

1 Wednesday, 14 June 2023

2 [Open session]

3 [The accused entered the courtroom]

4 [The Accused Krasniqi appeared via videolink]

5 --- Upon commencing at 9.00 a.m.

6 PRESIDING JUDGE SMITH: Madam Court Officer, you may call the  
7 case.

8 THE COURT OFFICER: Good morning, Your Honours. This is case  
9 KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci,  
10 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi.

11 PRESIDING JUDGE SMITH: Thank you.

12 Good morning, everyone. This morning we will continue with the  
13 cross-examination by the Thaci Defence at this time with  
14 Witness 4323. We are in public session. We will bring in the  
15 witness at this time and stay in public session for that purpose, and  
16 then we will go into private if that's what's necessary.

17 Madam Usher, you may bring the witness in.

18 Anything -- I'm sorry.

19 MR. KEHOE: No, Judge. I just think that's the safest thing to  
20 do at this point.

21 PRESIDING JUDGE SMITH: Okay. That's fine. Thank you.

22 Just for the record, I will indicate that Mr. Krasniqi is  
23 appearing via videolink and has filed a waiver to that effect, and  
24 it's our understanding he will also appear tomorrow in the same  
25 manner. The other accused are present in court.

1 [The witness takes the stand]

2 PRESIDING JUDGE SMITH: Good morning, Witness. You may be  
3 seated.

4 THE WITNESS: [Interpretation] Thank you.

5 PRESIDING JUDGE SMITH: Witness, we will continue with the  
6 cross-examination by Mr. Kehoe from the Thaci Defence. I remind you  
7 you are still under the obligation imposed by your solemn declaration  
8 from two days ago, and we will now proceed.

9 Mr. Kehoe, you can go ahead.

10 MR. KEHOE: Thank you, Your Honour.

11 WITNESS: W04323 [Resumed]

12 [Witness answered through interpreter]

13 Cross-examination by Mr. Kehoe: [Continued]

14 Q. Good morning, Witness. I hope you got some rest overnight.

15 MS. D'ASCOLI: And just to check that we are in public session.

16 PRESIDING JUDGE SMITH: Yes, we will go into private session.

17 MR. KEHOE: Oh, my apologies.

18 PRESIDING JUDGE SMITH: That's all right.

19 MR. KEHOE: Thank you again.

20 PRESIDING JUDGE SMITH: It was not your obligation. It was  
21 mine.

22 MR. KEHOE: Oh, I just -- I should have thought of it myself.

23 [Private session]

24 [Private session text removed]

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Witness: W04323 (Resumed) (Private Session)  
Cross-examination by Mr. Kehoe (Continued)

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Witness: W04323 (Resumed) (Private Session)  
Cross-examination by Mr. Kehoe (Continued)

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Witness: W04323 (Resumed) (Private Session)  
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Witness: W04323 (Resumed) (Private Session)  
Cross-examination by Mr. Kehoe (Continued)

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Witness: W04323 (Resumed) (Private Session)  
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Witness: W04323 (Resumed) (Private Session)  
Cross-examination by Mr. Kehoe (Continued)

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Witness: W04323 (Resumed) (Private Session)  
Cross-examination by Mr. Kehoe (Continued)

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Witness: W04323 (Resumed) (Private Session)  
Cross-examination by Mr. Kehoe (Continued)

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Witness: W04323 (Resumed) (Private Session)  
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Witness: W04323 (Resumed) (Private Session)  
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Witness: W04323 (Resumed) (Private Session)  
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Witness: W04323 (Resumed) (Private Session)  
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Witness: W04323 (Resumed) (Private Session)  
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Witness: W04323 (Resumed) (Private Session)  
Cross-examination by Mr. Kehoe (Continued)

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Witness: W04323 (Resumed) (Private Session)  
Cross-examination by Mr. Kehoe (Continued)

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10 [Open session]

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

12 PRESIDING JUDGE SMITH: We will be adjourned for 15 minutes.

13 --- Break taken at 9.42 a.m.

14 --- On resuming at 9.55 a.m.

15 PRESIDING JUDGE SMITH: We will go back into private session --  
16 I'm sorry, Mr. Strong, do you wish to be in private session?

17 MR. STRONG: Your Honour, I'd like to try this in public  
18 session, if possible.

19 PRESIDING JUDGE SMITH: All right. That's fine. We'll stay in  
20 public --

21 MR. STRONG: I have two various --

22 PRESIDING JUDGE SMITH: We'll stay in public session.

23 And you can bring the witness in, Madam Usher.

24 MR. STRONG: Thank you. And just so we're clear, I'm going to  
25 be addressing an issue in Bajgore where there are 200 other recruits

1 at the time. And I believe it was handled in public session stating  
2 the location name by the Prosecution. So that's how I intend to  
3 proceed.

4 MS. D'ASCOLI: Yes, I confirm that's correct.

5 MR. STRONG: Thank you.

6 PRESIDING JUDGE SMITH: Thank you for that.

7 MR. STRONG: While we wait, Madam Court Officer, I'm going to  
8 start with a section of the transcript at 070708-TR-ET Part 3, page  
9 6, line 3, in the English; and line 22 in the Albanian. If we can  
10 have that on the screen, that would be helpful.

11 [The witness takes the stand]

12 PRESIDING JUDGE SMITH: Please be seated, Witness.

13 Witness --

14 THE WITNESS: [Interpretation] Thank you.

15 PRESIDING JUDGE SMITH: -- at this time we are in public  
16 session, and the Veseli Defence team will be cross-examining you.  
17 Mr. Strong is standing up near you.

18 So you may proceed, Mr. Strong.

19 Cross-examination by Mr. Strong:

20 Q. Good morning, Witness. My name is Andrew Strong, and I am going  
21 to be asking you questions on behalf of Mr. Kadri Veseli. Now, we're  
22 in public session, and we'll be discussing some of the events  
23 surrounding your time in Bajgore. And so if at any moment there is  
24 any information that could be identifying, we can pause, you can let  
25 me know, and we can move into private session. Is that understood?

1 A. Okay.

2 Q. All right. Thank you. So you told us earlier about joining the  
3 KLA in September with 200 other recruits; correct?

4 A. Yes.

5 Q. Okay. And you discussed with my colleague, Mr. Kehoe - and this  
6 is at page 49, line 22 - some of the confusion and some of the  
7 challenges of when you first joined of not having an immediate  
8 commander, of not having a weapon, of not knowing what unit you were  
9 a part of. Do you remember that, Witness?

10 A. Yes, I do.

11 Q. Okay. And I wonder if just on top of that, Witness, you could  
12 take a look at your screen. This is a section of the transcript you  
13 gave to the SPO. And we're just going to start on line 3 of the  
14 English, with the question there. And I believe I have it as line 22  
15 of the Albanian.

16 MR. STRONG: So I think you may have to scroll down just a  
17 little.

18 THE WITNESS: [Interpretation] I see it, yes.

19 MR. STRONG:

20 Q. Okay. So in English it reads:

21 "Q. Can you estimate how many soldiers there were at the HQ,  
22 because you mentioned 200 before being trained? But overall at the  
23 HQ, can you remember?"

24 And your answer was:

25 "Maybe I could add here another hundred as part of the staff at

1 the base personnel. But there were many visitors or visits that took  
2 place, plenty. Many other soldiers visited the place and also it was  
3 where the biggest amount of weapons were ... held for the area, for  
4 that zone.

5 "So there was a lot of traffic in terms of people coming in,  
6 bringing weapons. People coming in, taking weapons from there. And  
7 sometimes people would travel a lengthy journey to come there, so  
8 they would stay for the night. It would take sometimes two to three  
9 days to arrive there because of the situation at the time.

10 "So, yes, there was a lot of movement in and out."

11 Witness, is that an accurate reflection of the reality on the  
12 ground?

13 A. Yes, it is.

14 Q. So you had a situation where, on top of the confusion that you  
15 faced that you described earlier, there were lots of people coming  
16 and going from Bajgore; is that right?

17 A. That's right. But when we're speaking about the Bajgore point,  
18 they were all -- we need to understand that they were all KLA  
19 members.

20 Q. Yes, okay.

21 MR. STRONG: Could we put P105 on the screen. This should be  
22 the map of the region. Okay. Thank you.

23 Q. Now, Witness, can you see where you've marked Bajgore on that  
24 map?

25 A. Yes.

1 Q. So I appreciate this map because it shows some of the geography.  
2 Bajgore is in a mountainous remote area, isn't it, Witness?

3 A. Correct.

4 Q. And so what was happening is people from all of the villages  
5 around that needed to get organised and to take weapons would come to  
6 Bajgore, take weapons, and then go back to their villages; is that  
7 right?

8 A. Yes.

9 Q. And one of the characteristics about Bajgore and its location is  
10 that it lies somewhere between Podujeve and Mitrovica, and so it was  
11 accessible not only by individuals coming from the Llap zone but also  
12 by people coming from the Shala zone too. Is that accurate, Witness?

13 A. Yes, it was accessible from both sides. However, the access  
14 from the Podujeve area was much more difficult because the road was  
15 not practicable, whereas from the Mitrovica side was easier.

16 Q. Okay. That's very helpful. Thank you, Witness. Just one more  
17 question on this. Because of the mountainous terrain, I think you  
18 said it could take several days to access Bajgore from the  
19 surrounding villages, because even though they may be close as the  
20 crow flies, the terrain made it very difficult to travel there.  
21 Would that be fair to say, Witness?

22 A. No, I did not have this in mind when I gave the description. My  
23 description meant that when people came to the main warehouse to get  
24 weapons for their different points, it took them certainly days to  
25 get there.

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1 Q. Yes, that's understood.

2 A. [REDACTED] Pursuant to In-Court Redaction Order F1606RED.

3 [REDACTED] Pursuant to In-Court Redaction Order F1606RED.

4 Q. Yes, yes, that's helpful. And to go -- I think you gave  
5 evidence to go from Bajgore to Potok, that took around six hours on  
6 foot. Is that accurate?

7 A. Two to three hours. It's not very distant.

8 Q. Very well. Very well, Witness.

9 A. From Kacanoll, two to three hours. And from Bajgore, not more  
10 than that.

11 Q. That's fine, Witness. I think what I was trying to get at is  
12 when you say in the section of the transcript that we just read:

13 "And sometimes people would travel a lengthy journey to come  
14 there, so they would stay for the night."

15 The question is: The people who are coming to take weapons,  
16 they were often staying in the village for a night and then leaving  
17 again; is that right?

18 A. That's right.

19 Q. Thank you. Thank you, Witness. Just moving on. Is it fair to  
20 say that you stayed in Bajgore during that first period for about ten  
21 days? Do I have that right?

22 A. Yes, around that. Between a week and ten days.

23 Q. And I think you gave very clear evidence to my colleague,  
24 Mr. Kehoe - and this is at page 52 of the transcript from yesterday -  
25 about the Serb offensive through Kacanoll and Bajgore that drove the

1 KLA out of that area. Would it be fair to say that the KLA was  
2 defeated in Kacanoll and Bajgore at that time?

3 A. Yes.

4 Q. And that the Serb forces advanced all the way to Potok, and that  
5 they stopped their advance pursuant to their own strategies. Would  
6 that be accurate, Witness?

7 A. Yes.

8 Q. And what was happening in front of that offensive was that all  
9 of the villages were emptying out of civilians who were fleeing the  
10 Serb forces. Would that be right?

11 A. Yes. The Serbian forces had to go through the village of  
12 Bajcine, as you can see. Then they moved further to Dobratin in  
13 order to reach Kacanoll. The period of time we're referring to,  
14 during this time these villages were not defended by the KLA. And  
15 residents from Bajcine and Dobratin, seeing the Serbian forces  
16 entering in their villages, those who could flee and leave managed to  
17 get to Kacanoll. However, there were people who didn't have this  
18 fate and this possibility to leave.

19 Q. Thank you for that, Witness. Just to follow up from that. What  
20 then happened is that Serb forces came to Kacanoll, and I believe  
21 that you said that part of your job as a new recruit was ensuring  
22 that the fleeing civilians were safely directed towards Potok; is  
23 that right?

24 A. Yes.

25 Q. Okay. I just have -- I have two documents that I wanted to show



1 you that I hope give us a sense of the scale of the situation that  
2 we're talking about.

3 MR. STRONG: And the first is DKV0150. Could we call that up,  
4 please. Thank you.

5 Q. Now, unfortunately, Witness, I don't have this in Albanian, but  
6 it's just a very small section, and I'll read it out to you. This a  
7 UNHCR briefing note, and I think you can see the date is on 18  
8 September 1998, so this should correspond roughly to the time period  
9 that we've been talking about. And it starts, the first paragraph  
10 is:

11 "A government offensive now in its third day has prompted some  
12 10.000 people to flee at least 13 villages from Podujevo to  
13 Mitrovica. A UNHCR team on Thursday saw small groups of about 200  
14 people carrying bags and waiting for buses to take them to the Kosovo  
15 provincial capital of Pristina.

16 "Soldiers stopped UNHCR from entering Bojcina, where three  
17 artillery observation trucks were scattered in the field. UNHCR also  
18 attempted to enter the conflict zone from the Mitrovica side, but was  
19 blocked by police."

20 And then this:

21 "Smoke could be seen rising from Bajgora.

22 "Along the road to Vucitrn, UNHCR met a family of 13, including  
23 nine women and children crammed in the wagon of their tractor, who  
24 had escaped from Bajgora. They said they had slept in open fields in  
25 drenching rain the past two nights. An old woman in the wagon was

1 crying."

2 Witness, my question is does this description match the  
3 experience that you had stewarding those civilians out of Bajgore  
4 towards Potok?

5 A. Yes. This didn't happen only in Bajgore. This is a clear  
6 reflection of what we experienced every day. Everywhere there was  
7 fighting going on.

8 Q. Yes, and I think -- so I think specifically the scale of that  
9 refugee crisis, the 10.000 people fleeing the Bajgore area, that  
10 matches with what you experienced? That's what you're saying?

11 A. Yes.

12 Q. Thank you, Witness. And then just one more document.

13 MR. STRONG: It should be DKV0141, and it should be at 0148.

14 Q. Now, Witness, this is a report compiled by the Council for  
15 Defence of Human Rights in Kosovo. Have you heard of that  
16 organisation?

17 A. Yes.

18 Q. And this compiles events contemporaneously. And if we see the  
19 entry for September 19th, and we just go across the page, do you see  
20 in bold where it says "Mitrovica"?

21 A. Yes.

22 Q. And, again, it just says:

23 "About 20.000 inhabitants of Shala e Bajgores were sheltered in  
24 the forest from Selac to Kozmatica."

25 Can you see that, Witness?

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1 A. Yes.

2 Q. And so my question again is similar. This is the following day,  
3 we have a report of 20.000 refugees fleeing in front of the Serbian  
4 offensive. You've described this period of time as very chaotic.  
5 Does this reflect that chaos that you've described?

6 A. Yes.

7 Q. Thank you, Witness.

8 MR. STRONG: Your Honour, if I may, I'd like to tender both of  
9 those documents at this time.

10 MS. D'ASCOLI: No objections.

11 PRESIDING JUDGE SMITH: DKV0150 and DKV0141 are both admitted.

12 THE COURT OFFICER: Your Honours, DKV0150 to 153 will receive  
13 Exhibit 2D9. And DKV0141 to 0149 will receive Exhibit 2D10.

14 And, Your Honours, the classification of both documents is not  
15 available in Legal Workflow. Can we clarify that?

16 MR. STRONG: I think they can be public, yes. We've just read  
17 them in public session, so I hope that they can be public.

18 PRESIDING JUDGE SMITH: There being no objection, they will --

19 MS. D'ASCOLI: No objections.

20 PRESIDING JUDGE SMITH: -- be considered public.

21 MR. STRONG: Thank you.

22 Q. So, Witness, just coming back to this, the picture that you're  
23 giving is that the KLA was defeated in Kacanoll and Bajgore, you have  
24 20.000 refugees pouring out of those areas that you're trying to  
25 direct to safety. I wonder if we can just look at how that reality

1 was reflected by a KLA communiqué.

2 MR. STRONG: And could we call up 043803.

3 Q. Now, it's quite small in the Albanian, but we're just going to  
4 focus on the first four paragraphs. So maybe that can help. So,  
5 again, this is Communiqué 54, and you can see the date is  
6 24 September 1998; is that right? Do you see that, Witness?

7 A. Yes.

8 Q. Okay. And the communiqué starts:

9 "In the Shala e Bajgores and Llap subzones from 15 September to  
10 18 September, the Kosovo Liberation Army faced the enemy offensive  
11 comprising thousands of Serbian soldiers and policemen, as well as  
12 Russian and Romanian mercenaries, with over 250 tanks and other  
13 motorised vehicles and heavy artillery."

14 So just pausing there. This is describing the same action that  
15 we've been talking about previously; correct?

16 A. Yes.

17 Q. Okay. It goes on to say:

18 "Our liberation army fought with courage and heroism against the  
19 enemy forces and forced them to retreat."

20 Now, I just am going to drop down to the fourth paragraph, which  
21 starts "Ne nenzonen e Llapit luftimet" in Albanian. It says:

22 "In the Llap Subzone, the fiercest fighting took place in the  
23 Qafa e Kaqanollit/Kacanol Gorge/, where the enemy lost over 100  
24 soldiers and from where it was forced to retreat, leaving on the  
25 battlefield 10 tanks and other vehicles, as well as large quantities

1 of ammunition."

2 Now, I'm just going to pause there, Witness. That description  
3 of the Serb forces being forced to retreat, that's simply inaccurate,  
4 isn't it?

5 A. It's inaccurate.

6 Q. Thank you. And I think you described -- and this is at page 59  
7 from yesterday. You told my colleague Mr. Kehoe that in general the  
8 KLA communiqués, in your opinion, were propaganda. And here, here we  
9 have a specific example of that. Would you agree with that, Witness?

10 A. One of the biggest battles was fought in Kacanoll. This is  
11 true. It is also true that the enemy suffered considerable  
12 casualties and losses. But it's not true that we forced them to  
13 retreat.

14 Q. Yes. I mean, is it also true that there were Russian and  
15 Romanian mercenaries?

16 A. Yes, it is. In the village of Dobratin where the other part of  
17 the army was stationed which did not take active part in the  
18 fighting, documents were found and recovered pointing to mercenaries.  
19 And in the village of Dobratin, thousands and thousands of needles  
20 were recovered used by these policemen and military personnel who  
21 were under the influence of drugs or narcotics or any other  
22 substance.

23 Q. Thank you, Witness. So would it be fair to say that what this  
24 communiqué is doing is blending some truth with some inaccuracies in  
25 order to exaggerate KLA successes and minimise defeat?

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1 A. Correct.

2 Q. Witness, thank you very much.

3 MR. STRONG: Your Honour, those are my questions. Thank you.

4 PRESIDING JUDGE SMITH: Thank you, Mr. Strong.

5 MR. TULLY: Just one second.

6 PRESIDING JUDGE SMITH: All right. Witness, the Selimi Defence  
7 will have some questions for you.

8 And, Mr. Tully, you may proceed.

9 MR. TULLY: Your Honours --

10 PRESIDING JUDGE SMITH: Do you wish to remain in public session?

11 MR. TULLY: You read my mind, Your Honour. Yes, I'd like to go  
12 to private session. I'm dealing with an incident that is quite  
13 particular.

14 PRESIDING JUDGE SMITH: All right.

15 Madam Court Officer, into private session, please.

16 [Private session]

17 [Private session text removed]

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Witness: W04323 (Resumed) (Private Session)

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Cross-examination by Mr. Tully

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Cross-examination by Mr. Tully

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Re-examination by Mr. D'Ascoli

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Re-examination by Mr. D'Ascoli

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Witness: W04323 (Resumed) (Private Session)

Page 4863

Re-examination by Mr. D'Ascoli

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Witness: W04323 (Resumed) (Private Session)

Page 4864

Re-examination by Mr. D'Ascoli

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Witness: W04323 (Resumed) (Private Session)

Page 4865

Re-examination by Mr. D'Ascoli

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Witness: W04323 (Resumed) (Private Session)

Page 4866

Re-examination by Mr. D'Ascoli

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1 [Private session text removed]

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13 [Open session]

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

15 PRESIDING JUDGE SMITH: All right. Now we're adjourned. Thank  
16 you.

17 [The witness stands down]

18 --- Recess taken at 10.50 a.m.

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

20 PRESIDING JUDGE SMITH: Madam Court Usher, you can bring the  
21 witness in.

22 MS. D'ASCOLI: Your Honours, while that is done, I can inform  
23 the Trial Panel that we are ready to proceed with the next witness.  
24 We will just need the time to move in and out of the courtroom.  
25 That's all.

Witness: W04323 (Resumed) (Private Session)

Page 4868

Questioned by the Trial Panel

1 PRESIDING JUDGE SMITH: [Microphone not activated]

2 [The witness takes the stand]

3 PRESIDING JUDGE SMITH: You can be seated, Witness.

4 THE WITNESS: [Interpretation] Thank you.

5 PRESIDING JUDGE SMITH: Witness, some of the Judges will have  
6 questions for you, beginning with Judge Barthe on my left, your  
7 right.

8 Go ahead, Judge Barthe.

9 JUDGE BARTHE: Thank you very much, Judge Smith.

10 Questioned by the Trial Panel:

11 JUDGE BARTHE: Good morning, Witness. I have a couple of  
12 questions for you and I would prefer to do that in private session.

13 So, Madam Court Officer, could you please bring us into private  
14 session.

15 [Private session]

16 [Private session text removed]

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Witness: W04323 (Resumed) (Private Session)

Page 4869

Questioned by the Trial Panel

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Witness: W04323 (Resumed) (Private Session)

Page 4870

Questioned by the Trial Panel

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Witness: W04323 (Resumed) (Private Session)

Page 4871

Questioned by the Trial Panel

1 [Private session text removed].

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Witness: W04323 (Resumed) (Open Session)  
Questioned by the Trial Panel

Page 4872

1 [Open session]

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

3 JUDGE METTRAUX: Thank you.

4 Good morning, Witness. I will try to ask you my questions in  
5 public session. So if you have any concern that your responses could  
6 provide identifying information, please notify me and we will move  
7 into private session.

8 Do you still have in front of you the protected information  
9 sheet? Do you have it in front of you?

10 A. Yes.

11 JUDGE METTRAUX: Can you look at the person under number 9. I  
12 want to ask you a few questions about that person.

13 A. Yes.

14 JUDGE METTRAUX: Now, do you have any information about the  
15 circumstances in which this person came to be detained? In other  
16 words, do you know when and by whom he was brought to the place where  
17 you saw him being detained? Do you have any information about this?

18 A. No.

19 JUDGE METTRAUX: You told us, and I want to be clear, that there  
20 were two other detainees at the time in addition to him. Were they  
21 in the same room as this person or were they in a different room?

22 A. In a different room.

23 JUDGE METTRAUX: And did you ever learn of the identity of  
24 either or both of these individuals?

25 A. No, never.

Witness: W04323 (Resumed) (Open Session)  
Questioned by the Trial Panel

Page 4873

1 JUDGE METTRAUX: And just to be clear, who was guarding these  
2 three individuals? Was that members of the military police, or were  
3 they from a different unit? Do you know who was in charge of their  
4 security while being detained at that location?

5 A. It was the military police.

6 JUDGE METTRAUX: And just going back to an incident or an  
7 occasion that you recounted to us, when you brought food to number 9,  
8 to Person 9, did he recognise you?

9 A. I don't think so.

10 JUDGE METTRAUX: Did you exchange any words with him? Did you  
11 have a conversation on that occasion?

12 A. No.

13 JUDGE METTRAUX: Then let's turn to Person 10 in the protected  
14 information sheet. You explained to us that you took part in the  
15 arrest of that individual, and you were asked quite a number of  
16 questions about it.

17 I have a couple of questions about that. Did you hear that  
18 person say anything while he was being arrested?

19 A. I was not inside, so I was not able to -- I couldn't hear if  
20 anything was said, because at the time of the arrest I was not inside  
21 the house.

22 JUDGE METTRAUX: And I suspect from your answer that you did not  
23 hear him say anything outside of the house; correct?

24 A. Correct.

25 JUDGE METTRAUX: Was he restrained in any way? Did he have any

Questioned by the Trial Panel

1 handcuffs or was he restrained in any other way as far as you could  
2 tell when he was being taken away?

3 A. I can't remember, Your Honour. However, during travel from the  
4 location to the place, he was not restrained, he was not tied, but he  
5 was escorted. I -- with respect to the moments of the arrest inside  
6 the house, I can't -- I am not in a position to know whether he was  
7 tied or restrained or not.

8 JUDGE METTRAUX: Thank you. And I want, finally, to ask you  
9 about the incident involving a Roma person. You were asked a  
10 question as to whether, to your knowledge, a body was ever retrieved  
11 and a name put on that person. Do you recall those questions?

12 A. I do.

13 JUDGE METTRAUX: And to the extent you feel you can give an  
14 opinion on that point, but during the conflict, whose responsibility  
15 would it have been to investigate that incident? Are you in a  
16 position to say who it would have been the responsibility to  
17 investigate the killing of that individual?

18 A. I was not in a position to know.

19 JUDGE METTRAUX: And, lastly, what, if any, message did that  
20 incident convey to you as a young man and as a member of the KLA?

21 A. Yes.

22 JUDGE METTRAUX: What message did it convey to you? Did it have  
23 any impact in terms of what you thought of your engagement with the  
24 organisation?

25 A. Referring to the time in question, 1999, the message based on



Witness: W04323 (Resumed) (Open Session)

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Questioned by the Trial Panel

1 the circumstances was that this was acceptable.

2 JUDGE METTRAUX: Thank you.

3 PRESIDING JUDGE SMITH: Judge Gaynor.

4 JUDGE GAYNOR: Thank you, Judge Smith.

5 Witness, we can stay in public session for the moment.

6 You've given evidence that the commander of your brigade was  
7 Person 2, your company commander was Person 4, and your platoon  
8 commander was Person 3. Am I right in my understanding?

9 A. No.

10 JUDGE GAYNOR: Could you look at the sheet of the persons in  
11 front of you and just confirm your brigade commander was which one?

12 A. Brigade Brava?

13 JUDGE GAYNOR: No, the -- sorry, just look --

14 A. This was Person 2.

15 JUDGE GAYNOR: Yes, thank you. Your company commander was  
16 person number?

17 A. 4.

18 JUDGE GAYNOR: And your platoon commander?

19 A. 3.

20 JUDGE GAYNOR: Now, which if any of these people were  
21 communicating with directly, either face-to-face or using some form  
22 of communications technology?

23 A. We were in constant communication with Person 3.

24 JUDGE GAYNOR: And what --

25 A. We had a direct line of communication with number 3.

Witness: W04323 (Resumed) (Open Session)  
Questioned by the Trial Panel

Page 4876

1 JUDGE GAYNOR: Were you using any kind of technology to speak to  
2 him?

3 A. No, we spoke in person directly.

4 JUDGE GAYNOR: And during your membership of the brigade, did  
5 you use any form of communications technology?

6 A. The entire point had only one radio communication device, and  
7 the Person 3 was responsible for all communications with other  
8 points.

9 JUDGE GAYNOR: Was that communication system working during the  
10 period you were in the brigade?

11 A. Yes, this was working up until the end of the war.

12 JUDGE GAYNOR: Did you communicate with members of the military  
13 police?

14 A. No, never.

15 JUDGE GAYNOR: Are you able to describe the working relationship  
16 between your platoon or your brigade and the military police? How  
17 would you describe that working relationship?

18 A. We were various groups of platoons, and we had a company person  
19 in charge or superior who had four or five platoons under his  
20 command. I don't remember exactly how many. The communication went  
21 through Person 4 and then number 2. This was the form of  
22 communication in place.

23 With respect to the military police, I can only say that, based  
24 on my understanding at the time, they were in charge of order and  
25 discipline within the military.

1 JUDGE GAYNOR: I want to move now to the detention location at  
2 Bajgore, and you've given some evidence on this point, and you've  
3 just answered some questions from Judge Mettraux on this.

4 And what I want to understand is who controlled access to the  
5 detainees?

6 A. The military police did.

7 JUDGE GAYNOR: Was it exclusively the military police?

8 A. Yes.

9 JUDGE GAYNOR: My final point is you gave evidence that you  
10 would keep up to date with developments during this period through  
11 the daily print media. Do you remember that evidence?

12 A. Yes.

13 JUDGE GAYNOR: Would you be able to remember which media  
14 publications in particular you were relying upon to keep up with  
15 developments which were taking place during that time?

16 A. For the time we're speaking about, the only available media to  
17 us was the daily print media.

18 JUDGE GAYNOR: Yes. Can you name the publications that you had  
19 in mind?

20 A. The most distributed was daily Koha Ditore.

21 JUDGE GAYNOR: Thank you very much, Witness.

22 Thank you, Judge Smith.

23 PRESIDING JUDGE SMITH: [Microphone not activated].

24 Any follow-up questions by the parties or participants?

25 The Prosecution is shaking her head.

1 MS. D'ASCOLI: No, Your Honours. Nothing.

2 PRESIDING JUDGE SMITH: Mr. Laws?

3 MR. LAWS: No, thank you, Your Honour.

4 PRESIDING JUDGE SMITH: Anything?

5 MR. KEHOE: No, Your Honour.

6 PRESIDING JUDGE SMITH: Mr. Strong?

7 MR. STRONG: No, Your Honour.

8 MR. TULLY: None, Your Honour.

9 MR. ELLIS: No, Your Honour.

10 PRESIDING JUDGE SMITH: Thank you.

11 Just a couple of things. Mr. Strong made reference to the  
12 Communiqué 54, and I believe it was referred to as 04380. That  
13 actually has been admitted, but there's no P number assigned to it  
14 yet. So that will be done later today.

15 Witness, we thank you for being with us these three days and for  
16 your testimony. We know it's been difficult at times, and we  
17 appreciate the efforts you made. So you will be excused in just a  
18 moment.

19 Mr. Sytema, thank you for also being here and for assisting the  
20 witness. It was appreciated, I'm sure, by him as well as the Court.

21 MR. SYTEMA: Thank you, Your Honour.

22 PRESIDING JUDGE SMITH: So you are both excused. Thank you very  
23 much.

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

25 [The witness withdrew]

1           PRESIDING JUDGE SMITH: So we'll take ten minutes to allow the  
2 parties to get ready for the next witness, and we will be adjourned  
3 for that period of time. We still are in public session.

4           And, please, Madam Usher can let us know when everyone is  
5 settled in. Thank you.

6                               --- Break taken at 11.56 a.m.

7                               --- On resuming at 12.09 p.m.

8           PRESIDING JUDGE SMITH: Now we'll start hearing the evidence of  
9 Prosecution Witness 01602.

10           Madam Court Officer, please let's begin -- well, let's begin in  
11 public session and -- no, I have to -- let's go into private session.  
12 I have one statement I want to make that does not need to be public.

13                               [Private session]

14                               [Private session text removed]

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23                               [Open session]

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

25           PRESIDING JUDGE SMITH: Madam Court Usher, please bring the

1 witness in.

2 MR. PACE: Your Honour, just while that happens, in terms of  
3 appearances, Dounia Hattabi has been in this case in court before,  
4 but Margaux Portier has not. So I just want to note that for the  
5 record.

6 [The witness entered court]

7 PRESIDING JUDGE SMITH: Witness, could you please stand.

8 THE WITNESS: [Interpretation] Yes.

9 PRESIDING JUDGE SMITH: Good morning, Witness.

10 THE WITNESS: [Interpretation] Good morning.

11 PRESIDING JUDGE SMITH: I will read to you the text of the  
12 solemn declaration which you are asked to take pursuant to  
13 Rule 141(2) of the Rules. I will ask you to repeat the text aloud  
14 and to indicate your consent. Do you understand that?

15 THE WITNESS: [Interpretation] Yes.

16 PRESIDING JUDGE SMITH: So I will read this and then you repeat  
17 what I say.

18 Conscious of the significance of my testimony.

19 THE WITNESS: [Interpretation] Can you say it one more time? I  
20 did not understand it.

21 PRESIDING JUDGE SMITH: Yes. Yes. Conscious of the  
22 significance of my testimony.

23 THE WITNESS: [Interpretation] Conscious of my testimony.

24 PRESIDING JUDGE SMITH: And my legal responsibility.

25 THE WITNESS: [Interpretation] And my legal responsibility.

1           PRESIDING JUDGE SMITH: I solemnly declare.

2           THE WITNESS: [Interpretation] I declare -- I'm not hearing it  
3 very well.

4           PRESIDING JUDGE SMITH: I solemnly declare.

5           THE WITNESS: [Interpretation] I solemnly declare. I'm not  
6 entirely certain.

7           PRESIDING JUDGE SMITH: That I will tell the truth.

8           THE WITNESS: [Interpretation] I declare that I will tell the  
9 truth.

10          PRESIDING JUDGE SMITH: The whole truth.

11          THE WITNESS: [Interpretation] The whole truth.

12          PRESIDING JUDGE SMITH: And nothing but the truth.

13          THE WITNESS: [Interpretation] And nothing but the truth.

14          PRESIDING JUDGE SMITH: And that I shall not withhold anything.

15          THE WITNESS: [Interpretation] I shall not withhold anything.

16          PRESIDING JUDGE SMITH: Which has come to my knowledge.

17          THE WITNESS: [Interpretation] Name and surname?

18          PRESIDING JUDGE SMITH: No. Which has come to my knowledge.

19          THE WITNESS: [Interpretation] I shall not withhold anything  
20 which has come to my knowledge.

21          PRESIDING JUDGE SMITH: Now, do you agree to the terms of that  
22 statement?

23          THE WITNESS: [Interpretation] Do you agree with what I read?

24          PRESIDING JUDGE SMITH: [REDACTED] Pursuant to In-Court Redaction  
Order F1606RED. Witness, do you agree to the  
25 statement?

1 THE WITNESS: [Interpretation] Yes, I do agree.

2 WITNESS: W01602

3 [Witness answered through interpreter]

4 PRESIDING JUDGE SMITH: All right. Now you may be seated.

5 Make sure that his microphone is turned up. All right.

6 Witness?

7 THE WITNESS: [Interpretation] Yes, yes?

8 PRESIDING JUDGE SMITH: Today we will start your testimony,  
9 which is expected to last two days.

10 THE WITNESS: [Interpretation] Okay. Do you want me to repeat  
11 your words or just listen?

12 PRESIDING JUDGE SMITH: No, just listen. I'm going to make some  
13 statements, and I want you to understand them.

14 THE WITNESS: [Interpretation] Okay.

15 PRESIDING JUDGE SMITH: So your testimony is expected to last  
16 two days. Do you understand?

17 THE WITNESS: [Interpretation] Yes.

18 PRESIDING JUDGE SMITH: As you may know, the Prosecution will  
19 ask you questions first, and then the attorneys for the victims will  
20 ask you questions. Once they are done, the Defence has the right to  
21 ask questions of you, and members of the Panel might also ask  
22 questions of you.

23 THE WITNESS: [Interpretation] I understood.

24 PRESIDING JUDGE SMITH: The Prosecution estimate for your  
25 examination is two hours. The Victims' Counsel will take



1 approximately 15 minutes for questions. The Defence estimates that  
2 it will need six hours. As regards each estimate, we hope that  
3 counsel will be careful in their use of their time. The Panel may  
4 allow redirect examination if conditions are met.

5 THE WITNESS: [Interpretation] Okay. I understand.

6 PRESIDING JUDGE SMITH: Witness, please try to answer the  
7 questions clearly and with short sentences. If you don't understand  
8 a question, feel free to ask counsel to repeat the question or tell  
9 them that you don't understand and they will clarify it for you.

10 Also, please try to indicate the basis of your knowledge of  
11 facts and circumstances that you will be asked about.

12 In the event you are asked by the SPO to attest to some  
13 corrections made during your statements, you are reminded to confirm  
14 on the record that the written statement, as corrected by the list of  
15 corrections, accurately reflects your declaration. Please also speak  
16 into the microphone and wait five seconds before answering a question  
17 and speak at a slow pace for the interpreters to catch up.

18 During the next days while you are giving evidence in this  
19 court, you are not allowed to discuss with anyone the content of your  
20 testimony outside of the courtroom. If any person asks you a  
21 question outside the court about your testimony, please let us know.

22 Please stop talking if I ask you to do so and also stop talking  
23 if you see me raise my hand. These indications mean that I need to  
24 give you an instruction. If you feel the need to take breaks, please  
25 make an indication and we will accommodate that.

Witness: W01602 (Private Session)

Page 4884

Examination by Mr. Pace

1 THE WITNESS: [Interpretation] I understand.

2 PRESIDING JUDGE SMITH: Mr. Pace, you may begin.

3 MR. PACE: Thank you, Your Honour.

4 Examination by Mr. Pace:

5 Q. Good afternoon, Witness.

6 A. Good afternoon.

7 Q. We've met before but I'll introduce myself again. I'm  
8 James Pace, a Prosecutor with the SPO, and I'll be asking you some  
9 questions for the next hours.

10 MR. PACE: Your Honour, in view of this witness's in-court  
11 protective measures, we would need to move into private session for  
12 the next set of questions. And as notified to the Panel, Defence,  
13 and Victims, I will try to conduct some of the direct examination in  
14 open session, but I believe that will be a limited amount.

15 PRESIDING JUDGE SMITH: Thank you.

16 We will go into private session, Madam Court Officer, for the  
17 protection of the witness.

18 [Private session]

19 [Private session text removed]

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Witness: W01602 (Private Session)

Page 4885

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4886

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4887

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4888

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4889

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4890

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4891

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4892

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4893

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4894

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4895

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4896

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4897

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4898

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4899

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4900

Examination by Mr. Pace

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15 [Open session]

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

17 PRESIDING JUDGE SMITH: Usher, you may escort the witness out.

18 Witness, we will take a break for lunch now. You will be back  
19 here at 2.30.

20 THE WITNESS: [Interpretation] All right.

21 [The witness stands down]

22 PRESIDING JUDGE SMITH: [Microphone not activated].

23 Adjourned until 2.30.

24 --- Luncheon recess taken at 1.05 p.m.

25 --- On resuming at 2.30 p.m.

Witness: W01602 (Private Session)

Page 4901

Examination by Mr. Pace

1           PRESIDING JUDGE SMITH: Mr. Pace, do you wish to be in public or  
2 private session?

3           MR. PACE: Private, please.

4           PRESIDING JUDGE SMITH: All right.

5           Please take us to private session.

6           Madam Usher, you may bring the witness in.

7                               [Private session]

8                               [Private session text removed]

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Witness: W01602 (Private Session)

Page 4902

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4903

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4904

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4905

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4906

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4907

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4908

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4909

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4910

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4911

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4912

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4913

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4914

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4915

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4916

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4917

Examination by Mr. Pace

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Witness: W01602 (Private Session)

Page 4918

Examination by Mr. Pace

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25 [Open session]

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

2 PRESIDING JUDGE SMITH: Go ahead, Mr. Pace.

3 MR. PACE:

4 Q. Witness, without mentioning the names of any places or people,  
5 in private session you talked about being detained and escaping.

6 Could you describe your physical state on the day you escaped?

7 A. I was in a miserable state, condition. They broke my hips.  
8 Muhamet broke his Kalashnikov hitting me on my back. They put me on  
9 the ground, hit me. That -- they jumped on my genitals, and there  
10 are women in this courtroom and I'm sorry. I could barely walk.  
11 When I escaped, I went in the direction of Buzhala, stayed there  
12 until it became dark, and then I walked again through the mountains,  
13 I stopped. And it was only the next day at 1.00 when I managed to  
14 get home.

15 I had cuts in my hands, which I showed to the Prosecutor. They  
16 started massacring me, slaughtering me. I was lucky to make -- to  
17 escape. But I left this immediately to our police. One of them was  
18 *[REDACTED] Pursuant to In-Court Redaction Order F1606RED.*, another  
one was *[REDACTED] Pursuant to In-Court Redaction Order F1606RED.* who  
took my

19 first fresh statement, and then I left this with UNMIK.

20 Q. Witness, just to remind you, Witness, please do not mention any  
21 names of people or places because we're in open session. We'll be  
22 seeking redactions for the names.

23 A. I understand. I understand. I am sorry. I apologise.

24 Q. That's no problem at all. I only have a few more questions.

25 Again, I remind you, do not name any places or people.

1           Could you tell the Judges whether, because of the physical state  
2           you just described after your escape, you required any medical  
3           assistance?

4           A.    I had -- I needed medical assistance.

5           Q.    What kind of medical assistance did you need?

6           A.    I asked for a -- I needed everything at that time, but I didn't  
7           go anywhere because the situation was such as there were no clinics,  
8           there was no -- I couldn't -- I couldn't go to the Serbs because they  
9           had a clinic in the village for the military and police forces. But  
10          when I went to Albania on 13 May, I went to see a doctor there and  
11          received medical treatment.

12          Q.    Witness, do you currently work?

13          A.    No, no. No, I can't. My back hurts, and I've been -- suffered  
14          life-changing injuries. My vertebra are broken.

15          Q.    You said you suffered life-changing injuries. Were those  
16          injuries caused when you were detained or on some other time?

17          A.    First when I was arrested. Then I used drugs, medication. Then  
18          after the war, I continued seeing doctors. I had two surgeries after  
19          the war in my genital area.

20          Q.    Did you need those surgeries because of what happened to you at  
21          the time of your detention or for some other reason or incident?

22          A.    They destroyed me there when they -- they kicked me in my  
23          genital area. They would jump on my stomach and walk on my stomach.

24          Q.    Witness, it's been well over 20 years since the event that you  
25          described to us in private session. Could you tell us how you feel

Witness: W01602 (Open Session)  
Questioned by Victims' Counsel

Page 4921

1 today mentally or psychologically about what happened to you when you  
2 were detained.

3 A. I don't feel well. I can't sleep. When I remember what I  
4 experienced there, during the night, what they did to me, I -- I am  
5 in pain. Every ten days I get two injections in my lower back for my  
6 vertebra.

7 Q. Thank you, Witness.

8 MR. PACE: No further questions, Your Honour.

9 PRESIDING JUDGE SMITH: Thank you, Mr. Pace.

10 Mr. Laws.

11 THE WITNESS: [Interpretation] Thank you.

12 Questioned by Victims' Counsel:

13 Q. Good afternoon, Witness. As you know, because we've met --

14 A. Good afternoon.

15 Q. -- I am Victims' Counsel in this case. I'm going to ask you  
16 some questions about the effects of what happened to you in 1999, but  
17 I'm not going to repeat the evidence that you have just given. All  
18 right?

19 A. I don't have really anything else to add. I think you have my  
20 statements, and what I've said in my statements is true. Had I  
21 wanted to lie, I would have said they took money from me or anything  
22 else. I would have made things up. But, no, I just said what  
23 actually happened.

24 Q. I understand. And I've only a very few questions for you.

25 MR. LAWS: But I think it's going to be safer, Your Honour, if

Witness: W01602 (Private Session)

Page 4922

Questioned by Victims' Counsel

1 we go into private session.

2 PRESIDING JUDGE SMITH: [Microphone not activated]

3 [Private session]

4 [Private session text removed]

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Witness: W01602 (Private Session)

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Questioned by Victims' Counsel

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Witness: W01602 (Private Session)

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Questioned by Victims' Counsel

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Witness: W01602 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W01602 (Private Session)

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Page 4928

Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Witness: W01602 (Private Session)

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Cross-examination by Mr. Kehoe

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Witness: W01602 (Private Session)

Page 4931

Cross-examination by Mr. Kehoe

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Witness: W01602 (Private Session)

Page 4932

Cross-examination by Mr. Kehoe

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Witness: W01602 (Private Session)

Page 4933

Cross-examination by Mr. Kehoe

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Witness: W01602 (Private Session)

Page 4934

Cross-examination by Mr. Kehoe

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Witness: W01602 (Private Session)

Page 4935

Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Cross-examination by Mr. Kehoe

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Witness: W01602 (Private Session)

Page 4938

Cross-examination by Mr. Kehoe

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25 [Open session]



Witness: W01602 (Open Session)

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Procedural Matters

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

2 PRESIDING JUDGE SMITH: All right.

3 Witness, we are finished for today. You'll be back here  
4 tomorrow at 9.00. Thank you for being here with us today.

5 Court Usher, you may escort the witness out.

6 THE WITNESS: [Interpretation] Thank you from all of you. From  
7 the Defence counsel, too.

8 [The witness stands down]

9 PRESIDING JUDGE SMITH: Unless there is something else, we are  
10 adjourned until 9.00 tomorrow.

11 --- Whereupon the hearing adjourned at 4.01 p.m.

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