decision on the Conduct of Proceedings
14 and the time effectively used by the SPO for its questioning, you
15 have two hours and ten minutes for the witness cross-examination.

16 Court Usher, can we please bring the witness back? Thank you.

17 [The witness takes the stand]

18 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness. I
19 hope you've had a good break.

20 THE INTERPRETER: Microphone for Your Honour, please.

21 PRESIDING JUDGE VELDT-FOGLIA: Welcome back, Mr. Witness. I
22 hope you've had a good break. Did you have a good break?

23 THE WITNESS: [Interpretation] Yes.

24 PRESIDING JUDGE VELDT-FOGLIA: Now that the Victims' Counsel has
25 concluded her questioning, it's the turn of the Defence to ask

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1 questions to you.

2 We have started an hour later. It's now 3.30. And I also now
3 look to all the parties and the Victims' Counsel. We will continue
4 till 4.00, or a little bit, if the line of questioning asks for it,
5 and then we will proceed, if necessary, tomorrow.

6 Please, Defence counsel, you have the floor.

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

8 Cross-examination by Mr. von Bone:

9 Q. Good afternoon, Mr. Witness. Mr. Witness, do you recall the
10 date that you were arrested?

11 A. No.

12 Q. And do you recall the date that you were released?

13 A. I know only one date, which is the 18th. But I don't know the
14 month.

15 Q. Mr. Witness, you say the 18th. Could you explain to what do you
16 relate that date, the date of the 18th? To what do you relate that?

17 A. On the 18th was the day of the offensive. That's how I relate
18 it and know it.

19 Q. And which offensive exactly was that?

20 A. The Serb offensive.

21 Q. And in which particular area precisely was that offence [sic]?

22 A. In the -- in Zllash. The offensive was in Zllash that day on
23 the 18th, and that's when we were released. They released us because
24 of the offensive.

25 Q. Did you see anything of that offensive yourself with your own

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1 eyes?

2 A. I did because we were released. They said to us, "Run wherever
3 you can, because the offensive is approaching." And this is how I
4 know.

5 Q. And from where was that offensive approaching?

6 A. I don't know from where the offensive was approaching. But when
7 we went outside, they said to us, "Run, because it's a huge
8 offensive, and we ourselves do not know where to run to."

9 Q. Did you see with your own eyes any enemy forces coming to Zllash
10 on that day that you were released?

11 A. No.

12 Q. So you went away from Zllash on that day and you did not see any
13 of the offensive; is that correct?

14 A. No. We left Zllash, we went to the main road, and there were
15 Serbian police vehicles. Tanks as well.

16 Q. What kind of police vehicles were that?

17 A. Green camouflaged in colour. You could tell that they were not
18 vehicles of the KLA.

19 Q. What was the difference between the vehicles of the KLA and
20 those military police vehicles from the enemy forces?

21 A. The KLA had a few vehicles, poor vehicles, and Serbian had
22 strong vehicles; heavy, military vehicles. All sorts of equipment.

23 Q. Was it unusual in that period of time to see Serbian armed
24 vehicles, army vehicles?

25 A. It was not unusual. But we could see where they were heading

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1 to. At the main road, they stopped. And there, that's where there
2 was a lot of movement on their side of those military or police
3 vehicles, whatever they were.

4 Q. Did any of these vehicles, or the people who were in those
5 vehicles, ever threaten you or make any offensive to you?

6 A. To me personally? No.

7 Q. How long did it take you to walk to the place where you first
8 saw those vehicles?

9 A. About two and a half hours on foot.

10 Q. And how long did it take for you to reach the place where you
11 were living?

12 A. I needed about [REDACTED] in total.

13 Q. Back to the moment that you were released. Do you recall
14 whether that was in the afternoon or early evening or morning; do you
15 recall that?

16 A. To tell you the truth, I forgot. But I somehow have 11.00 in my
17 mind.

18 Q. And is that 11.00 in the evening or is that 11.00 in the
19 morning?

20 A. In the morning.

21 Q. Thank you very much, Mr. Witness. I want to go back with you to
22 the date that you were arrested.

23 There were two people, you told us, from the military police; is
24 that correct?

25 A. Yes.

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1 Q. In the location where you were living, was it usual to see
2 military police?

3 A. Once again, please?

4 Q. In the location where you were living at the time, was it usual
5 for you to see --

6 A. They arrested me at the location where I was born, [REDACTED]
7 [REDACTED]

8 Q. I understand, Mr. Witness. But my question is: In the village
9 where you were living, was it usual to see military police?

10 A. No.

11 Q. And was there a KLA presence in the village where you were
12 living?

13 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, I am sorry to
14 interrupt you. I would like to say to the witness not to mention his
15 place of birth like the Defence counsel is saying. So you better say
16 "my place of birth" than the exact name in order not to identify
17 yourself or to give information about that.

18 Please proceed.

19 MR. VON BONE:

20 Q. In the location where you were living and where you were born,
21 was there a KLA presence in that location?

22 A. Yes.

23 Q. And that KLA presence, could you describe that for us?

24 A. At the time of my arrest, they were mostly in civilian clothes
25 and rarely with KLA uniforms.

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1 Q. Rarely in KLA uniforms, you say. But how would those KLA
2 uniforms look like, Mr. Witness?

3 A. We could recognise them. They had their uniforms, camouflage
4 uniforms. They had the insignia, the emblem where you could read
5 KLA. So we knew. We knew them.

6 Q. How did it, that insignia, look like from the KLA?

7 A. Red as your shirt, and with -- in black letters "KLA."

8 Q. The people who arrested you, they told you that they were from
9 the military police. Did they wear the same clothes or did they wear
10 different clothes than the KLA uniform?

11 A. They had the usual KLA uniforms.

12 Q. But nevertheless, you said you were told that they were from the
13 military police; is that correct?

14 A. Yes, they introduced themselves as military police. Of course,
15 I saw their uniform. I believed them. And they said to me, "You
16 have to come with us to Zllash. We just want to talk to you." I
17 thought that they were just going to talk with me.

18 Q. Did you have any reason to doubt that these people were from the
19 military police?

20 A. No.

21 Q. Thank you very much, Mr. Witness. Now, you said when you were
22 arrested you were going first on foot, and then at some point you
23 were taken into a car; is that correct?

24 A. Yes.

25 Q. And from the moment that you were taken into the car, you told

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1 us that you got a bag over your head; is that correct?

2 A. Yes.

3 Q. Could you see anything?

4 A. No.

5 Q. Could you tell us how you were able to determine in which
6 direction you were going?

7 A. Mr. Lawyer, you asked me earlier, and I told you. I was told by
8 those persons that, "We are going to Zllash to talk." And, of
9 course, this is how I know where I was heading to.

10 Q. So it was based on the information of the people that took you;
11 is that correct?

12 A. Yes.

13 Q. Mr. Witness, have you ever been to Zllash?

14 A. Yes, every now and then. Zllash is only [REDACTED]
15 the place where I live.

16 Q. So could you tell us how long -- you just told us it took you
17 about six hours to go back to the location where you were. Could you
18 explain the difference in time?

19 A. From my house to Zllash is different. But from Zllash, I went
20 to Prishtine, and it took me five or six hours to get there. On the
21 way, we stopped to take some rest because I was completely broken.

22 Q. And when we speak about Zllash -- in fact, could you tell us
23 whether Zllash is a small village or whether there is different type
24 of locations or whether you can describe what you mean when you say
25 "Zllash"?

1 A. You saw Zllash on the photographs that were shown. You saw how
2 many houses were there. There were no people. These were old houses
3 usually where animals were kept. It's not a big location. It's
4 quite small.

5 Q. But is that the only location that you call Zllash?

6 A. It's the only location.

7 Q. Mr. Witness, when you arrived in Zllash with the car, did you
8 have all the way from the moment that you entered the car until the
9 end the black bag over your head?

10 A. Yes.

11 Q. And how long did that trip take you about, approximately?

12 A. More or less, 20, 30 minutes by car. Not more than that.

13 Q. Is it correct that when you entered the barn in which you were
14 first pushed into that it was only then that the black bag was
15 removed from your head?

16 A. Yes. I mentioned it before. When I entered the car, he hit me
17 with a fist on my mouth, I started bleeding, and then immediately he
18 put the black sack over my head.

19 Q. And who is he that did that?

20 A. The person with a red hat.

21 Q. Was that not the person who was driving the car, the person with
22 the red hat?

23 A. No, someone else was driving the car. The one with the red hat
24 was seated together with me.

25 Q. And the two persons that arrested you, they were also in the

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1 car. Where were they seated?

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 A. Yes.

15 Q. Can you give any description of that person?

16 A. I don't know if I can describe him to you. I had a bag over my
17 head. How can I describe him?

18 Q. So how did you know that he had a red hat?

19 A. Gentleman, when the car was arriving, while I got in the car, I
20 had one minute or two minutes, like I'm looking at you now, I could
21 see this person. I could see him in the hat and in uniform. So,
22 like I said, he was wearing a uniform, and the driver was wearing a
23 uniform as well. After I was put inside of the car and the sack was
24 placed over my head, I couldn't see any longer.

25 Q. Are you able to give a description of that person in that brief

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1 time that you saw him in that brief moment?

2 A. No.

3 Q. Nothing at all?

4 A. Say it again, please?

5 Q. Nothing at all? No description at all?

6 A. Nothing. Nothing at all, because he was sitting. And I only
7 saw the shoulder, and I saw the red hat, and I didn't see the face.
8 I didn't have the time to see the face.

9 Q. At some point, you arrived in Zllash and you were pushed into a
10 stable or a barn; is that correct?

11 A. Yes, it is.

12 Q. And then you did not stay in that first barn for a very long
13 time; is that correct?

14 A. I was there for about one hour, an hour and a half,
15 approximately.

16 Q. And then you told us that you were going into another barn, but
17 I want to stay to this first barn with you. In that barn, was there
18 anybody in that first barn?

19 A. Yes.

20 Q. We do not need to mention the person.

21 A. Can I say the name? Do you want --

22 Q. No, no --

23 A. -- me to say --

24 Q. -- no.

25 A. -- the name?

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1 Q. No, I don't want you to say the name.

2 PRESIDING JUDGE VELDT-FOGLIA: Don't say the name. We are in
3 public session.

4 MR. VON BONE:

5 Q. And is that the only person that you saw there? Is that the
6 only person? It was only one person there?

7 A. Only one person was there.

8 Q. And later on you were taken to another barn, but I want to stay
9 in the first barn. That first barn, could you stand there straight
10 up?

11 A. I sat down. There were some logs. There were some things where
12 you could sit down.

13 Q. And how about the ceiling? Could you touch that with your hand
14 or not?

15 A. No.

16 Q. You moved to another barn together with that first person that
17 you saw, that one person that you saw, is that correct, without
18 mentioning the name?

19 A. No, he stood there. Whereas, they came and took me. So it was
20 two or three persons. I don't exactly recall, but those people
21 dragged me. They didn't allow me to walk, but they dragged me to the
22 other place.

23 Q. And that was together with that other person?

24 A. No, he remained there. He stood there.

25 Q. Thank you very much. You went to the second barn. Could you

1 describe that barn for us? Just the physical description of this.

2 A. It was some sort of place. There were no walls, but there was
3 just a cover. And I don't know anything else, because it was dark
4 and I didn't see a thing. I didn't see anything at all.

5 Q. Do you recall whether it was already evening when you had
6 arrived in that place?

7 A. How can't I understand? It was in the evening sometime. I
8 didn't exactly know what the time was because I didn't have a watch.
9 It was dark. But, yes, it was in the evening.

10 Q. And was it dark there in that second barn?

11 A. Yes.

12 Q. Was there no light, electric light?

13 A. I do not know. I do not know whether they have electricity or
14 not, but it was dark.

15 Q. Was there a window?

16 A. No, it was not closed. It had a peak. It was open. And this
17 is what I remember, because I couldn't see. I didn't know where I
18 was. I could not see it.

19 Q. And that second barn, could you touch the ceiling with your
20 hand?

21 A. I do not understand. I'm not following you.

22 Q. The second barn where you were taken. As far as size is
23 concerned, was that a high ceiling? Could you touch it with your
24 hands, or if you would jump would you be able to touch the ceiling?

25 A. I couldn't see the roof. It was dark. They didn't allow me to

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1 see, so I didn't see the roof at all.

2 Q. And you say you stayed there for 18 days; is that correct?

3 A. [No interpretation].

4 Q. Just to be clear, it was on the same day that you had arrived in
5 Zllash when you were moved from the first barn to the second barn.

6 It was the same day, you say. You said you stayed one hour in the
7 first barn, "then I go to the second barn." It was on the same day;
8 correct?

9 A. Yes, that day I was sent to the first barn. I spent about one
10 hour, and an hour and a half there. And I was sent to the other
11 place where I was beaten up. They brought me back the same night. I
12 don't know what the time was back then. I was beaten up for about
13 five, six hours, approximately. And they brought me back to the barn
14 where that other person was remains.

15 Q. When you were kept in that barn during your entire stay in
16 Zllash, you told us that you would not get every day food; is that
17 correct?

18 A. I do not know whether they didn't have any bread or whether they
19 didn't give us any bread deliberately.

20 Q. But it was not a regular moment in the day that you would get
21 something to eat. That is what I'm trying to ask.

22 A. We would forget where -- when we would eat, because two or three
23 days would go by without us having anything to eat at all.

24 Q. You said you had no watch. Did anybody else in that barn where
25 you were staying have a watch?

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1 A. No, it's a mistake. No, I didn't have a watch. I used to have
2 a watch before I went there, but they took the watch away from me.

3 Q. But my question was, was anybody else having a watch there.

4 A. No, not at all. There was no watch, nothing.

5 Q. Was it cold in the time that you were there?

6 A. Yes, very cold.

7 Q. Was it colder than usual? Is it --

8 A. It was very cold.

9 Q. Was it freezing?

10 A. No, it was not freezing.

11 Q. And would there be days that it would be raining?

12 A. I couldn't see. I don't know. I can't recall. I don't
13 remember.

14 Q. How could you keep track of the days?

15 A. I didn't know where I was. I didn't know what day of the week
16 it was, and I didn't know what time it was up until the 18th. I
17 didn't know any of the things I mentioned before.

18 MR. VON BONE: Your Honour, this is the best moment to stop.
19 Otherwise, I would go into private session, and then I don't think
20 that we would finish early, because I think it's the most logical
21 moment then to stop at this moment, actually. If I go further -- I
22 know that we have five minutes left, but, I mean, it makes no sense,
23 because we would go into private session for quite a while.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Counsel, for keeping
25 track of that also.

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1 Then it's almost 4.00 and, therefore, the end of the day in
2 court. We will continue with questioning you, Mr. Witness, tomorrow
3 morning. That will be done by the Defence.

4 Mr. Witness, thank you very much for your testimony of today.
5 Let me remind you that until tomorrow morning you shall not discuss
6 your testimony with anyone. Okay. I see you nodding no, so you have
7 understood that.

8 You will be assisted by the Registry staff now. Try to rest,
9 and we will see you again tomorrow morning. Is that clear for you?
10 Yes, I see you nodding.

11 THE WITNESS: Okay.

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

13 Could you please, Court Usher, assist the witness in leaving the
14 courtroom.

15 [The witness stands down]

16 PRESIDING JUDGE VELDT-FOGLIA: Do the parties and the
17 Victims' Counsel have anything to raise?

18 MR. MICHALCZUK: No submissions, Your Honour, on the part of the
19 Prosecution.

20 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much.
21 Victims' Counsel?

22 MS. PUES: No submissions either, thanks.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

24 MR. VON BONE: Just how much time did I use, Your Honour?

25 PRESIDING JUDGE VELDT-FOGLIA: I am sure I will be informed very

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1 quickly about this. 37 minutes and 51 seconds. How precise can we
2 be?

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

4 PRESIDING JUDGE VELDT-FOGLIA: Good. No submissions further.
5 We will resume tomorrow morning. I thank the parties and the
6 Victims' Counsel and the Registry for their attendance. I also wish
7 to thank, like every day we do that, the interpreters for their work,
8 the stenographer, and the audio-visual booth, and the security
9 personnel for their assistance today.

10 The hearing is adjourned. We meet each other tomorrow at 9.30.

11 --- Whereupon the hearing adjourned at 3.59 p.m.

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