

Trial Hearing
WITNESS: DAR-OTP-P-0015

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and
7 Judge Althea Violet Alexis-Windsor
8 Trial Hearing - Courtroom 1
9 Tuesday, 8 November 2022
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:38] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:32:03] Yes. Good morning, all.
15 Can we call the case, please.
16 THE COURT OFFICER: [9:32:09] Good morning, Madam President. Good
17 morning, your Honours.
18 This is the situation in Darfur, Sudan, in the case of The Prosecutor versus
19 Ali Muhammad Ali Abd-Al-Rahman, case reference ICC-02/05-01/20.
20 And for the record, we're in open session.
21 PRESIDING JUDGE KORNER: [9:32:23] Yes.
22 Yes, well, as I forgot Mr Shah yesterday, you can start this morning.
23 MR SHAH: [9:32:29] Thank you very much, Madam President. Good morning,
24 your Honours. Good morning, colleagues. The participating victims are
25 represented today by my colleague Idriss Anbari, case manager, and myself,

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1 Anand Shah, associate counsel.

2 PRESIDING JUDGE KORNER: [9:32:41] Right, thank you.

3 Defence.

4 MR LAUCCI: [9:32:44] Good morning, Madam President. Good morning,
5 your Honours. Good morning, colleagues.

6 This morning, together with Mr Ali Muhammad Ali Abd-Al-Rahman present in the
7 courtroom, Madam Eva Kalb, assistant evidence reviewer, Mr Ahmad Issa, case
8 manager and myself, Cyril Laucci, counsel.

9 PRESIDING JUDGE KORNER: [9:33:01] Thank you very much, Mr Laucci.
10 Yes, and Prosecution.

11 MR NICHOLLS: [9:33:04] Good morning, Madam President. Good morning,
12 your Honours. Good morning to everyone. Myself, Julian Nicholls, with
13 Diana Saba, Claire Sabatini and Edward Jeremy. Thank you.

14 PRESIDING JUDGE KORNER: [9:33:18] Sorry, just a moment. I'm sorry, what was
15 the name of your co-counsel?

16 MR NICHOLLS: [9:33:29] Diana Saba.

17 PRESIDING JUDGE KORNER: [9:33:31] Have we seen her before?

18 MR NICHOLLS: [9:33:34] Not in this chair, but in the courtroom, yes.

19 PRESIDING JUDGE KORNER: [9:33:38] And how do you spell that? S-A-B-A, all
20 right. Yes. Thank you.

21 Right. Before the witness comes in -- I gather she is physically present in court; is
22 that right?

23 We've had email correspondence in relation to Witness 907 from Mr Laucci objecting
24 on the grounds, summarising it, that the witness's attention was directed by
25 the investigator who took the statement to the fact that this was about the man known

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1 as Ali Kushayb.

2 Mr Laucci, I've read what you say and it -- I'm afraid it seems to us that it's more
3 a question of weight rather than admissibility. I mean, if you want to add
4 anything -- I mean, you have a great deal to cross-examine him about, there is no
5 doubt about that, but it doesn't actually make his evidence inadmissible, in our view.

6 MR LAUCCI: [9:34:57] Well, what prompted me to send that email,
7 Madam President, is that the question of admissibility and the question of weight are
8 closely related in the case law of the -- of this court. And to our -- in our perception,
9 the -- the question -- the way the interview of the witness started on the basis of
10 the written statement, of course, is so leading and so triggering for a witness who
11 barely spoke about seeing Ali Kushayb in his screening note before that, for us, evil is
12 done. And now that the witness has based this entire written statement on the role
13 played by Ali Kushayb as a consequence of this leading, it's -- for us, it's almost
14 impossible to reverse it by way of a cross-examination. We know our limits.

15 PRESIDING JUDGE KORNER: [9:35:57] Well, except that you could actually, I mean,
16 simply deal with it as has been done in the past, by putting to him that not one word
17 did he say about Ali Kushayb in the original interview and suddenly he's got a whole
18 statement about it, and leave it at that.

19 MR LAUCCI: [9:36:16] If we have to, this is what we are going to do, obviously.
20 But yeah, I think that that -- in that case -- the problem is that it's the nature of
21 the interviews that we don't know what he said usually and we don't know how
22 leading the questions are. But with that mention in the written statement, it
23 suddenly pops into our eyes and we could not ignore it, obviously.

24 PRESIDING JUDGE KORNER: [9:36:43] Well, I mean, as I say, I appreciate -- it does
25 seem to us, though, that this really does go to weight rather than admissibility and

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1 it -- I'm assuming that he hasn't yet been seen by the Prosecution in preparation for --

2 MR LAUCCI: [9:37:06] He was.

3 MR NICHOLLS: [9:37:06] No, we have met the witness over the weekend and
4 disclosed the preparation log.

5 PRESIDING JUDGE KORNER: [9:37:11] Oh, you have, I see. All right. Have we
6 got it? No, I don't suppose we have yet.

7 MR NICHOLLS: [9:37:18] I believe you do, your Honours.

8 PRESIDING JUDGE KORNER: [9:37:19] All right. Okay.

9 Well, at the moment -- when is he due to start? Thursday.

10 MR NICHOLLS: [9:37:29] No, possibly today depending on my friend's cross
11 and -- but likely tomorrow morning, I believe.

12 MR LAUCCI: [9:37:35] Yes, he is scheduled for tomorrow. We'll see how we go
13 with the witness today.

14 PRESIDING JUDGE KORNER: [9:37:40] Well, I was going to say. But at
15 the moment, subject to anything else that you want to add, and I'm not stopping you,
16 Mr Laucci, at a later stage, then we -- our ruling is that these are matters which go to
17 weight rather than admissibility.
18 Yes.

19 MR LAUCCI: [9:38:00] Well noted.

20 PRESIDING JUDGE KORNER: [9:38:00] All right.

21 So this witness is 68(3), so Ms Saba, you need to deal with the summary, yeah.

22 MS SABA: [9:38:07] Yes, your Honour. Good morning to you. And good
23 morning, your Honours.

24 P-0015, a Fur civilian, provides evidence on the attack on Bindisi conducted by forces
25 of the Government of Sudan and militia/Janjaweed on about 15 and 16 August 2003.

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1 She witnessed the murder of a family member and also provides evidence on other
2 people killed during the attack.

3 She also provides evidence on looting, destruction of property and attacks against
4 civilians which were then displaced towards Mukjar.

5 In addition, P-0015 witnessed women being stripped, robbed, raped and beaten in
6 Bindisi on 16 August 2003.

7 And the witness further provides evidence on the detention, maltreatment and
8 execution of detainees in Mukjar in the period of 2003 and 2004.

9 And, Madam President, your Honours, that concludes the summary. But if I may, to
10 put on the record, the witness during the preparation session agreed that her
11 statement, together with the corrections and clarifications that were made, be
12 introduced into evidence in this case pursuant to Rule 68(3). And those corrections
13 and clarifications were then adduced in a document which she signed and has been
14 registered as DAR-OTP-00000427 and that's tab 2 of the Prosecution's binder. Thank
15 you.

16 PRESIDING JUDGE KORNER: [9:39:46] Those numbers weren't nearly as bad as
17 yesterday.

18 Yes, thank you very much, Ms Saba.

19 Yes, let's have the witness into court.

20 (The witness enters the courtroom)

21 PRESIDING JUDGE KORNER: [9:40:57](Microphone not activated)

22 THE INTERPRETER: [9:41:01] Microphone, your Honour, please.

23 PRESIDING JUDGE KORNER: [9:41:03] Yes. Good morning.

24 I know that you understand English, but I'm told you'd prefer to give your evidence
25 in Fur, so of course you may.

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1 But it makes life easier because what I'm saying, you probably understand. Can you
2 hear?

3 WITNESS: DAR-OTP-P-0015

4 (The witness speaks Fur)

5 THE WITNESS: [9:41:30](Speaks English) Yeah.

6 PRESIDING JUDGE KORNER: [9:41:32] You can, right. First of all, thank you very
7 much for coming to court to give evidence in this case.

8 There are just two or three things that I'm going to say before we ask you to read, I
9 imagine -- no, you can't -- she can read, in Arabic or in Fur?

10 You have to read it out. Okay.

11 Sorry, because the solemn declaration is not written down in Fur, the clerk will read it
12 and you just repeat it after him. I'm sorry, you -- the translation. Yeah, well,
13 whatever.

14 However, because of the translation, it's really important that you don't speak too fast,
15 because it's double translation, so it takes some time. And if you can keep your
16 answers short, that also helps.

17 If you don't understand a question that you're asked, then just say so straightaway
18 and the question will be repeated.

19 Finally, we will have a break at 11 o'clock for half an hour and then again for lunch at
20 1 o'clock for one and a half hours. But if at any stage you would like a break, please
21 do not hesitate to say so.

22 THE WITNESS: [9:43:20](Overlapping speakers)

23 PRESIDING JUDGE KORNER: [9:43:21] Okay. Right, well, the clerk is going
24 to -- the court officer is going to repeat the oath for you to take -- the solemn
25 declaration.

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- 1 THE COURT OFFICER: [9:43:35] Good morning, Madam Witness.
- 2 Could you please repeat the solemn undertaking after me.
- 3 I solemnly declare.
- 4 I do not have Fur interpretation.
- 5 That I will speak the truth.
- 6 THE WITNESS: [9:44:03](No interpretation)
- 7 THE COURT OFFICER: [9:44:09] I'll start over.
- 8 I solemnly declare that I will speak the truth, the whole truth and nothing but
- 9 the truth.
- 10 THE WITNESS: [9:44:22](No interpretation)
- 11 THE COURT OFFICER: [9:44:28] The whole truth.
- 12 THE WITNESS: [9:44:44](Interpretation) I solemnly declare to say the truth,
- 13 the whole truth and nothing but the truth.
- 14 THE COURT OFFICER: [9:44:59] Thank you, Witness. You are now under oath.
- 15 PRESIDING JUDGE KORNER: [9:45:03] Can I remind the interpreters, please, of
- 16 what I said yesterday.
- 17 THE WITNESS: [9:45:10](Interpretation) I solemnly declare that I will speak
- 18 the truth, the whole truth and nothing but the truth.
- 19 PRESIDING JUDGE KORNER: [9:45:25] Thank you very much, Madam.
- 20 I just want to remind the interpreters, please, that every word said either in English or
- 21 by the witness in answer must be translated. I hope that's clear. Thank you.
- 22 Right. After all that, yes, Ms Saba.
- 23 MS SABA: [9:45:52] Thank you, Madam President.
- 24 QUESTIONED BY MS SABA:
- 25 Q. [9:45:55] And good morning, Madam Witness.

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1 A. [9:46:01] Good morning.

2 Q. [9:46:02] We have, of course, met. But for the record, my name is Diana Saba
3 and I'll be asking you a few questions today on behalf of the Prosecution.

4 A. [9:46:25] Nice to see you. Thank you.

5 Q. [9:46:30] As I explained to you during the preparation session, your witness
6 statement has been submitted into evidence in this case. And for this reason, I'll only
7 be asking you a few questions today.

8 A. [9:47:00] Very well.

9 Q. [9:47:06] If any of those questions are not clear, please do not hesitate to tell me
10 so.

11 A. [9:47:25] Very well.

12 Q. [9:47:29] And I would just remind you again to please speak slowly and keep, if
13 possible, your answers short, to allow for Fur interpretation.

14 A. [9:47:58] Very well.

15 Q. [9:48:04] Madam Witness, last week during the preparation session,
16 the statement you provided in 2005 was read back to you in Fur, correct?

17 A. [9:48:36] Yes, that is correct.

18 Q. [9:48:43] And do you recall being told during that same session that it was
19 important to correctly and clearly differentiate between what you saw with your own
20 eyes and what you heard from others?

21 A. [9:49:23] Yes, I will differentiate between these two.

22 Q. [9:49:31] And do you also recall, then, making a number of corrections and
23 clarifications to this statement?

24 A. [9:49:56] Yes, I remember.

25 Q. [9:50:03] Could you please explain to the Court why, in reviewing your 2005

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1 statement, was it necessary to make those corrections and clarifications.

2 A. [9:50:48] It was necessary to differentiate between what I saw with my own eyes
3 and what I heard and what I was told, or what I heard from people.

4 Q. [9:51:06] Thank you. I'm going to ask you now about the first conversation you
5 had with investigators from the Prosecution back in 2005 while you were still at
6 a camp. Is that okay?

7 A. [9:51:37] Yes, this is possible.

8 Q. [9:51:43] Do you recall in the preparation session being shown and read a short
9 three-page document with the records of this conversation you had with
10 investigators?

11 A. [9:52:11] Yes, I do remember that.

12 Q. [9:52:16] And you also made some corrections and clarifications to parts of this
13 document, correct?

14 A. [9:52:35] Yes, this is correct.

15 Q. [9:52:41] Why was it necessary to also correct parts of this document, please?

16 A. [9:53:11] It was necessary because I took an oath to tell -- to say the truth and to
17 say what I heard, what I saw and what I was told. I took an oath to do that.

18 Q. [9:53:32] And the document that you saw did not reflect this oath that you took?

19 A. [9:54:08] All that I wrote was correct, and there is more.

20 Q. [9:54:25] Thank you.

21 Does the screening note, the document that records your conversation with
22 the investigator, accurately record what you saw and heard in Darfur in 2003 and
23 2004?

24 A. [9:55:11] Yes, all that I mentioned is the truth, and there is more too.

25 MS SABA: [9:55:26] Your Honour, just for the record, the screening note I'm

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1 referencing to is recorded at DAR-OTP-00000400 and that's at tab 19 of
2 the Prosecution binder.

3 I'll just have a few follow-up questions.

4 Q. [9:55:50] The information in the screening note you mention is truth. But is it
5 correctly recorded?

6 PRESIDING JUDGE KORNER: [9:56:12](Microphone not activated) It's all right,
7 Mr Laucci.

8 It's not a very clear question, Ms Saba. If it's incorrectly recorded, then it's incorrect.
9 If it's correctly recorded and she says it's true ...

10 MS SABA: [9:56:32] Yes, your Honour, I will rephrase my question.

11 PRESIDING JUDGE KORNER: [9:56:36] Okay. Thank you.

12 (Counsel confer)

13 MS SABA: [9:56:56]

14 Q. [9:56:57] Madam Witness, can you recall the information that you had to correct
15 and clarify from the screening note?

16 PRESIDING JUDGE KORNER: [9:57:07] Stop, stop, sorry.

17 I appreciate this is not the easiest thing to do, but the witness is not supposed to
18 have -- do a memory test. If she made corrections in the preparation log, or at some
19 other stage, well, then just put them in.

20 MS SABA: [9:57:26] Yes, your Honour. They are in. I just want to give
21 the witness the opportunity to --

22 PRESIDING JUDGE KORNER: [9:57:35] To what?

23 MS SABA: [9:57:36] -- to explain why they were necessary.

24 PRESIDING JUDGE KORNER: [9:57:46] Yes, all right. I think it's more a question,
25 isn't it, of -- of the information that -- that -- that she gave originally may not have

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1 been as full as whatever she told you.

2 MS SABA: [9:58:06] Yes, your Honour.

3 PRESIDING JUDGE KORNER: [9:58:12] All right. I think -- I think the question is
4 when you -- sorry, Mr Laucci, yeah.

5 MR LAUCCI: [9:58:18] Yes. And I raise your attention that you are having this
6 discussion in presence of the witness who perfectly understands us.

7 PRESIDING JUDGE KORNER: [9:58:26] Yes.

8 MR LAUCCI: [9:58:27] But I do not understand the necessity for the clarification that
9 you are trying to make. The witness just said, and it is on -- on line 8 and 9 of today's
10 transcript, page 11, that all that is mentioned in that document is the truth. So what
11 do we need to clarify more?

12 PRESIDING JUDGE KORNER: [9:58:48] I -- I suppose it's if there was additional
13 information, why she didn't give it originally or if she's changed it. But I think
14 the answer is fairly obvious, in any event.

15 Well, Ms Saba, actually if you tell us -- what is it -- appreciating the witness
16 understands English, what is it you you're trying to get at?

17 MS SABA: [9:59:16] If I may direct your Honour to the preparation log.

18 PRESIDING JUDGE KORNER: [9:59:19] Yeah.

19 MS SABA: [9:59:20] It's DAR-OTP-00000426, and that's at paragraph 11, that's
20 the last paragraph in the preparation log.

21 PRESIDING JUDGE KORNER: [9:59:39] Just a moment.

22 Why don't -- I tell you what, Ms Saba, you get a chance to re-examine. Why don't we
23 see what Mr Laucci asks her about this and then -- and then we'll -- we'll see about
24 this.

25 In any event, this is -- you've submitted this into evidence, haven't you,

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1 the preparation log?

2 MS SABA: [10:00:23] No, the preparation log is not submitted into evidence,
3 your Honour.

4 PRESIDING JUDGE KORNER: [10:00:28] Okay.

5 All right. But why don't we leave it at that? I mean it -- it's quite a difficult
6 question to ask without leading horribly.

7 MS SABA: [10:00:38] Yes, your Honour. Thank you. That concludes my
8 questioning, then.

9 PRESIDING JUDGE KORNER: [10:00:41] Yes.

10 Right, Mr Shah.

11 MR SHAH: [10:00:50] Thank you, Madam President.

12 QUESTIONED BY MR SHAH:

13 Q. [10:00:54] Good morning, Madam Witness. I hope you're feeling well today.

14 A. [10:01:11] I'm very well. Thank you.

15 Q. [10:01:14] We met briefly last week, but for the record, my name is Anand Shah
16 and I am one of the lawyers representing the victims in these proceedings. And on
17 behalf of our clients, I would like to ask you just a few questions based on
18 the statement that you provided to the Prosecution.

19 A. [10:02:02] Very well. I can hear you. I can hear you very well.

20 Q. [10:02:07] And I just wanted to remind you that we are in public session, so
21 please don't mention any information that might identify -- identify you, for example,
22 the names of individuals.

23 A. [10:02:46] Very well.

24 Q. [10:02:51] Firstly, Madam Witness, I'd like to ask you a few questions about your
25 home village. Can you tell the Court -- can you tell the Court, what was life like for

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1 you and your family in your home village before the conflict?

2 A. [10:03:29] Yes, I can. I'll tell you.

3 We used to live in our village in peace and calmness. Everyone was living in peace
4 and security and we didn't have any problems at all. Children were feeling safe,
5 they were not scared of anything. They were going to school and playing and
6 enjoying their life. There were no problems.

7 And in 2003, when the war started, the children got affected severely. They never
8 experienced these things before. Those children never saw TV before. And on
9 the 15th, when the attack took place, the soldiers told us not to move. They arrested
10 some of the people and killed some, and we witnessed things that we never witnessed
11 before.

12 We didn't have TV before. We never saw such things, ever in our lives. (Redacted)
13 (Redacted)

14 Many other people met the same fate, and I saw that with my own eyes.

15 On the first day, a lot happened.

16 Q. [10:06:13] Thank you very much, Madam Witness. We appreciate you
17 providing all of those details, they're very important.

18 And I just wanted to recall -- I just wanted to recall what my colleague from
19 the Prosecution has mentioned. And that is that your statement is already in
20 evidence, so everyone has read that statement very carefully, including their
21 Honours.

22 And I did want to ask just a few questions about the attack on your home village,
23 which you have just mentioned. You explained that on the second day of the attack,
24 while you were trying to flee with your family and others, that a member of
25 the Janjaweed hit you on the back with the butt of his gun. And you said that you

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1 still feel this pain there till this day.

2 You gave your statement to the Prosecution almost 18 years ago. Does this injury
3 still cause you difficulty?

4 A. [10:08:18] Yes, I still get pain if I do any kind of hard work. Yes, I do get pain.

5 Q. [10:08:29] Madam Witness, you also mention rescuing the four-year-old son of
6 your neighbour who you were carrying on your back. Were you able to reunite this
7 boy with his family once you escaped from your home village?

8 A. [10:09:15] Yes, after three days.

9 Q. [10:09:23] Were you aware of any other children from your home village who
10 became orphans as a result of the attack or who could not be reunited with their
11 families?

12 A. [10:10:10] Many children died on the road, and some of them died during
13 the attacks. And many of them are still orphans because they lost both parents, or
14 maybe just their fathers, during the war.

15 Q. [10:10:34] Madam Witness, I'd now like to take you to your time in Mukjar
16 between August of 2003 and early 2004.

17 You said that there were many arrests and detentions that took place in Mukjar
18 during this time, including the arrest and torture of your maternal uncle. You also
19 said ... you also said that the detained persons were mostly educated young men over
20 the age of 18 and traditional leaders.

21 What tribes were these detained men from?

22 A. [10:12:22] Most of them were from the Fur tribe, who came from
23 the neighbouring villages.

24 Q. [10:12:37] In your statement you also describe, while you were in Mukjar,
25 visiting around 13 girls and women between the ages of 15 and 20 years of age who

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1 had been raped by the Janjaweed or *asakir* in and around Mukjar.

2 A. [10:13:49] They were mostly girls. And yes, everything that you said is correct.

3 Q. [10:13:54] You explain that most of these victims were your relatives. Were
4 any -- were any of these girls and young women from -- from your home village?

5 A. [10:14:23] Yes, that's correct.

6 Yes, many of the girls were from our village. One of them (Redacted)

7 Q. [10:15:06] In addition to this -- to these 13 girls and women, you also discuss
8 other terrible incidents of sexual violence that you witnessed first hand or that you
9 were told about which took place during the attack on Bindisi, as well as in the areas
10 between Mukjar and Bindisi during this time.

11 A. [10:15:59] Yes, that's correct.

12 Q. [10:16:09] Do you know whether any of these girls and young women, were
13 they able to seek medical treatment after they were assaulted?

14 A. [10:16:49] (No interpretation)

15 PRESIDING JUDGE KORNER: [10:17:00](Microphone not activated) translation
16 not -- I'm sorry, we're now getting either Arabic or Fur, but certainly not English.

17 MR SHAH: [10:17:19] Could the interpreters please repeat that answer.

18 PRESIDING JUDGE KORNER: [10:17:23] In English.

19 THE WITNESS: [10:17:41](Interpretation) No, they didn't get any kind of medical
20 care. They were just helping each other and taking care of each other.

21 MR SHAH: [10:17:51]

22 Q. [10:17:54] You also mention in your statement that the victims of rape "had no
23 one to complain to; they had to accept it as something sent by God which they can do
24 nothing about."

25 That's at paragraph 102 of the witness's statement.

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1 Do you know whether any of these victims of rape filed complaints with the police?

2 I don't think the witness is hearing the interpretation.

3 Could that please be tested with the witness whether or not she can hear
4 the interpreters.

5 I think -- I think someone needs to check her machine. Perhaps her channel may
6 have been switched.

7 PRESIDING JUDGE KORNER: [10:19:35] Yes.

8 THE INTERPRETER: [10:19:40] The witness can't hear. The witness can't hear.

9 MR SHAH: [10:19:52]

10 Q. [10:19:53] Madam Witness, can you hear me now?

11 A. [10:19:59] (Speaks English) Yeah.

12 Q. [10:20:03] I will --

13 A. [10:20:04] (Interpretation) Yes, I can hear you now.

14 Q. [10:20:11] I'll repeat my question. You also stated that rape victims "had no one
15 to complain to; they had to accept it as something sent by God which they could do
16 nothing about."

17 Do you know whether --

18 A. [10:20:43] (No interpretation)

19 PRESIDING JUDGE KORNER: [10:20:56] Sorry, madam, can you stop. We're not
20 getting any interpretation at all. Sorry about this.

21 THE WITNESS: [10:21:18](Interpretation) Yes, because it was considered as
22 shameful in our community --

23 PRESIDING JUDGE KORNER: [10:21:19] I'm not sure what is going on at the
24 moment.

25 THE WITNESS: [10:21:19](Interpretation) -- so the girls were so scared to reveal to

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1 each other even that this has happened to them. And if they go to the -- if they go to
2 the police station --

3 PRESIDING JUDGE KORNER: [10:21:41] Just pause, Mr Shah, while we sort out
4 what's going on.

5 THE WITNESS: [10:21:41](Interpretation) -- they will be subjected to more assault,
6 because they were assaulted by these soldiers in the first place.

7 MR LAUCCI: [10:22:03] Madam, Madam President, I don't know if that helps, but I
8 noticed that on my machine it switched to original automatically without any
9 intervention on mine.

10 MR NICHOLLS: [10:22:15] Same here.

11 PRESIDING JUDGE KORNER: [10:22:15] I think that's what happened -- that's what
12 happened to everybody.

13 So, in fact, my apologies to the interpreters. It appears that the court equipment has
14 now got a mind of its own.

15 Right, can we start -- Madam, I'm really sorry about this. I know this is -- it's not an
16 easy thing to do to give evidence, and I'm sorry it's been slightly disrupted by this.
17 So let's start all over again, Mr Shah.

18 MR SHAH: [10:22:49] And just the witness's last answer did come through fine, it's
19 on the transcript.

20 THE WITNESS: [10:23:04](No interpretation)

21 MR SHAH: [10:23:08] Page 19, paragraph -- starting at line -- page 19, line 12, that
22 was her answer to my question.

23 PRESIDING JUDGE KORNER: [10:23:18] Well, obviously, the -- the -- the LiveNote
24 people didn't have the same problem we had.

25 MR SHAH: [10:23:30]

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1 Q. [10:23:31] Madam Witness, you've just mentioned the social stigma for women
2 who were the victims of rape. What about children who were born out of rape, were
3 there any -- was there any social stigma attached to children born out of rape?

4 A. [10:24:47] Well, the children who were born out of wedlock were without any
5 value in the society and their entire life was without value.

6 Q. [10:25:08] Thank you, Madam Witness.

7 I'd now like to turn to your time as -- as a refugee. You fled Sudan by approximately
8 mid-2004. And can you tell us what life was like for you when you first fled
9 the country?

10 A. [10:26:11] Do you mean when we left our area in 2004 or while we were still in
11 our area? What's the question exactly?

12 Q. [10:26:24] I mean when you permanently left Sudan, when you left Sudan for
13 good.

14 A. [10:27:10] After we left, and before we leave Sudan, we faced so many
15 difficulties on the route out.

16 We were displaced. Some people got killed. And obviously children could not
17 carry on with their education. We were extremely exhausted. Some people died on
18 the route out of Sudan. We didn't know what was going to happen to us in
19 the future, and families got completely dispersed and divided.

20 Q. [10:28:14] And when you crossed -- when you cross the border and when you
21 left Sudan, what was life like for you and your family in those first months?

22 A. [10:29:04] Although I didn't hear the sound of gunshot, but I felt like I was living
23 in darkness, because at the time, we owned nothing at all and we couldn't have any
24 education. But thank God anyway for everything.

25 Q. [10:29:31] And without mentioning any specific places or locations, can you tell

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1 us how your life changed over time in this place that you had fled to.

2 A. [10:30:27] We forgot some of the events because we did not see the Janjaweed in
3 that area that we had arrived to. That was better -- that was a better situation than
4 the one we were in, because we did not see the enemy, so we didn't have
5 the memories of the tragic events that we have experienced.

6 Q. [10:31:07] Now, in your statement from 2005, you mention that you were
7 suffering flashbacks of the bad things that had happened in Darfur and you mention
8 the particular trauma that came from witnessing first-hand incidents of sexual
9 violence.

10 I'd like to ask, how are you doing today? Do you still have these flashbacks?

11 A. [10:32:35] I'm trying to co-live with this -- with these sorrows. When children
12 scream, I can't tolerate that. I constantly try to heal and co-live with these memories.

13 Q. [10:33:08] Madam Witness, you also explained that you were robbed of
14 the opportunity to continue your education. Since that time, since you gave
15 the statement, have you been able to pursue any educational opportunities?

16 A. [10:33:58] I was just able to assist, to assist women and children, but I always try
17 to seek my rights and how I can get them.

18 Q. [10:34:20] Madam Witness, if I may ask, and if you're willing to answer
19 the question, what are your hopes for the future for yourself and your family?

20 A. [10:35:10] Personally speaking, I would like to pursue my education, through
21 which I -- we -- we all can get our rights.

22 Q. [10:35:27] Madam Witness, why did you agree to be a witness in these
23 proceedings?

24 A. [10:35:58] My family back there didn't have a voice to -- to -- an ability to voice
25 their concern. I am here to represent my family.

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1 Q. [10:36:23] Thank you very much for your testimony, Madam Witness.

2 No further questions, Madam President.

3 PRESIDING JUDGE KORNER: [10:36:29] Yes, thank you, Mr Shah.

4 Yes, Mr Laucci.

5 MR LAUCCI: [10:36:35] Thank you, Madam President.

6 QUESTIONED BY MR LAUCCI:

7 Q. [10:36:39] Good morning, Witness. I hope you are well.

8 We met briefly. My name is Cyril Laucci and I will start your cross-examination
9 now. I thank you for appearing.

10 A. [10:36:59] Very well.

11 Q. [10:37:02] One important thing is that your whole statement is on record and
12 will be used as evidence by the Chamber, so there is no need to repeat it.

13 A. [10:37:36] Very well.

14 Q. [10:37:39] I will limit my cross-examination to asking you very specific questions,
15 so focus on the question and that will be -- save your time and everybody's time and
16 allow for a speedy conclusion of the cross-examination.

17 A. [10:38:08] Very well.

18 Q. [10:38:09] I have obviously two parts in my cross-examination.

19 The one -- the first part is the attacks on Bindisi. The second part is the events in
20 Mukjar.

21 But before that, I would like to clarify with you about the various interviews and
22 interactions that you had with the Office of the Prosecutor.

23 The first interview, that is called the screening, took place in April 2005 in Chad; is
24 that correct?

25 A. [10:39:32] I am not very sure. I'm not sure.

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1 Q. [10:39:37] Is it the date that you're unsure of?

2 A. [10:39:53] Yes, I was referring to the date that you just mentioned.

3 Q. [10:39:58] Okay. I refer to the date that is on the document that was prepared
4 by the Office of the Prosecutor, so let's assume that it is the right date, even though it
5 has not much importance.

6 Your second interview took place in November, December 2005, still in Chad. Do
7 you remember that?

8 A. [10:40:40] Yes, I do.

9 Q. [10:40:44] Thank you.

10 For the records, and even though it's not something that -- it's not a question for
11 the witness, I note that Chad in 2005 was not a State Party. It became a State Party
12 on 1 January 2007. And there was no Article 4(2) agreement with Chad in force at
13 the time.

14 PRESIDING JUDGE KORNER: [10:41:18] Actually, I mean, I don't think you need
15 mention your long-standing complaint. You can take it up at the Appeals Chamber.

16 MR LAUCCI: [10:41:28] It's just for the record.

17 And by the way, since we are in the -- in these complaints, as you say, I note also that
18 this written statement does not even bear the insufficient mention OTP internal and
19 has no marking whatever as to its confidentiality.

20 I close the parenthesis.

21 MR NICHOLLS: [10:41:55] Your Honour, I'm sorry, for the witness's sake --

22 PRESIDING JUDGE KORNER: [10:42:01] I know. Mr Laucci -- yes, all right.

23 Mr Laucci, we have it on record for each of these statements so you needn't repeat it.

24 And as Mr Nicholls rightly points out, you're here to ask the witness questions.

25 Right. Carry on, please.

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1 MR LAUCCI: [10:42:18] Thank you.

2 Q. [10:42:19] More recently, in January 2008, you had another contact with
3 the Office of the Prosecutor during which you corrected and clarified certain aspects
4 of your statement.

5 I'm talking about the document that is in tab 3, DAR-OTP-0130-0006.

6 Do you remember that?

7 A. [10:43:06] Yes, I do remember.

8 Q. [10:43:09] Thank you. Much closer, last week, you completed your preparation
9 session with my colleagues of the Office of the Prosecutor, as a result of which
10 a preparation log was produced, as well as a document called "Clarifications and
11 Corrections"; is that correct?

12 A. [10:43:49] Yes, I remember.

13 Q. [10:43:52] Thank you. Is there any other interaction with the Office of
14 the Prosecutor that I did not mention?

15 A. [10:44:19] Very well.

16 PRESIDING JUDGE KORNER: [10:44:23](Microphone not activated) the word -- just
17 "interaction".

18 Did you have any other meetings with the Prosecution.

19 MR LAUCCI: [10:44:30] Yes.

20 Q. [10:44:31] Did you have any other meetings or interviews with
21 the Office of the Prosecutor in addition to the one that I mentioned?

22 A. [10:45:10] Where exactly do you mean? Can you -- can you inform me? Can
23 you tell me the place, please?

24 Q. [10:45:19] In any place or at any time. I just want to know if you had another
25 interview with members of the Office of the Prosecutor.

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1 PRESIDING JUDGE KORNER: [10:45:32] Outside the ones that have already been
2 mentioned.

3 MR LAUCCI: [10:45:29] Yes.

4 THE WITNESS: [10:45:54](Interpretation) You have all the information between
5 your hands and all -- I don't have any further information.

6 MR LAUCCI: [10:46:02] Thank you.

7 Q. [10:46:03] I move to -- I start with the attacks on Bindisi.

8 First clarification or -- or question of language, do you agree with me that Bindisi and
9 Bundis are two names for the same place?

10 A. [10:46:47] Bindisi is written in Arabic, Bindisi. In French the pronunciation
11 differs or varies a little bit.

12 Q. [10:46:55] Okay. Thank you for the French pronunciation.

13 What about Bundis?

14 A. [10:47:17] I do not know Bundis. My -- the name of my city is Bindis and
15 Bindisi.

16 Q. [10:47:26] Thank you.

17 Do you remember any attack of Bindisi prior to 15 August 2003?

18 A. [10:48:03] I just remember the attack that took place in 2003. Prior to that,
19 the area was populated.

20 Q. [10:48:14] Were you in Bindisi on 1 August 2003, that is two weeks before
21 15 August?

22 A. [10:48:45] I was studying in Mukjar and I would return to Bindisi. I don't
23 remember any other events aside from those that occurred in 2003.

24 Q. [10:49:00] So I take it from the last part of your answer that you do not
25 remember an attack on 1 August in Bindisi?

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1 A. [10:49:32] What I understood is that it was not 1 August. The one -- your
2 question was not on -- about 1 August.

3 Q. [10:49:44] Well, actually, my question is about 1 August and my question is:
4 Was Bindisi attacked on 1 August, in addition to the 15th?

5 A. [10:50:13] I'm not quite certain.

6 Q. [10:50:17] Let's see.

7 Can we have on the screen, please, the document that is in tab 1 of the Defence binder.
8 DAR-OTP-0153-0686. It's a document entitled "List of rebel attacks -- list of rebels
9 attacks -- no, list of rebel attacks", I will manage.

10 PRESIDING JUDGE KORNER: [10:50:45](Microphone not activated) rebel.

11 MR LAUCCI: [10:50:48] Yes.

12 Q. [10:50:49] And let me clarify that it is a document that was, according to the
13 information we have, compiled by the Government of Sudan.

14 And I would like to go, please, at page 0692, entry 61.

15 Do we have it on the screen? No.

16 There it is. 61, please.

17 THE COURT OFFICER: [10:51:44] Counsel, can this be displayed publicly?

18 MR LAUCCI: [10:51:49] I think it can, yeah.

19 Q. [10:51:51] I will read the entry for you, so it's dated 1 August 2003. And it
20 reads:

21 "An armed rebel band led by 'al-Salik' (who used to be a People's Defence coordinator)
22 attacked Bundis District. Taking all the Alms" - I'm not sure about the word - "Tax
23 and police vehicles" --

24 PRESIDING JUDGE KORNER: [10:52:25] Alms. Alms.

25 MR LAUCCI: [10:52:28] Alms.

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1 Q. [10:52:28] "... Alms Tax and police vehicles, police weapons and possessions.
2 They killed the prisoner Muhammad Ahmad ... for no other reason/than his Arab
3 tribal origins. They entered Bundis market picking and killing out non-Fur
4 tribes-people. They abducted the merchant Ahmad Hajar and three other men
5 whose fate remains unknown to this day."

6 Did you ever hear the name al-Salik?

7 A. [10:53:38] No, I haven't heard about it.

8 Q. [10:53:41] Do you know the person named Muhammad Ahmad mentioned in
9 this summary?

10 A. [10:53:55] I haven't heard about him either.

11 Q. [10:53:57] Do you know the merchant called Ahmad Hajar?

12 A. [10:54:16] No, I haven't heard about any of these. Do these come from Bindisi?
13 Are they from Bindisi?

14 Q. [10:54:25] I'm afraid I do not have the answer to this question, Madam.

15 PRESIDING JUDGE KORNER: [10:54:29] Yeah, I think, but we ought to perhaps
16 make that -- what you're being asked about is apparently an alleged attack by rebels,
17 not government forces or Janjaweed.

18 Do you recall there being a rebel attack of some kind in Bindisi approximately two
19 weeks before the attack you described on 15 August?

20 THE WITNESS: [10:55:30](Interpretation) I did not witness this.

21 MR LAUCCI: [10:55:33]

22 Q. [10:55:34] Thank you. And did you --

23 THE INTERPRETER: Microphone, Mr Laucci, please.

24 MR LAUCCI: [10:55:41]

25 Q. [10:55:41] And last question. Did you ever hear about rebels in Bindisi?

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1 A. [10:56:02] I only heard the word *tora bora* by the Janjaweed, when they raped
2 the little girls and said "sisters of *tora bora*." That's all I heard.

3 Q. [10:56:19] Thank you, Madam Witness.

4 Madam President, I know it's five to 11 but it's a convenient time for a stop.

5 PRESIDING JUDGE KORNER: (Microphone not activated)

6 MR NICHOLLS: [10:56:27] Sorry, just my impression is that 907 won't start today,
7 but from the beginning --

8 MR LAUCCI: [10:56:35] Yeah, I think -- I think it's unlikely.

9 PRESIDING JUDGE KORNER: [10:56:37] Yeah, all right. We'll say 907 - as you're
10 whizzing through your witnesses anyhow, Mr Nicholls - we'll say 907 tomorrow
11 morning.

12 MR NICHOLLS: [10:56:48] Thank you. And I take it you've ruled on the
13 (Overlapping speakers)

14 PRESIDING JUDGE KORNER: [10:56:51] I have ruled, yes, subject to any else
15 Mr Laucci wants to say.

16 MR NICHOLLS: [10:56:47] All right. Thank you.

17 PRESIDING JUDGE KORNER: [10:56:52] Yes, thank you.

18 Yes, we'll -- I suppose we'd better because of this half-hour break, we'll say half past
19 11. Thank you.

20 THE COURT USHER: [10:57:07] All rise.

21 (Recess taken at 10.57 a.m.)

22 (Upon resuming in open session at 11.39 a.m.)

23 THE COURT USHER: [11:39:25] All rise.

24 Please be seated.

25 PRESIDING JUDGE KORNER: [11:39:56](Microphone not activated)

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1 MR LAUCCI: [11:39:58] Thank you, Madam President.

2 Q. [11:39:59] Welcome back, Madam Witness. Are you well?

3 A. [11:40:15] I am very well.

4 Q. [11:40:17] Thank you.

5 I will start my questions about the attack on Bindisi on 15 August.

6 A. [11:40:36] Very well.

7 Q. [11:40:39] First question, you describe the commander of that attack as an officer
8 with a star insignia who sat in the cabin of a Central Reserve Forces vehicle.

9 I'm at paragraph 24 of the statement.

10 MS SABA: [11:41:03] Your Honour.

11 PRESIDING JUDGE KORNER: [11:41:04] Yes.

12 MS SABA: [11:41:06] The witness doesn't exactly identify this person as the leader of
13 the attack. So ...

14 PRESIDING JUDGE KORNER: [11:41:15] Sorry, just a moment.

15 Paragraph 24.

16 MR LAUCCI: [11:41:27] I can read.

17 PRESIDING JUDGE KORNER: [11:41:31] The leaders of the *asakir* she talks about.

18 Which reminds me, can I just ask this, Mr Laucci.

19 Madam, you talk about *asakir*. What do you mean by "*asakir*"? What's
20 the difference between *asakir* and Janjaweed?

21 THE WITNESS: [11:42:18](Interpretation) I meant *asakir*, *asakir* means soldier.

22 The soldiers that came in the first vehicle.

23 PRESIDING JUDGE KORNER: [11:42:25] And by "soldier", well, what do you mean
24 by -- by a soldier?

25 THE WITNESS: [11:42:58](Interpretation) In our region, we don't differentiate

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1 between the different types of soldiers. Anyone who wears uniform and carries
2 arms and ride military vehicles, we call them soldiers. We don't differentiate
3 between the police or the army.

4 PRESIDING JUDGE KORNER: [11:43:17] Right. Thank you very much.

5 MR LAUCCI: [11:43:20]

6 Q. [11:43:20] Yes, Madam Witness, I will read the relevant paragraph I'm referring
7 to. You say the following -- I'm reading from your written statement of
8 November 2005:

9 "I believe the leaders of the *asakir* sat in the cabins of the vehicles. I came to this
10 conclusion because one of them had a 'STAR' insignia on his uniform. I knew him
11 prior to the attack on Bindisi as I had seen him at the market, but I don't know his
12 name."

13 This is what you said in November 2005. So my question was about this person with
14 the -- the star insignia in the cabin of the Central Reserve Force vehicle. What I just
15 read, is that you -- in November 2005, you did not remember the name of that person
16 with the insignia. Do you remember his name now?

17 A. [11:45:00] I don't know his name, but what I know is that he's a military man
18 and he was in the military vehicle. One of the military people who would throw
19 people to the ground and threaten them.

20 Q. [11:45:18] Thank you.

21 Did that man with the insignia wear a uniform of the Central Reserve Forces, if you
22 can remember?

23 A. [11:45:48] Yes, he was dressed in pinkish clothes, but they were camouflaged.

24 Q. [11:46:07] And does that describe, according to you, the uniform of
25 the Central Reserve Forces?

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1 THE INTERPRETER: [11:46:40] Message from the Fur interpreter: The witness
2 sounded very quiet. We didn't understand what she said. Can we ask her to repeat,
3 please.

4 MR LAUCCI: [11:46:51] Yes.

5 Q. [11:46:52] If you can repeat your answer a little bit louder because
6 the interpreters have difficulty to -- to hear you.

7 A. [11:47:21] The military uniform that the Sudanese army used to wear are exactly
8 the same clothes that I described in my statement.

9 Q. [11:47:39] Okay. And so do I take it from your answer that you are not really
10 able to differentiate between the various uniforms, Sudanese Armed Forces on one
11 side, Central Reserve Forces on the other side; do I understand correctly?

12 A. [11:48:26] I don't know if they were affiliated to the Central Reserve Forces or
13 the Sudanese army. I don't know. I only know that they were wearing
14 a camouflaged uniform, it was a military uniform that was green, some kind of green.
15 And they are the ones who kicked us off our village during the war.

16 Q. [11:49:00] Thank you. But you are able to identify the car as being a car of
17 the Central Reserve Forces. How -- how can you be sure about that? What -- what
18 makes that you identify the car but not the uniform?

19 A. [11:49:54] In our area there were no vehicles. We only saw Land Cruisers and
20 these were governmental vehicles that the military owned. I am talking here about
21 a kind of uniform that was pink or maybe brown and it was a military uniform.

22 Q. [11:50:22] Thank you.

23 And at paragraph 18 of your statement, you mention the name of the head of
24 the Central Reserve Forces in Bindisi, a man you call Walid. Do I take it that it's not
25 the man we are talking about?

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1 A. [11:51:11] I am not sure if he -- if that person was Walid or somebody else, but
2 all I know is that he was a commander of the soldiers, *asakir*. I didn't see him at
3 a close distance. He was quite far from me.

4 Q. [11:51:32] Okay. And based on the answer that you made earlier to
5 Madam President, I take the word *asakir* as encapsulating all those wearing weapons
6 and attacking, right, without distinction?

7 A. [11:52:19] No, it is very important that we distinguish between the government
8 forces who were dressed in khaki and the Janjaweed, who were dressed in civilian
9 clothes and carrying weapons.

10 Q. [11:52:35] Thank you. You said in -- in what I just read to you from your
11 statement, you said that you had seen this commander earlier on the -- the market.
12 Do you remember how long before the attack you saw that person on the market?

13 A. [11:53:20] Is it mentioned in my statement that I saw him in Bindisi market?
14 I'm asking you, please.

15 Q. [11:53:28] I think the market is not specified and I was about to ask you if it was
16 Bindisi market or Mukjar market, because that's a bit unclear.

17 I repeat the -- the sentence:

18 "I knew him prior to the attack on Bindisi as I had seen him at the market, but I don't
19 know his name."

20 So which market was it and when was it, please?

21 A. [11:54:08] I saw him in Mukjar. I saw him in the market of Mukjar.

22 Q. [11:54:25] Was it before July 2003?

23 A. [11:54:46] I saw him during the war. When we were kicked out of our homes.

24 Q. [11:54:57] Thank you. So I understand it was over the same period, from your
25 answer; is that correct?

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1 A. [11:55:10] I can only say that it was during the war period. That's all that I can
2 say.

3 Q. [11:55:34] Thank you.

4 Can you describe the hair of that person with the insignia. Did he have short hair?
5 Did he have wavy hair? Do you remember that?

6 A. [11:56:20] No, his hair is not as long as your hair, for example, but his hair was
7 quite fine, just like the Arab, Arab hair.

8 Q. [11:56:37] Thank you. Was he -- did he look thin or was it rather a big, healthy
9 person?

10 A. [11:57:07] He was of an average build. He wasn't very fat and he was not thin
11 either. So an average build. And he was dressed in military uniform.

12 Q. [11:57:23] In your first interview of April 2005, and that's the tab 19 in the OTP
13 binder, DAR-OTP-00000400, and I'm referring to page 000002. You say that -- you
14 mention seeing an officer who had arrived in Mukjar in July 2003.

15 Is it that officer that we are talking about that you saw in Bindisi during the attack?

16 A. [11:58:23] No, I don't think that he was -- well, I think that I can't confirm if he
17 was the same person or not.

18 Q. [11:58:34] Thank you.

19 And could that person we are talking about, for a moment -- for some minutes now,
20 could that be the person you referred to as Abdullah Himeidan?

21 A. [11:59:16] Abdullah Himeidan is the person that was in Bindisi market. But as
22 for Mukjar, there were so many leaders and commanders, so I can't really specify.

23 Q. [11:59:30] But my question is, is Abdullah Himeidan the person you describe
24 seeing during the attack on Bindisi with the star insignia? That's my question.

25 A. [12:00:24] Abdullah Himeidan is the person who participated in the attack on

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1 Bindisi. But the person that I am describing is someone who had a star, an insignia
2 with a star, and he was with his forces at the time.

3 PRESIDING JUDGE KORNER: [12:00:48] Sorry, so the person with the star was not
4 Himeidan?

5 THE WITNESS: [12:01:15](Interpretation) Can I maybe review my statement to
6 check if that's what was written in my statement?

7 PRESIDING JUDGE KORNER: [12:01:26] Well, it was, but you certainly can if
8 there's an Arabic version somewhere.

9 MS SABA: [12:01:32] Your Honour, during the preparation session the witness was
10 able to review the English version, so it can be broadcast to her.

11 PRESIDING JUDGE KORNER: [12:01:38] Perhaps we can have the English version
12 up on the screen then.

13 MR LAUCCI: [12:01:43] What I'm wondering is which paragraph should we refer to.

14 PRESIDING JUDGE KORNER: [12:01:46] I think she's asking about paragraph 24,
15 the part that you've been -- is -- you're asking, Madam, about paragraph 24; is that
16 right? The one Mr Laucci has been referring you to.

17 MR LAUCCI: [12:02:25]

18 Q. [12:02:25] Madam Witness, if that can assist, I want to be clear, you do not
19 mention Abdullah Himeidan in paragraph 24.

20 The paragraphs about Abdullah Himeidan in your statement are 74, 75, if I'm not
21 mistaken. Yes, correct.

22 PRESIDING JUDGE KORNER: [12:02:47] Okay. I think maybe the way of getting
23 at this is you say that Himeidan took part in the attack on Bindisi. How do you
24 know that?

25 THE WITNESS: [12:03:45](Interpretation) You asked me if Abdullah Himeidan

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1 participated in the attack and, as I said before, Abdullah Himeidan was
2 the commander of the forces. But I only saw him in the market in Mukjar.

3 PRESIDING JUDGE KORNER: [12:04:01] But then how do you -- how do you know
4 that Himeidan was the commander of the forces who attacked Bindisi on 15 August?
5 Is that what you were told?

6 THE WITNESS: [12:05:00](Interpretation) The other person that I saw --

7 THE INTERPRETER: [12:05:08] Message from the English booth, we didn't get
8 the -- for some reason we didn't hear the full sentence from the Fur interpreter.
9 We're going to ask them to repeat, please, if you don't mind.

10 PRESIDING JUDGE KORNER: [12:05:21] Who, the Fur interpreters you're going to
11 ask to repeat or the witness?

12 THE INTERPRETER: [12:05:24] I need the Fur interpreters to repeat
13 the interpretation, please.

14 PRESIDING JUDGE KORNER: [12:05:22] Okay. All right.

15 THE WITNESS: [12:05:49](Interpretation) I heard from people about Abdullah
16 Himeidan. I heard that he was the commander of the forces. As for the other
17 person that had an insignia with a star, this is the person that I saw somewhere else.

18 PRESIDING JUDGE KORNER: [12:06:05] I -- I think that's clear. She's talking
19 about somebody completely different. Whoever he may be.
20 Yes, thank you.

21 MR LAUCCI: [12:06:14]

22 Q. [12:06:14] Thank you, Madam Witness.

23 And regarding those in command in Bindisi, I want to suggest to you one last name,
24 you just tell me if you are familiar with that name or not. The name is first
25 lieutenant *mulazim awwal*. Does that name ring a bell to you, *mulazim awwal*?

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1 A. [12:07:11] I don't know the military ranks really well. I didn't learn about that
2 before.

3 Q. [12:07:20] And the name of *mulazim awwal* sounds familiar or it's the first time
4 you hear it?

5 THE INTERPRETER: [12:07:28] Message from the Arabic booth: *Mulazim awwal* is
6 not a name in Arabic, it's a military rank.

7 MR LAUCCI: [12:07:38] My apologies.

8 Q. [12:07:43] Forget my question. I move to the -- the next question.

9 PRESIDING JUDGE KORNER: [12:07:48] It begs the question of what the rank is.

10 MR LAUCCI: [12:07:56] Precisely.

11 No interest in that. Thank you.

12 Q. [12:07:58] In your written statement, the one of November 2005, you mention
13 seeing aircrafts named Antonov during the attack. I'm at paragraph 31.
14 In your preparation session last week, you clarified that you did not actually see
15 the Antonov. So I want to make -- to be clear, did you see them, did you see those
16 aircrafts, or not?

17 A. [12:09:14] During the investigation, or the interview, I said -- or I spoke about
18 everything that I saw with my own eyes and what I heard about as well. As for
19 the aircrafts, it's something that I heard about.

20 Q. [12:09:40] Thank you.

21 But in your interview of April 2005, the first one, you were very specific about
22 the presence of three Antonovs which shelled Bindisi.

23 And I want to read an abstract from this interview. It's tab 19, DAR-OTP-00000400
24 at pages 000001 to 000002.

25 I read:

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1 "Three white Antonovs took part in the attack. I saw them when I was in the farm
2 and they were circling and dropping bombs in the village. One of the bombs was
3 dropped by a well which was near the farm where I was hiding. It hit a woman who
4 was by the well and had a baby on her back. The bomb killed her and
5 the baby - their bodies were blown apart. The Antonovs circled for some time,
6 bombed the village and then went back."

7 If based on what you said last week during the preparation session you did not see
8 the Antonov, you did not see that horrid scene with the -- that woman by the well
9 with a baby, isn't it?

10 A. [12:12:04] I don't know what you're talking about. It's the day when my father
11 was killed. That was a historic day that I will never forget.

12 Q. [12:12:18] Thank you.

13 And you did not see helicopters either that day, right?

14 A. [12:12:38] I only heard the noise of the helicopters, I did not see them.

15 PRESIDING JUDGE KORNER: [12:12:44] I don't think she really answered your
16 question before that, Mr Laucci. But I think it's quite important.

17 Madam, you agree that you only heard the planes, not actually saw them,
18 the Antonovs?

19 THE WITNESS: [12:13:13](Interpretation) Yes, indeed. I agree.

20 PRESIDING JUDGE KORNER: [12:13:17] So what you were being asked by
21 Mr Laucci was how you described an incident where bombs being dropped by
22 the plane killed the woman and the baby.

23 THE WITNESS: [12:14:18](Interpretation) All the information in the statement is
24 what I know and what I was told. What Mr Laucci is saying, I don't know. I'm not
25 sure about what he's saying.

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1 PRESIDING JUDGE KORNER: [12:14:33] I want to -- as -- as you were rightly
2 discussing with Ms Saba earlier, that the -- it's important that you tell us when you
3 actually saw something yourself or when it's something you were told about.
4 The way that the original screening note read is that you had witnessed this incident
5 with the Antonovs, whereas what you're now saying is that you heard about it.
6 There is no criticism of you telling us, the Court and indeed counsel, about incidents
7 that you only heard about later, so long as you make it clear that you didn't actually
8 witness it yourself. I hope you understand that.
9 Yes, sorry, Mr Laucci, but I really -- I thought that was quite important, as it turns out
10 it was.
11 MR LAUCCI: [12:15:46] Most welcome, Madam President.
12 Q. [12:15:50] Coming back to the helicopters. I will read again some sentences.
13 Do you hear me? Okay.
14 I will read again some --
15 A. [12:16:09] Things were not clear for me. I understood what the Presiding Judge
16 said, but I did not understand what the Defence counsel was saying.
17 Q. [12:16:25] I'll repeat.
18 I will read another abstract from your screening note of April 2005. And I am at
19 page 000002 in the screening note.
20 "Also, while I was hiding, I saw 2 helicopters land in the village as soon as
21 the Antonovs left and some pickup trucks drove towards them; boxes were
22 transferred from the helicopters to the pickups. These pickups had Dushkas
23 mounted on them, and after the boxes were transferred, the trucks moved away and
24 the helicopters took off. These pickups are used by the Government of Sudan and
25 they were called *musafah*, meaning bulletproof; they also had RPGs tied around them.

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1 The Antonovs and the helicopters flew in the direction of Mukjar."

2 So my question is, this scene with the landing of helicopters, the unloading of boxes,
3 the loading on trucks, is that something that you saw, or is it something else?

4 A. [12:18:44] I did not see the aeroplanes, but I heard them. But I saw the vehicles
5 that were loaded with the boxes on the first day of the attack.

6 Q. [12:19:00] And does the description of these vehicles, the *musafah* that I just read,
7 is that accurate?

8 A. [12:19:37] What I know is that these vehicles had some sort of weapon mounted
9 on them with a person on that weapon and they were loaded with boxes. I don't
10 know whether they were called *musafah*, or bulletproof, or they had a different name.

11 Q. [12:20:05] And when you say "what I know", is it -- do you know it because you
12 saw it or does it come from another source?

13 A. [12:20:51] The vehicles mounted on -- on which the weapons were mounted,
14 and the other things -- the other weapons that were hanging from that -- those
15 vehicles, plus the boxes, all this I saw with my own eyes. But I can't tell
16 the difference.

17 Q. [12:21:11] Thank you.

18 Did the -- the army vehicles that you saw open fire on the village during the first
19 attack on 15 August?

20 A. [12:21:47] During that time they were not shooting at people. They were
21 asking them to lie down on the floor in order not to flee -- so that they don't flee.

22 Q. [12:22:03] I will read again another abstract of your statement of April 2005.
23 And I'm on page 000001.

24 I read:

25 "The Government of Sudan were on brownish yellow Land Cruisers. They were

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1 Land Cruiser pickups and they had Dushkas mounted on them; they were many and
2 I did not count them. While approaching, they were using heavy weapons and
3 *Mangisto*."

4 "The pickups opened fire towards the town while the Janjaweed were busy taking
5 the property of people."
6 End of quote.

7 PRESIDING JUDGE KORNER: [12:22:59](Microphone not activated) What
8 paragraph is this?

9 MR LAUCCI: [12:23:01] It's on page 000001 and, what is it -- yes, actually it's
10 the first paragraph.

11 PRESIDING JUDGE KORNER: [12:23:25](Microphone not activated)

12 MR LAUCCI: [12:23:28] That's the end of the first paragraph.

13 PRESIDING JUDGE KORNER: [12:23:30](Microphone not activated)

14 MR LAUCCI: [12:23:31] Yes, yes, yes.

15 PRESIDING JUDGE KORNER: [12:23:33](Microphone not activated) You said
16 statement.

17 MR LAUCCI: [12:23:36] Sorry, my mistake.

18 PRESIDING JUDGE KORNER: [12:23:38] Thank you.

19 MR LAUCCI: [12:23:40]

20 Q. [12:23:40] Madam Witness, big Land Cruiser with Dushkas firing on the village,
21 that's a perturbing memory, isn't it? How could you forget this one?

22 A. [12:24:55] On the same day, I am saying those soldiers that came to our village
23 were asking people to lie down on the ground. After that, their vehicles were loaded
24 with heavy weaponry and we would hear the noise of fire -- firing weapons or shots
25 outside the village. And soldiers came and forced people to lie down on the floor.

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1 After that the Janjaweed forces came and started hitting people.

2 Q. [12:25:33] So are you clarifying now that the -- the army vehicles opened fire but
3 outside the village; is that what you say?

4 A. [12:26:18] Yes, indeed, I mean the soldiers that came and surrounded people so
5 that they don't escape. At the same time, we heard the shots, the -- of heavy
6 weapons. People were perplexed, they didn't know where to go.

7 Q. [12:26:38] And -- and do you know what these vehicles were shooting at,
8 because you say it was outside the village? Were they doing from outside on
9 the village or were they shooting something else?

10 A. [12:27:21] We were only able to hear the sounds of fire -- of shots. And there
11 were other neighbouring villages that shared the same roads as ours. But we did not
12 know what was going on, we just heard the shots.

13 Q. [12:27:45] Thank you.

14 Now I want to ask you about those who attacked Bindisi. Were they from Bindisi or
15 did they come from somewhere else?

16 A. [12:28:33] The vehicles came with the Janjaweed. We didn't have any
17 Janjaweed in our village in Bindisi, none of them, nor mounted on horseback or on
18 camels, no Janjaweed whatsoever. The vehicles brought the Janjaweed from the
19 outside.

20 Q. [12:28:59] Thank you, Madam Witness. Actually, I did not explain. When I
21 raise my hand, it's because your response is becoming a bit long and I interrupt you
22 for the purpose of interpretation. But if you have something to add to your answer,
23 now I will wave my hand like this and if you want to add something, that's the time.

24 A. [12:29:33] Very well.

25 Q. [12:29:36] Do you want to add something, or had you completed your answer?

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1 A. [12:30:03] The vehicles arrived with the -- with the Janjaweed afterwards
2 mounted on horsebacks and camels, chanting, "God is great, God is great," and other
3 chants.

4 Q. [12:30:18] Thank you.

5 In your written statement, the -- the real statement, this one, the one of
6 November/December 2005, paragraph 29, you say the following, yes:

7 "The Tama and Gimir Janjaweed carried items" -- you're talking about the items they
8 had looted. So:

9 "The Tama and Gimir Janjaweed carried items to their houses while Arab Janjaweed
10 carried items to the school."

11 How did they have their houses in Bindisi if they were coming from outside?

12 A. [12:31:55] In our area, when the war started we had the tribes of Tama and
13 Gimir as our neighbours. But they joined the Janjaweed. So when they looted these
14 items, people later managed to know that their items were stolen by those people.

15 Q. [12:32:25] And to be perfectly -- perfectly clear, those people were people living
16 in Bindisi, right?

17 A. [12:32:55] Yes, we used to live alongside the Tama and the Gimir in Bindisi.
18 They also lived in some villages in the surrounding area.

19 Q. [12:33:09] And -- no, I think.

20 In your perception, it's only a matter of perception that I'm asking you,

21 Madam Witness, what was this attack on Bindisi exactly? I have three possible
22 answers to submit to you, and you tell me if you agree with one of these:

23 First of all, was it a military operation conducted from outside Bindisi by regular
24 forces recently deployed to Mukjar under the command of Abdullah Himeidan?

25 That's the first option.

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1 Second option, was it a looting campaign by local Janjaweed -- Janjaweed on their
2 own village?

3 And third option, was it a mix of both?

4 MS SABA: [12:34:30] Madam President, I think the witness should also be given
5 the option of saying that it was none of those options.

6 MR LAUCCI: [12:34:40]

7 Q. [12:34:40] Yes, indeed, you can disagree with all options.

8 A. [12:35:49] It's quite a funny question, to be honest, because the Janjaweed were
9 inside our town, but also the governmental forces were inside the town. So all of
10 them conducted the attack. There was no rule of law at the time and they were
11 looting everything together.

12 The government forces and the Janjaweed, when they gathered the women and were
13 raping them, they were saying very clearly that they had instructions and directions
14 from the government to do to. They were saying that very clearly. They wanted to
15 wipe us out. That's what they said to us.

16 Q. [12:37:23] Okay. So that's a question that goes rather into the scenario of an
17 attack from outside, on the initiative of the Government of Sudan.

18 What about this local Bindisi component, the Tama, Gimir and others that you saw?

19 MS SABA: [12:37:48] Madam President?

20 I'm sorry, just wait a minute, Madam Witness.

21 Madam President, to be fair to the witness, what she said, and I will read from
22 the transcript, and that's at page 47, lines 11 to 13, is that:

23 "In our area, when the war started, we had the tribes of Tama and Gimir as our
24 neighbours. But they joined Janjaweed."

25 And now this is being presented as these people attacked the town, which is not quite

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1 the same.

2 PRESIDING JUDGE KORNER: [12:38:24] Yeah, there's some force in that. I don't
3 think that she's actually said that the people she knew as neighbours and whatever
4 took part in the attack.

5 MR LAUCCI: [12:38:36] I can ask to clarify.

6 PRESIDING JUDGE KORNER: [12:38:37] Thank you.

7 MR LAUCCI: [12:38:39]

8 Q. [12:38:41] Madam Witness, at paragraph 35 of your written statement you say
9 that you could -- that you recognise "some of the Janjaweed from the Tama tribe as
10 they had lived with us in New Bindisi and when they looted our property, they
11 carried it straight to their houses."

12 So does that confirm that those Janjaweed were actually residents of Bindisi at the
13 time of the attack?

14 A. [12:39:52] The Tama and the Gimir were working with the Janjaweed. And
15 during the attack they were all present, the Tama, the Gimir, the Janjaweed and
16 the government forces. They all participated.

17 PRESIDING JUDGE KORNER: [12:40:17] Are you saying that you actually
18 recognised members of the Tama and Gimir tribe as people that you knew? Or was
19 it something about their -- their clothing or their tribal scars, or whatever it is?

20 A. [12:41:05] Yes, of course, some of them grew up with me in the same area.

21 PRESIDING JUDGE KORNER: [12:41:13] Yes, thank you. That's clear.

22 MR LAUCCI: [12:41:18]

23 Q. [12:41:19] Thank you.

24 Madam Witness, I have -- the next topic I want to -- to explore with you is the rapes
25 that you -- you saw.

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1 And to start with, with my apologies to the public, I will have to ask for a brief private
2 session because I have some names to mention.

3 PRESIDING JUDGE KORNER: [12:41:46] Yes, all right. We'll go into private
4 session.

5 MR LAUCCI: [12:41:49] It will not be long. I say it for the public.

6 (Private session at 12.42 p.m.)

7 THE COURT OFFICER: [12:42:04] We're in private session, Madam President.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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2 (Redacted)

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4 (Redacted)

5 (Open session at 12.50 p.m.)

6 THE COURT OFFICER: [12:50:01] We're back in open session, Madam President.

7 MR LAUCCI: [12:50:15]

8 Q. [12:50:15] The men who carried out the rapes, did -- were they wearing turbans
9 on their heads?

10 A. [12:50:51] Some of them were in military uniform and some had civilian clothes.
11 They were dressed in the traditional clothes. But they were all carrying weapons.

12 Q. [12:51:10] And did they all carry turbans? Or wear turbans?

13 A. [12:51:36] No, they only had military hats, but no turbans, no.

14 Q. [12:51:44] Thank you.

15 And this place in the -- in the groundnuts area where the rape took place, was it
16 somehow off the track and not so visible from a far distance? Of course you could
17 see it, this is what you say, but from a further distance, was it place that was visible?

18 A. [12:52:50] We were running and then women who were caught got raped.

19 The place where I was hiding, that was a place with very long grass, but not too long.

20 Q. [12:53:08] I'm not asking about the place where you hid. Of course that must
21 have been with some -- somewhere to hide. I'm talking about the place where these
22 poor women were raped. Was -- similarly, was it a place with long bushes or grass,
23 or was it open to full sight? And let me specify that my question doesn't aim at
24 challenging that you could see it.

25 A. [12:54:02] When the women got raped, they were raped right in front of me.

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1 Some other women got raped in other different places.

2 Q. [12:54:13] Okay. Did you have the impression that those men who were
3 committing the rapes were trying to -- to hide in any way for -- what they were doing,
4 or not at all?

5 A. [12:55:12] All the rapes happened right in front of our -- of us, and they even
6 forced us to look at what they were doing. Even children were forced to look at
7 what was happening. And that child whose father was --

8 THE INTERPRETER: [12:55:29] Sorry, correction.

9 THE WITNESS: [12:55:30](Interpretation) -- whose mother was raped and he was
10 thrown, all that happened right in front of us. We saw it all.

11 Q. [12:55:43] Thank you, Madam Witness.

12 Five to 1, Madam President, but a good time for the break.

13 PRESIDING JUDGE KORNER: [12:55:54](Microphone not activated)

14 MR LAUCCI: [12:55:57] I'm done with the rapes, yes.

15 PRESIDING JUDGE KORNER: [12:55:58](Microphone not activated)

16 THE INTERPRETER: [12:55:59] Microphone, please, your Honour.

17 PRESIDING JUDGE KORNER: [12:56:01] Are you going to take the whole of
18 the next session, do you think?

19 MR LAUCCI: [12:56:04] Maybe not the whole, but the significant part of it.

20 PRESIDING JUDGE KORNER: [12:56:07] Okay.

21 Yes, well, we'll, as I said to you, Madam, we're going to take a break for lunch now
22 and we'll sit again at 1.25, which is an hour and a half from now.

23 Okay. Thank you all very much.

24 THE COURT USHER: [12:56:24] All rise.

25 (Recess taken at 12.56 p.m.)

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1 (Upon resuming in open session at 2.29 p.m.)

2 THE COURT USHER: [14:29:14] All rise.

3 Please be seated.

4 PRESIDING JUDGE KORNER: [14:29:41] Yes, Mr Laucci.

5 MR LAUCCI: [14:29:44] Thank you, Madam President.

6 Q. [14:30:01] Good afternoon, Madam Witness. You are well?

7 A. [14:30:13] Hello.

8 Q. [14:30:19] Okay. Let's complete your cross-examination then.

9 When did you leave Bindisi after the attack?

10 A. [14:30:46] Do you mean when I moved to another place after the attack, or what
11 do you mean exactly?

12 Q. [14:30:52] When is it that you departed from the village of Bindisi after
13 the attack?

14 A. [14:31:21] It was on the eighth month 2003. This is when the attack on Bindisi
15 happened. I went to Mukjar.

16 Q. [14:31:29] Okay. We talked before the lunch break, I asked you questions
17 about the attack that took place on 15 August. Did you leave Bindisi on 15 August
18 or did you stay over on the 16th?

19 A. [14:32:34] On 15 August 2003, the attack happened on Bindisi north, so we
20 moved to south Bindisi on the same day.

21 On the next day or -- or the 16 August, we left Bindisi and we went to the forest.

22 Q. [14:32:56] So, are you saying that in the night between the 15th and the 16th you
23 stayed still in Bindisi but Bindisi south this time?

24 A. [14:33:43] On the 15th I was in Bindisi. I was in Bindisi north. So we moved
25 to Bindisi south on the same day.

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1 Later, on the 16th, we -- we were in a school in Bindisi south, and on the 16th we went
2 to Mukjar.

3 Q. [14:34:12] Madam Witness, I want to once again read an abstract from your
4 interview of April 2005.

5 Tab 19, DAR-OTP-00000400 and I am at page 000002.

6 I will read.

7 "The trucks which I saw during the attack headed for Mukjar at about 5 p.m.

8 The Janjaweed made Bindisi their base and none of us were able to go back. There
9 were other people in the farm and some of them decided -- decided to go to
10 the village to see what had happened. When they came back, they told us that
11 the village was still occupied and that we should go to the mountains."

12 "We left the farm at about 10 p.m. and we went to the hills. From the hill, I could
13 only see smoke coming from the village. We stayed in the hill for four days, after
14 which we went to Mukjar."

15 So this is what you said in April 2005, namely, one year and a half after the event, and
16 what you say is that you left Bindisi to go to the hills on 15 August at 10 p.m. and
17 never returned on the 16th. So does that refresh your memory?

18 A. [14:37:18] I did not forget any information. However, you might have
19 forgotten some information. I am talking about the attack that happened in
20 Mukjar -- Mukjar north. I had amended some of my information and you have to be
21 aware of this.

22 Q. [14:37:41] In your -- during your preparation session --

23 PRESIDING JUDGE KORNER: [14:37:44] Just a moment, sorry, Mr Laucci. I think
24 it must have been translated, because the response says "I did not forget
25 any information." So "refresh your memory" must have been translated something

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1 in words of "have you forgotten".

2 Can I be very clear, it is important that translation is as accurate as possible, because
3 clearly what was said to the witness was -- was something slightly different.

4 So could I just again, please, underline the importance of interpretation.

5 MR LAUCCI: [14:38:32] Yes. I will clarify, Madam President.

6 Q. [14:38:36] During your preparation session last week you said something a little
7 bit, I would say, in between, and you say that you only moved to the hills after
8 the second day of the attack.

9 And that is the prep log, DAR-OTP-00000427, 000001 at page 000006, paragraph 3.

10 But this clarification that you made does not explain why the second day of the attack,
11 the 16th, is not at all mentioned in your first interview of April 2005. Right?

12 So did you -- how do you explain that this second day of the attack, the 16th, did not
13 form part of your story during your first interview of April 2005, which is the closest
14 to the events?

15 A. [14:40:50] I'm asking you, where did you find me saying the 13th?

16 Q. [14:41:00] Nobody said the 13th, Madam Witness, and I would instead invite
17 you to answer my questions.

18 A. [14:41:37] I am telling you that Bindisi was attacked twice. The first attack was
19 on the 12th --

20 THE INTERPRETER: [14:41:41] Sorry, correction, it was on the 15th.

21 THE WITNESS: [14:41:46](Interpretation) This attack was on Bindisi north. So we
22 were displaced to this place, Bindisi south, where we stayed in a school.

23 On the first day, the Janjaweed were looting properties and people were hiding in
24 the farms among the long grass.

25 During night-time, all the displaced people gathered in the south -- in a school located

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1 in Bindisi south.

2 In the morning, another attack took place. On that day the rape incidents happened.

3 And on that day we left Bindisi.

4 Q. [14:43:22] Madam Witness, this version that you just summarise varies from

5 your initial version of April 2005 at the point where you say you moved to Bindisi

6 south at the school. In April 2005, you said: At 10 p.m. on that day, 15th, we went

7 to the hills. Now you say, and in your statement of November 2005 you say: We

8 went to Bindisi south and we witnessed another attack on the second day.

9 Do you agree that there is a variation in your statement on that point?

10 A. [14:44:32] I was confused between the first and the second attacks. So the 15th

11 and the 16th -- the 15th and the 16th were the days when I left Bindisi.

12 Q. [14:44:46] So what you say is that in April 2005 you were confused, right?

13 A. [14:45:15] In 2005 I was not in Sudan, I was in a different place.

14 Q. [14:45:21] The place where you were when you did your statement does not

15 matter. My question is, are you saying now that in April 2005 you said you left

16 Bindisi on the evening of the 15th and did not mention the 16th because you were

17 confused; is that what you say now?

18 A. [14:46:23] The day -- I was confused with the dates. However, the events that

19 happened ...

20 So, indeed, I was confused with some of the information. However, the events or

21 the things that happened in Bindisi are still enshrined in my memory, because these

22 are very important things and this is very important information. However, we left

23 Bindisi on the 16th. I would like to confirm to you that all the information that I am

24 giving you is true and correct.

25 Q. [14:47:19] Madam Witness, when you say that all these events are enshrined in

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1 your memory because they are very important things that happened and very
2 important information, what you just said, are you talking about the rapes?

3 A. [14:48:07] I'm talking about the events in general. I'm talking about the first
4 attack and I'm also talking about the rape.

5 Q. [14:48:19] But precisely, the rapes are not at all mentioned by you in April 2005.
6 The only events that you recount in that initial interview is what happened on
7 the 15th and there is no rape. So it is not only a confusion about the dates, it is just
8 that some important information, as just qualified, is not mentioned.

9 PRESIDING JUDGE KORNER: [14:48:53] Mr Laucci, this is all turning in comment,
10 but in fact you need to be a bit more careful how you put it. She does talk about
11 the rapes, but not on that specific day.

12 MR LAUCCI: [14:49:07] And not in that specific place.

13 PRESIDING JUDGE KORNER: [14:49:09] And not in that specific place. But I
14 mean this is really all comment.

15 MR LAUCCI: [14:49:15]

16 Q. [14:49:16] Madam Witness, I will try to -- I mean, in your -- during your
17 preparation session you explained -- I'm at paragraph 8 of the prep log. You explain
18 that at the time of your statement, you were very young and that therefore you tried
19 to provide as much of information as you could without properly differentiating
20 between what you saw and what you heard about. Is that what you explained last
21 week?

22 A. [14:50:58] In 2005 I was aware of what I was saying. I was not young and I
23 analysed everything. However, when it comes to the amendments, I wanted to
24 clarify or make a differentiation between what I saw and what I heard. And that's it.
25 I wanted to make a difference also between what was told to me.

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1 What was necessary was to differentiate between what I heard from other people,
2 what I saw with my own eyes and what I heard with my own ears. So this is
3 important to point out here.

4 Q. [14:51:52] Okay. But, for instance, in April 2005, you said that you saw
5 the Antonovs and you clarified that you actually did not see them. So this is what I
6 mean. You -- in your earlier -- earlier statement, you mention things that you had
7 not seen but heard about only; is that correct?

8 MS SABA: [14:52:29] Madam President, I think the witness already --

9 THE WITNESS: [14:52:46](Interpretation) The only thing that I amended was saying
10 what I saw with my own eyes, what I heard with my own ears and what I heard from
11 other people. So this is the only amendment that I made.

12 MR LAUCCI: [14:53:00]

13 Q. [14:53:00] Perfect. Fair enough. We understand that there was a bit confusion
14 between the two in your statement of April 2005. No problem.

15 PRESIDING JUDGE KORNER: [14:53:09] It's not -- sorry.

16 Mr Laucci, it's not her statement. This is where you -- it's what the investigator
17 wrote down after having spoken -- or whilst he was speaking to her. So it's not like
18 a statement.

19 MR LAUCCI: [14:53:25] Correct. Interview is the word I should use. Thank you,
20 Madam President.

21 Q. [14:53:30] So I repeat, you clarified last week that in your interview of April 2005,
22 there were some -- there was no -- not always the distinction between what you had
23 seen and what you had heard about. And you provided that clarification last week;
24 is that correct?

25 A. [14:54:20] Yes, this is correct. So last week we sat together in order to clarify

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1 what I saw with my own eyes, what I heard and what I was told. But everything I
2 said is true and correct.

3 Q. [14:54:42] Fine. But we are not talking about mixing between what you have
4 seen and what you have heard when we speak about the -- the events of 16 August,
5 including the rapes. The rapes are simply not there in your interview of April 2005.
6 How could you omit them?

7 PRESIDING JUDGE KORNER: [14:55:24] I think the question should probably be
8 rephrased.

9 Madam, what you're being asked about is why you didn't tell the investigator when
10 he spoke to you in April 2005 that you had witnessed rapes on the second day attack
11 in Bindisi.

12 THE WITNESS: [14:56:11](Interpretation) First of all, the rapes were not something
13 normal in our society. After I sat with the investigators, they clarified and they
14 explained to me, they told me to say what I saw. In our culture or in the culture of
15 our society, it is difficult to talk about rape or to give information about rape. This is
16 something that's considered like a taboo or something that we don't talk about in our
17 society.

18 PRESIDING JUDGE KORNER: [14:56:56] Can I just ask, Mr Nicholls -- Ms Saba, was
19 this a telephone interview with an investigator or was it -- was he physically there?

20 MS SABA: [14:57:08] Your Honour, it was physical.

21 PRESIDING JUDGE KORNER: [14:57:09] So the investigator and the witness were
22 together?

23 MS SABA: [14:57:12] Yes, your Honour.

24 PRESIDING JUDGE KORNER: [14:57:13] Thank you.

25 MR LAUCCI: [14:57:13] The exact same persons and in exactly the same conditions,

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1 if I may add.

2 PRESIDING JUDGE KORNER: [14:57:18] Do you mean as who then took
3 the statement? All right.

4 MS SABA: [14:57:21] I'm sorry, your Honour, there was one investigator that was
5 present, but it was not in the same place and not in the same conditions, so that
6 would be --

7 PRESIDING JUDGE KORNER: [14:57:30] Yeah, well, I just want to know. Yes,
8 thank you.

9 You've made the point that you want to, Mr Laucci.

10 MR LAUCCI: [14:57:37] Yes. Thank you, Madam President.

11 Q. [14:57:41] Just last thing, last question resulting from the last response from
12 the -- from the witness.

13 You explain that you did not mention the rapes in April 2005 because they are taboo,
14 but you mention rape in your statement of April 2005. So these other rapes that you
15 mentioned which happened in a different place on a different time were not taboo, so
16 why did you not mention the rapes on 16 August 2005? And I will leave the topic
17 here.

18 PRESIDING JUDGE KORNER: [14:58:20] She's entitled to give you an answer.

19 MS SABA: [14:58:36] Madam President, may I just suggest that the screening note,
20 the part of the screening note that is being put to the witness is put on the screen so
21 it's fair to her to be able to assess it.

22 PRESIDING JUDGE KORNER: [14:58:44] Certainly.

23 MR LAUCCI: [14:58:54] So that must be, yes, DAR-OTP-00000400, 000002, and
24 the relevant part where the rapes are mentioned, at -- at the penultimate paragraph of
25 the page.

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1 PRESIDING JUDGE KORNER: [14:59:17] Yeah, can we highlight -- yeah.

2 MR LAUCCI: [14:59:31]

3 Q. [14:59:31] So this is, Madam Witness, after you stayed on the hill for four days.

4 That's the end of the preceding paragraph that you can see at the top. After four

5 days, so four days after the attack on Bindisi you went to Mukjar and then you

6 explain that:

7 "On the way to Mukjar we suffered a lot; the Janjaweed made ambushes and

8 abducted women - these women were raped in front of us and then released - they

9 were mainly young girls under 18 old. I saw more than 100 girls being raped. I

10 know the names of some of them but they are in IDPCs in Bindisi; I was not raped."

11 So you cannot say that the rapes of 16 August in Bindisi were not mentioned by you

12 because they were taboo. You mention other rapes.

13 PRESIDING JUDGE KORNER: [15:00:36] Well, again, the question is why didn't

14 you want to mention the rapes you witnessed in Bindisi, but -- but were prepared to

15 mention, in general terms, the rapes that you saw on the way to Mukjar?

16 THE WITNESS: [15:01:41](Interpretation) The rape incident that happened first,

17 I was an eyewitness. I was an eyewitness to these rapes. And I was hit by the butt

18 of the weapon on my back on that day and that's why I mentioned.

19 MR LAUCCI: [15:02:03]

20 Q. [15:02:04] Madam Witness, I will conclude on Bindisi by putting to you that you

21 left Bindisi on the evening of the first attack, that is 15 August 2003; do you agree?

22 A. [15:02:49] No, this is not correct. I didn't leave Bindisi. I was still in Bindisi.

23 Q. [15:03:01] Nothing -- none of the events that you say happened on the 16th

24 actually happened to you; do you agree?

25 A. [15:03:46] On the 16th, the rape incidents happened and another group of

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1 women were raped right in front of me.

2 Q. [15:04:03] It does not mean that these rapes did not occur, but you personally
3 did not witness any rape in Bindisi; do you agree?

4 A. [15:04:46] I was present and the rapes happened right in front of my eyes. I
5 saw the women being raped and I saw the child being taken away from his mother
6 and being thrown -- thrown away. I saw his mother being raped. I saw all of these
7 things on the 16th.

8 Q. [15:05:05] Thank you.

9 I turn to the second chapter of my cross-examination, which is Mukjar.

10 PRESIDING JUDGE KORNER: [15:05:10] Before -- before you move on, so that we
11 don't need to go back to it later.

12 On the way to Mukjar from Bindisi, did you witness any further rapes?

13 THE WITNESS: [15:06:06](Interpretation) A lot of things happened on the route
14 between Bindisi and Mukjar. Beating up, killing and torture and rape, and all kinds
15 of things happened because all the villagers were taking the same route at the same
16 time.

17 PRESIDING JUDGE KORNER: [15:06:27] Yeah, but the question was did you
18 actually see it happen as opposed to people telling you? In particular I want to
19 know about rapes.

20 THE WITNESS: [15:07:25](Interpretation) Yes, I saw all of these events with my own
21 eyes. And I also saw many incidents when we used to go back to bring food. I saw
22 people being beaten up and tortured.

23 PRESIDING JUDGE KORNER: [15:07:45] Yes.

24 Can we just -- it's just rape, I'm afraid, that I want to know about.

25 Did you -- apart from the incident you say that you saw on the second day in Bindisi,

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1 16 August, when you were going to Mukjar, so between Bindisi and Mukjar, did you
2 witness any -- witness, see with your own eyes, any further rapes taking place?

3 THE WITNESS: [15:09:07](Interpretation) I was told, I heard that more rapes
4 happened. But what I witnessed myself is what I told you about when I was coming
5 back from Mukjar. That was not on the 16th.

6 MS SABA: [15:09:29] Madam President.

7 PRESIDING JUDGE KORNER: [15:09:32] Yes.

8 MS SABA: [15:09:33] I'm sorry, if I could just direct your Honours to the last page of
9 the corrections and clarifications document. That's point 4.

10 PRESIDING JUDGE KORNER: [15:09:50] Oh, where are we? Sorry, which is the ...

11 MS SABA: [15:09:57] The ERN is -- ends with 427.

12 PRESIDING JUDGE KORNER: [15:10:01] No, don't worry, what's the tab 2?

13 MS SABA: [15:10:04] Tab number 2.

14 PRESIDING JUDGE KORNER: [15:10:12] The last paragraph?

15 MS SABA: [15:10:14] Yes, it's item number -- identified as a 4 in this page.

16 Paragraph 4.

17 PRESIDING JUDGE KORNER: [15:10:27] I'm really sorry, it's obviously me being
18 thick, but ...

19 Yeah, that's what she just said. So why are you directing my attention to that?

20 MS SABA: [15:10:45] I just thought it would assist your Honour.

21 PRESIDING JUDGE KORNER: [15:10:50] But she just actually said that very
22 selfsame thing.

23 MS SABA: [15:10:54] I'm sorry, your Honour.

24 PRESIDING JUDGE KORNER: [15:10:56] Yes, thank you.

25 Mr Laucci, I'm sorry to have interrupted you but I didn't want to have to go back to

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1 that.

2 MR LAUCCI: [15:11:03] Yes, I understand. And I actually have a follow-up
3 question with what the witness responded to your question, Madam President.

4 Q. [15:11:10] You said that you saw many things happening on your way to -- to
5 Mukjar, from Bindisi to Mukjar, torture, assassinations and all that sort of things.
6 Can you explain why none of these are mentioned in your written statement? I'm
7 talking about the one of November 2005, where it's only written, and I will read
8 paragraph 49:

9 "I later learnt that the Janjaweed and *asakir* had tried to follow us into the forest but
10 were unable -- unable to because of the mud. I heard that many people were killed
11 that day in old Bindisi."

12 So nothing on the way from Bindisi to Mukjar is mentioned in your statement of
13 November 2005; do you have any explanation for that?

14 And if you have none, I can move on.

15 A. [15:12:40] We better move on then.

16 Q. [15:13:10] Thank you.

17 I will start my questions on Mukjar with another horrid scene that is mentioned at
18 paragraph 59 of your statement, where you describe seeing bags used to discard
19 human bodies. And you -- you explain, paragraph 59, I'm reading:

20 "When I looked at the bags I could see a hand, a leg and a head sticking out."

21 But in your -- during your preparation session last week, and that is

22 DAR-OTP-00000427, 000001 at 000004, paragraph 26, you clarified that actually you
23 never saw any of these bags; is that correct?

24 A. [15:14:58] I clarified what -- I clarified and I distinguished between what I saw
25 with my own eyes and what I heard myself and what was told to me.

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1 Q. [15:15:15] Fine. Then you did not see the bags, you did not see
2 the human -- piece of human body sticking out of the bags; is that correct?

3 A. [15:15:41] No, that's not correct. What you're saying is not correct.

4 Q. [15:15:48] So did you see pieces of human bodies sticking out of the bags
5 without seeing the bags? Can you explain?

6 A. [15:16:37] The bodies that were in the bags, I heard about this piece of
7 information from other people. As for the bodies that were on the ground, I saw
8 these bodies myself.

9 Q. [15:17:01] So like the -- the other horrible scene in Bindisi of the lady and
10 the baby shelled by the well, this is something that you initially said you saw when
11 actually you never saw it; is that correct?

12 A. [15:18:14] The woman that was hit with her son, this is something that I heard
13 about. But the bodies that were killed and scattered near the *chor*, that's something
14 that I saw myself.

15 Q. [15:18:33] I'm not talking about the *chor* yet. I'm talking about the bags. You
16 admitted you never saw the bags, so you never saw the bodies sticking out of
17 the bags. Can we -- can we move on, please.

18 A. [15:19:10] Yes. Yes.

19 Q. [15:19:15] How many other horrid details like this one are mentioned in your
20 statement as things that you saw when you actually never saw them?

21 PRESIDING JUDGE KORNER: [15:19:27] No, no, no, no.

22 MR LAUCCI: [15:19:29] I will specify. I will specify.

23 PRESIDING JUDGE KORNER: [15:19:31] Yes.

24 MR LAUCCI: [15:19:32]

25 Q. [15:19:32] Is the other horrid scene of medieval tortures at Mukjar new police

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1 station also something that you never saw?

2 PRESIDING JUDGE KORNER: [15:19:43](Microphone not activated) and what are
3 we actually referring to?

4 MR LAUCCI: [15:19:46] I'm at paragraph -- I'm at paragraph 52 to 60 of the written
5 statement.

6 PRESIDING JUDGE KORNER: [15:20:00](Microphone not activated) sorry, there are
7 numerous things mentioned there.

8 MR LAUCCI: [15:20:05] I'm talking about the torture scenes with the people
9 hanging from the -- from the roof.

10 PRESIDING JUDGE KORNER: [15:20:12] Okay. Well, why don't you ask a simple
11 question, which is: Madam, you're being asked whether you actually saw the men
12 hanging with hands tied and with injuries, or whether you were told about it?

13 MS SABA: [15:20:56] Madam President, while that is being translated, I think it's fair
14 to put to the witness -- oh, I'm sorry. I'm getting something weird. Yeah.
15 I think it's fair to put to the witness that she also clarified this point during
16 the preparation session.

17 PRESIDING JUDGE KORNER: [15:21:22](Microphone not activated)

18 MS SABA: [15:21:24] It's tab 2, the corrections and clarifications document,
19 paragraph 23, your Honour.

20 MR LAUCCI: [15:21:46] Yes, indeed it's clarified.

21 PRESIDING JUDGE KORNER: [15:21:49](Microphone not activated)

22 MR LAUCCI: [15:21:51] Yeah, yeah, so it was not seen. Okay.

23 Q. [15:21:58] When did the events you describe in Mukjar take place exactly?

24 There is a span of time of six to seven months starting August 2003. That is in your
25 statement of November 2005.

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1 But in your interview of April 2005 you mention one single attack in Mukjar which
2 took place, I quote, the "same month" as the attack on Bindisi, which I believe should
3 be August 2003.

4 The quote, DAR-OTP-00000400-000001 at 000002.

5 So all the events that you describe in Mukjar, did they take place in August 2003 or
6 did some of them happen later?

7 MS SABA: [15:23:22] Your Honour, I'm sorry to intervene. It would just be fair to
8 the witness to clarify which events we are referring to.

9 MR LAUCCI: [15:23:33] All the events in Mukjar.

10 MS SABA: [15:23:36] The witness refers to quite a lot of events in Mukjar.

11 MR LAUCCI: [15:23:40] All of them.

12 PRESIDING JUDGE KORNER: [15:23:42](Microphone not activated) years. Are
13 you -- are you saying, if -- if they took place at different times, it's quite difficult to
14 sort out with a -- with a general question like --

15 MR LAUCCI: [15:24:00] I will try to go into the details, Madam President.

16 I can -- I can do that.

17 Q. [15:24:17] Madam Witness, you talk about events that took place at what you
18 call the new police station, which was actually the former primary school in Mukjar.
19 Did these events happen in August 2003, please?

20 A. [15:25:18] All of these events are true and they did happen. If you want to
21 speak about these events one by one, I can tell you about them all in detail.

22 Q. [15:25:34] I would like to know just when they did happen. Was it over your
23 first month in Mukjar, after your arrival from Bindisi, or was it later?

24 A. [15:26:16] During the period after my arrival in Mukjar, and after I left Mukjar,
25 these events took place during the entire period.

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1 Q. [15:26:43] Did the summary executions that you mention also take place over
2 the first month of your presence in Mukjar?

3 A. [15:27:22] I am talking about the period between late August 2003 and
4 the beginning to mid-2004.

5 Q. [15:27:39] Okay. Let's read differently then.

6 The -- all the arrests and executions that you are reporting that took place in Mukjar
7 over that period were performed by regular Government of Sudan soldiers, were
8 they?

9 A. [15:28:42] The soldiers of the Government of Sudan and the Janjaweed, all of
10 them committed these crimes.

11 Q. [15:28:51] In your statement of April 2005 -- in your interview of April 2005, you
12 were much more specific, actually. And I will read from page 223, another abstract
13 of that interview. I read:

14 "The Government of Sudan soldiers went from house to house looking for men and
15 they came to our house. I saw them taking about 25 men who were blindfolded into
16 a truck which went towards Garsila. When they got to the second brook from
17 Mukjar, they put them down and shot them. I know this because we went to see
18 the dead bodies. The Government of Sudan came back and took about 40 men who
19 were also blindfolded and shot them in the same brook but in a different place. I
20 also saw these corpses."

21 "The base/prison is in the neighbourhood of the house I lived in and I used to see
22 when the Government of Sudan were taking men in vehicles to the brook. I saw
23 the activities of the Government of Sudan."

24 No Janjaweed in April 2005. So in your initial statement, the closest to the facts,
25 there is no Janjaweed. Why did they appear later in November 2005?

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1 MR NICHOLLS: [15:31:02] I'm sorry, your Honour. Again, it's not a statement.

2 It's not an interview. It's not read back.

3 PRESIDING JUDGE KORNER: [15:31:07] Mr Nicholls, Mr Nicholls, you don't need

4 to say that. I have said it twice already. I -- we all understand that.

5 And it's really a simple question, Madam. Why -- when you mentioned

6 the Government of Sudan forces killing these people, why didn't you mention

7 the Janjaweed?

8 THE WITNESS: [15:32:29](Interpretation) The government forces were leading

9 the Janjaweed, so they were -- they were at the -- they were heading the army or

10 the force, and then the Janjaweed were coming after them and following them.

11 MR LAUCCI: [15:32:50]

12 Q. [15:32:50] Madam Witness, am I correct when I say that all the executions at the

13 brook close to Mukjar were performed by Abdullah Himeidan and his men?

14 A. [15:33:36] All I know is that the government forces, Abdullah Himeidan and

15 the Janjaweed are all one.

16 Q. [15:33:50] And did they perform the executions?

17 A. [15:34:19] I only heard the -- the shots, the gunshots and then we found

18 the bodies on the ground and then vehicles passed.

19 I'm not sure of everything, but I know that they were the ones who perpetrated this.

20 Q. [15:34:41] Yes. And actually what you say in your initial statement -- interview

21 of April 2005, I read. I'm at page 000003:

22 "I used to see Abdullah Himeidan ... who was colonel going with these vehicles to

23 the brook. I knew him before when he used to go to the market and the mosque."

24 In your statement of November 2005, you mentioned a visit of Ahmad Harun in

25 Mukjar in December 2003. It's paragraph 66 to 70.

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1 In January 2008, you clarified that this visit actually took place in August 2003. I'm
2 quoting DAR-OTP-0136-0006 at 0007, paragraph 4.

3 Do you confirm the date of August 2003 for the visit of Ahmad Harun?

4 MS SABA: [15:36:11] Madam President, the witness also clarified this point during
5 the preparation session, so it would be fair to her to also put that.

6 PRESIDING JUDGE KORNER: [15:36:21] I think it's going to help everybody in
7 future if the OTP has a sort of chart of, you know -- by the paragraph of what's been
8 corrected. All right. Where is it corrected in the ... again in the -- in the --

9 MS SABA: [15:36:42] Yes, it is in the corrections and clarifications document,
10 paragraph 33 and 34, your Honour.

11 PRESIDING JUDGE KORNER: [15:36:48] All right.

12 Yeah. Have you looked at it, Mr Laucci?

13 MR LAUCCI: [15:37:16]

14 Q. [15:37:16] Do you know when Ahmad Harun came to Mukjar then?

15 PRESIDING JUDGE KORNER: [15:37:25] Well, she said she never saw him so it's ...

16 MR LAUCCI: [15:37:26] Sorry, I missed the -- the next paragraph.

17 Okay. But in that case, if you did not see the visit of Ahmad Harun, whenever that
18 happened, is that also correct that you never saw Ali Kushayb attending the meeting
19 with Ahmad Harun, right?

20 A. [15:38:16] The issue of Ahmad Harun and Ali Kushayb is different. However,
21 Ali Kushayb was the one who did the killings in Mukjar. He was the one who
22 executed the people.

23 PRESIDING JUDGE KORNER: [15:38:27] Yeah. I -- I'm afraid you're just opening
24 up a door to matters you don't need to, Mr Laucci. I mean, it's obvious, if she never
25 saw Harun, that anything she says about Ali Kushayb and Harun has to be something

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1 she was told.

2 MR LAUCCI: [15:38:50] Thank you.

3 Q. But your response was related to the execution. Madam Witness, you clarified
4 some minutes ago that the executions were done by Abdullah Himeidan and his men.

5 MS SABA: [15:39:10] I'm sorry, Madam President --

6 PRESIDING JUDGE KORNER: [15:39:11] I don't think she did. I'm just going to go
7 back. That's not what she said. She said they were all -- I mean, effectively, she
8 said they were all together. I remember that. What --

9 MS SABA: [15:39:25] It's page 75, lines 10 to 15 of the transcript, that is the witness's
10 answer. And then later it just followed a comment.

11 MR LAUCCI: [15:39:41] I will have to move backward a little bit then.

12 Q. [15:39:49] I read to you the relevant portion of your interview of April 2005,
13 describing the arrests and the executions by the Government of Sudan. Do you
14 agree with me that there was no mention of Ali Kushayb whatsoever in that
15 description of events?

16 PRESIDING JUDGE KORNER: [15:40:21] Well, I think we can all see that. This is
17 going to become an exhibit, one way or another.

18 MR LAUCCI: [15:40:29]

19 Q. [15:40:31] So, Madam Witness -- yeah, I can move on.

20 In any case, you clarified during your preparation session last week that you never
21 saw the man you call Ali Kushayb in Mukjar. And that is DAR-OTP-00000427, at
22 000004 to 000005, paragraph 30 to 35. Is that correct? You never saw Ali Kushayb
23 in Mukjar?

24 A. [15:41:30] I did not see him with my own eyes, but I was told that Ali Kushayb
25 had attended. There was a group also of camels and horses during the visit.

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1 Q. [15:41:48] Yes. And in your written statement, the one of November 2005, you
2 were extremely firm about seeing Ali Kushayb. I quote paragraph 63: "I" --

3 PRESIDING JUDGE KORNER: [15:42:05] Well, you don't have to quote.

4 MR LAUCCI: [15:42:06] Okay.

5 PRESIDING JUDGE KORNER: [15:42:06] I'm quite anxious, Mr Laucci, if possible,
6 that the witness completes her evidence today. And, I mean, we've -- we've seen it --

7 MR LAUCCI: [15:42:16] Very well.

8 PRESIDING JUDGE KORNER: [15:42:18] -- and we know that she corrected it.

9 MR LAUCCI: [15:42:24]

10 Q. [15:42:26] To be perfectly clear, Madam Witness, you never saw Ali Kushayb in
11 your entire life, right?

12 A. [15:42:44] This is not correct. I have seen Ali Kushayb with my own eyes.

13 Q. [15:42:50] When and where?

14 A. [15:42:59] He was resident in Garsila and I studied in Garsila.

15 Q. [15:43:06] What makes you remember that man who you did not know and who
16 you admit you cannot remember his face, nor his house?

17 I'm at paragraph 35 of the clarifications.

18 A. [15:43:59] Ali Kushayb was protected and people were not allowed to get close
19 to him. I only saw him from far with his horses and his camels, as well as his
20 vehicles.

21 MR LAUCCI: [15:44:18] Madam President, I will have to go two minutes in private
22 session.

23 PRESIDING JUDGE KORNER: [15:44:21] Yeah, private session, please.

24 (Private session at 3.44 p.m.)

25 THE COURT OFFICER: [15:44:37] We're in private session, Madam President.

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- 19 (Open session at 3.50 p.m.)
- 20 THE COURT OFFICER: [15:50:33] We're back in open session, Madam President.
- 21 MR LAUCCI: [15:50:37]
- 22 Q. [15:50:38] Madam Witness, in conclusion about Mukjar, I put to you that
- 23 Abdullah Himeidan was the person in charge and bears responsibility for all arrests,
- 24 tortures and executions in Mukjar; do you agree?
- 25 PRESIDING JUDGE KORNER: [15:51:14] Obviously you can have the answer,

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1 Mr Laucci, but I'm not sure how much weight it would carry. I mean, she doesn't
2 know one way or another who was actually in charge, does she? I mean, she was
3 not in a position to.

4 MR LAUCCI: [15:51:26] Okay. I will then be less ambitious.

5 PRESIDING JUDGE KORNER: [15:51:28] Yes.

6 MR LAUCCI: [15:51:29]

7 Q. [15:51:29] And conclude that, Madam Witness, you have no evidence
8 whatsoever about the involvement of the person you call Ali Kushayb in the arrest,
9 tortures and execution in Mukjar; do you agree?

10 A. [15:52:23] I am saying that Ali Kushayb was one of the people who tortured
11 other people. So I'm talking about these people in general and Ali Kushayb was
12 a part of this, or a partner in this.

13 MR LAUCCI: [15:52:37] I have completed my cross-examination, Madam President.
14 Thank you, Madam Witness.

15 PRESIDING JUDGE KORNER: [15:52:41] Yes. Thank you, Mr Laucci.

16 Yes, Ms Saba, any re-examination?

17 MS SABA: [15:52:46] No, Madam President.

18 PRESIDING JUDGE KORNER: [15:52:48] Yes. Well, Judge Alexis-Windsor has got
19 a question.

20 JUDGE ALEXIS-WINDSOR: [15:52:55] Good day, ma'am.

21 THE WITNESS: [15:53:16](Interpretation) I'm fine.

22 JUDGE ALEXIS-WINDSOR: [15:53:20] You said that it was Janjaweed and *asakir* that
23 raped girls in an area where groundnuts were grown. My question is: How were
24 you able to differentiate between the *asakirs* and the Janjaweed? In -- in other words,
25 how are you able to say that the Janjaweed was involved in this incident?

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1 THE WITNESS: [15:54:39](Interpretation) The Janjaweed were wearing normal
2 clothes and the government forces were wearing the official or formal military
3 uniform. So the difference between the Janjaweed and the *asakir* was clear.

4 JUDGE ALEXIS-WINDSOR: [15:54:54] Thank you.

5 No further questions from me.

6 JUDGE ALAPINI-GANSOU: [15:55:01](Interpretation) I have no questions,
7 your Honour. They've been taken into account by this question which was put with
8 regards to the questions this morning. Thank you.

9 PRESIDING JUDGE KORNER: [15:55:14] Madam, thank you very much again for
10 coming to court to give evidence. It's really important that people in your position
11 who saw things, even if they are not accepted in total, come to court to tell counsel
12 and the judges about what happened. And we realise how difficult it is, particularly
13 for women, to do this. And, therefore, we do thank you very much indeed, and we
14 wish you a safe return to the country in which you are now living.

15 THE WITNESS: [15:56:24](Interpretation) I would like to thank you also. My
16 deepest gratitude.

17 PRESIDING JUDGE KORNER: [15:56:30] Yes, if the court officer would like to
18 escort the witness out of court then. Thank you.

19 (The witness is excused)

20 PRESIDING JUDGE KORNER: [15:57:07] Yeah, Mr Laucci, is there anything you
21 want to say, anything more about Mr -- tomorrow's witness that you've objected to?
22 I did say I'd give you another opportunity.

23 MR LAUCCI: [15:57:17] No, I think you issued your ruling and --

24 PRESIDING JUDGE KORNER: [15:57:20] I said subject to anything else you wanted
25 to add.

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1 MR LAUCCI: [15:57:25] Burden on me to -- to -- to be successful in that challenge in
2 the cross-examination.

3 PRESIDING JUDGE KORNER: [15:57:30] Yeah. You're carrying the -- the load this
4 week, are you, Mr Laucci?

5 MR LAUCCI: [15:57:36] Yes, indeed. My colleague, Mr Edwards, had some
6 personal issue that kept him away.

7 PRESIDING JUDGE KORNER: [15:57:43] Okay. All right.

8 Thank you very much. Well, you're -- can I say you're doing a really good job.

9 Genuinely -- well, I suppose we could do the work ourselves, but it's become clear
10 today that we're not paying enough attention to the corrections that -- that have been
11 made by the witness. So I think we'll just -- yeah, we'll just have to do the work
12 ourselves and cross-reference it. Right.

13 Yes, all right. 9.30 tomorrow morning, please. And this witness is going -- this is
14 viva, isn't he?

15 MR NICHOLLS: [15:58:23] He's viva voce. I think we'll definitely go over into
16 Thursday.

17 PRESIDING JUDGE KORNER: [15:58:29] Into Thursday, all right.

18 All right. Thank you very much.

19 THE COURT USHER: [15:58:34] All rise.

20 (The hearing ends in open session at 3.58 p.m.)