

Public
Annex C

**Ten allegations of pre-boarding live fire,
available to the Prosecution when preparing the original
Report**

O12

1. O12 stated that, from the time “it was evident that Israel would attack us”, he had been participating in “defending the ship”, first at the stern—from where he “could see that commandos were fast-roping onto the ship”, and then moving to the deck below the upper deck. He arrived at the time “one of the commandos was pushed over the rail from that deck to the one I was on”. Subsequently, O12 was also present while three IDF soldiers were detained by the passengers. While O12 was “moving about the ship before the commandos boarded,” he believes he “saw the first man killed in the attack: the Turkish photographer Cevdet KILICLAR, who was shot right between the eyes while taking a photograph of the helicopter above”.

2. Other available information, however, suggests that O12 may be partially mistaken in this recollection concerning Mr KILICLAR. For example, the UNHRC Report concluded that Mr KILICLAR was shot when “standing on the bridge deck on the port side of the ship near to the door leading to the main stairwell and [...] attempting to photograph *Israeli soldiers on the top deck*.”¹ W13 describes this incident in a similar way.² These accounts thus place the time of the killing *after* the first soldiers had landed. Indeed, in other aspects of his account, O12 himself recalls arriving at the deck below the upper deck (where it appears Mr KILICLAR was killed) at a time when IDF soldiers had *already* boarded the vessel.

3. Moreover, in a statement which was *not* in the Prosecution’s possession at the time of publication of the Report, but was subsequently quoted by the Comoros, O12 stated more clearly that he did *not see* the death of Mr KILICLAR but rather “came across [his] body” when moving around the ship “within the first five to ten minutes”.³ This time period would approximately coincide with the time at which the first IDF troops had landed on the *Mavi Marmara*, as well as the time at which

¹ [UNHRC Report](#), p. 29 (emphasis added).

² W13 recalls: “While running I saw Cevdet KILICLAR, who was kneeling, trying to photograph the terrorist/pirate from above. Before I came parallel with him, the terrorist/pirate came out and shot again.”

³ [Request for Review](#), para. 101, first bullet point.

O12 otherwise recalled that he was moving from the stern towards the upper deck. In this additional statement, O12 also made clear that it was only his inference that Mr KILICLAR was shot from a helicopter.⁴

V58

4. V58 stated that “[a]t around 4:30 a.m.” he “heard the Israeli soldiers starting to attack the ship” and “could see that an attack boat had pulled up next to the ship”. V58 then “quickly went upstairs and returned to my spot”, and put on a life-vest and “gas mask”, and “started waiting”. After “tear, sound, smoke and gas bombs”, he states that “real bullets” were then fired “at us” from the helicopter. People were “hit” and fell to the ground. He was himself shot with live ammunition after he “began fighting with the Israeli soldiers”.

5. V58’s account does not give a foundation for his belief that it was live ammunition fired from the helicopter. This may be significant given W13’s account, which from an apparently similar vantage point did not concur that it was live ammunition.⁵

6. Even accepting *arguendo* V58’s account of fire from the helicopter—seen through a gas mask—he does not explain how he knew it was live, as opposed to less-lethal, ammunition employed. Both types would potentially cause people to fall to the ground when hit. Moreover, on V58’s own account, he saw the fire after the IDF had—at least—deployed flash-bang grenades, which was immediately before the first soldiers attempted to deploy onto the deck. Nor does V58 acknowledge any effects these grenades might have had upon him, or his perceptions. If V58 was on the upper deck, as his statement implies, it is unlikely he would have been unaffected. If he was not on the upper deck, his ability to see the events described would have been impaired, at least to a degree.

⁴ [Request for Review](#), para. 101, first bullet point.

⁵ See *below* paras. 8-12 (W13’s account).

7. Nor can any material conclusion be drawn from V58's subsequent gunshot wounds when fighting with the IDF soldiers. It is uncontested that, in the course of the fracas that developed when the first soldiers had reached the deck, live ammunition was used.⁶

W13

8. W13 saw the first IDF boats approach the stern of the *Mavi Marmara*. He saw them "shooting" and thought at the time that "these were blanks". (Only subsequently, "when the attack died down", he saw injured people in a different location—"the lower hall"—which he believed "had been wounded in this first attack".) He also believed that these boats "approached the bow and started to fire" but he "could not see the bow".

9. After a few minutes, W13 saw a helicopter approach the upper deck. He ran to that point, with 25-30 other men. He recalls "shooting" from the helicopter, causing some to fall "to the ground", but he "continued to think: 'they are using plastic bullets, even though we have never seen plastic bullets, the wounds are superficial [...]'" . The first soldiers then rappelled to the deck.

10. Some time later, after the third helicopter had started to deploy troops, W13 tried to assist some passengers with cameras. He recalled that, even by that point:

I had seen wounded people, but I had not yet seen any dead people, and as I thought that they were using an immobilizing bullet *I thought that nothing would happen to me if I did get shot.* (Emphasis added.)

11. Having seen the shooting of Cevdet KILICLAR, W13 made an announcement:

into the microphone, saying: 'They have shot two of our friends (*at that time I had only seen Cetin Topcuoglu, who was seriously wounded, and Cevdet Kiliclar*),

⁶ See e.g. Annex B, fn. 7 (recalling that IDF troops once on the upper deck responded to resistance with means including live fire).

two Israeli terrorists/pirates have been wounded and disarmed and are being treated by the passengers downstairs (I could only see two terrorists/pirates); this attack should be called off *before Israel hurts anyone.*' (Emphasis added.)

12. Taking his statement as a whole, W13's account demonstrates that his own experiences suggested only that the IDF used *less-lethal* ammunition, at least until they had boarded the *Mavi Marmara*, and not live ammunition.

13. In particular, W13 did not see any person injured as a result of IDF fire from the boats in the first boarding attempt—to the contrary, he thought they were firing blanks. Although he subsequently saw injured people whom he inferred were struck in the first effort, he does not explain the basis for his belief that they were injured before IDF troops had landed on the *Mavi Marmara*, nor does he explain the nature of their injuries.

14. W13 was apparently present on the upper deck when the first helicopter prepared to deploy troops. He does not mention the preparatory use of flash-bangs which occurred there but, like V58, recalls shooting and people falling down. However, he expressly notes that he saw nothing to indicate live fire was being used—rather, he observed that wounds were “superficial” and believed that the IDF were using only “immobilizing” ammunition which would not cause permanent harm. W13's subsequent warning that the boarding should be called off “before Israel hurts anyone”, and his acknowledgement that Mr TOPCUOGLU and Mr KILICLAR were the first serious injuries he observed, is consistent with this view.

V285

15. V285 did not explain his location on the *Mavi Marmara* at the relevant time. He stated that:

[B]efore the ship was boarded many bombs were thrown. At the same time helicopters [...] started lowering soldiers down onto the deck and they

immediately started to shoot. Of course, they had earlier bombed the entire ship with gas and smoke bombs. The helicopters first flew over us and the soldiers fired on us with machine guns. As a result of this shooting a bullet entered my left hip and came out 30 cm higher, in my stomach cavity.

16. Considering V285's statement in light of the available information as a whole, his account appears to be exaggerated in some respects, and equivocal in others.

17. V285's claim that "the entire ship" was bombed with gas and smoke appears either to be an exaggeration or, if he was located on the upper deck, perhaps a reflection of the disorienting effect of the flash-bangs employed at that location. In the same way, his account that "helicopters first flew over us and [...] fired on us with machine guns" is a much broader allegation than others which have been made.⁷ It is also potentially inconsistent with his description a few sentences previously which suggests that "shooting" began "immediately" after troops had been lowered to the deck.

18. Furthermore, V285's account of his own injury—which he attributes to 'machine gun' fire from the helicopters, but describes as having an exit wound "30 cm higher" than the entry wound—may be inconsistent with an aimed shot taken from above.

V228

19. V228 was a passenger aboard the *Gazze I*, not the *Mavi Marmara*. The distance between the vessels was "roughly 250 or 300 meters". He described seeing "two helicopters, whose lights were off, [...] hovering above the *Mavi Marmara*" and "heard weapons being fired followed by the sound of bombs". He states that he "was shocked by what I saw through my binoculars" and concluded that "[t]hey were firing at people". However, he also stated that on seeing "life jackets f[ro]m the

⁷ But see also below para. 38 (concerning V321 alleging the use of "machine guns").

Mavi Marmara floating in the sea”, he mistakenly “thought that people were holding on to these jackets”.

20. V228 was not in a position to have a reliable view of the events aboard the *Mavi Marmara*.

21. In particular, V228’s account depends on him having an unobstructed view, over more than 200 metres, with reduced visibility, and using binoculars from a moving deck. He acknowledges that in such circumstances he made understandable errors in appreciating the detail of what he saw—for example, mistaking empty life jackets floating on the water for life jackets with people holding on to them. In this context, even if V228 formed some impression of the events unfolding aboard the *Mavi Marmara*, he could not reliably have assessed the details of the weapons held by individuals, where they were aimed, their effects, and so on.

22. Furthermore, V228 does not give a clear sense of the passage of time. In particular, when he says that “[t]hey were firing at people”, he does not explain whether this referred to the point at which IDF troops had reached the deck of the *Mavi Marmara* and the violent confrontation ensued. Nor indeed does V228 say that he actually saw people being shot.

V343

23. V343 was on the “top deck”, wearing a gas mask, and recalled “gas and sound bombs” being thrown onto the *Mavi Marmara*. He then states:

After the bombs were thrown, the soldiers started to board the ship. The soldiers on the deck started to shoot haphazardly at the passengers. I was one of the first to be wounded by the gunfire. (Emphasis added.)

24. In an account attributed to him in a published book, V343 refers to fire from a helicopter at the time IDF soldiers were on the deck of the *Mavi Marmara*:

I was on the top deck where the Israeli soldiers landed. All of a sudden, we found ourselves in the middle of the attack. There was gunfire coming to us from the helicopter above on one side, while a group of three or four soldiers on board were firing at us from another. There was just chaos, an inconceivable one!

25. V343 thus appears to state only that the shooting began *after* the IDF soldiers had reached the deck.⁸ This is consistent with the other information available, and does not allege preceding live fire. The Prosecution notes that, although V343 characterises the shooting as “haphazard[]” in his statement, he does not refer to the resistance by other passengers on the deck at that time. In the book, moreover, he states that he “hit one soldier with the stick in my hand” and, with the help of a friend, he “managed to get him to the lower deck”. In this account, he also makes clear that he was shot at some point after he had engaged in the resistance to the boarding.

26. V343 refers, in the book, to having “been shot with nine bullets”. However, it is clear both from his other statement and a medical report that he was hit in the arm with one live round, and in other locations by less-lethal rounds (“plastic bullets”).

27. Like V58, V343 does not acknowledge any effect upon him from the use of the flash-bangs that he describes.⁹ He recalls, however, that it was “such a chaos and confusion” that even “one of my friends attempted to punch me”.

V92

28. When the first boarding attempt (from the sea) was detected, V92 was “sleeping”. He woke when he “realized that there was a panic, a hustle and bustle”. He does not state where he was sleeping. From that location, however, he “looked around” and “saw Israeli boats and helicopters flying overhead”, which “opened

⁸ In January 2016, the Comoros also provided a further statement by V343, which raises new allegations. This is discussed in the third part of the Prosecutor’s final decision.

⁹ See *above* para. 6.

fire on us". He also recalls soldiers throwing "smoke, noise and gas bombs". When he was subsequently carrying "injured" people "to the deck above" where they could be treated, "soldiers started rapidly shooting from the starboard and the port", injuring some of the people "around" him. The "attack and shooting lasted for approximately one hour".

29. V92's account gives a general impression of his own experience aboard the *Mavi Marmara*. However, V92 does not appear to have been in a position to know whether live fire commenced before the first Israeli soldiers reached the upper deck, or to have a general appreciation of the events aboard the ship more broadly.

30. In particular, V92 appears to have been asleep on one of the lower decks of the ship when the boarding began (by implication from his reference to the "deck above"). At no point does he state that he was on the upper deck, or in a position to see when soldiers began fast-roping from the helicopters. He cannot speak to the timing of events in that respect, nor does he attempt to do so.

V268

31. V268 was saying the dawn prayer when he first heard that the IDF was attempting to board the ship. Having finished his prayers, he ran to the "press deck", by which time "the Israelis were shooting" and he heard "big explosions" and "helicopters above the boat". Having seen "soldiers coming down" from the helicopters, he ran to the top deck. Once he was there, he found "[t]he soldiers were shooting at people", and men were resisting them. It was "dark" so he could "not see clearly". He concluded that the IDF were shooting from one of the helicopters because he "saw the laser targeting red light from on helicopter". About "15 minutes later" he was shot, including with live ammunition, but he doesn't know "what weapon or what distance I was shot from".

32. In comments ascribed to V268 in a book of interviews, he explains a bit more about his own actions.

33. Once he had finished praying, he saw “boats, and soldiers that were shooting at us”. Having seen “two helicopters above us”, he “[i]mmediately” ran “to the top deck and participated in the resistance against the Israeli soldiers.” He makes no mention of shooting from the helicopters, but only describes them as “one with a projector [sic] and the other with ropes where the ‘well-trained elite(!)’ Israeli commandos were coming down.” He describes his own injury as occurring once the mêlée had begun on the deck: “They should [sic] have seen me from the helicopter while fighting their soldiers, so they shot me”. Soldiers then restrained V268.

34. Considering both the available accounts, V268 does not clearly allege the use of live fire before the IDF set foot on the *Mavi Marmara*.

35. In both accounts V268 refers to “shooting” before seeing the first troops descend from the helicopter—but, in one account, he clarifies this as coming from the boats. This is consistent with the description of the failed first boarding attempt, in which the IDF opened fire with less-lethal weapons when prevented from scaling the sides of the ship.¹⁰ Indeed, V268 appears to use the term “shooting” to describe the use of less-lethal weapons as well as live ammunition.¹¹

36. V268 does not state that he saw shooting from the helicopters. In one account, he reports seeing the use of ‘laser sights’ which he estimated to come from the helicopter. But in any event, the aiming of weapons—of an unknown kind—from the helicopter does not mean that those weapons were fired. Nor in his other account does V268 make any reference to fire from the helicopters.

¹⁰ See Annex B.

¹¹ For example, V268 appears to have been hit with one live round, and one less-lethal round of some kind. In both accounts, he describes himself as being “shot” when struck with the less-lethal round.

37. V268 also appears only to have arrived on the top deck as the IDF soldiers descended from the helicopters. He is frank that he then joined with other passengers in resisting, and also that it was dark. In such circumstances, V268 would have had very limited opportunity to gain a broad appreciation of the events except those in which he was immediately participating.

V321

38. V321 is one of the organisers of the flotilla. He states that the boarding operation began when the IDF “started sending out sound bombs, smoke bombs, light bombs, gas bombs, and also shooting at us from the air and the sea with machine guns and all.” V321 then describes the attack in the following terms:

First they started shooting from the zodiacs, before they came very close to us. Those who were shot first were shot by guns from the zodiacs. Now Israel argues that they first used plastic bullets, that their soldiers were attacked first. This is an absolutely false statement. There is a video record of all these things. They approached shooting at us and people got injured, heavily injured and one of the injured was Ugur Suleyman. Israel says they first used plastic bullets. This is false. The bullets were of a different sort. Israeli soldiers pulled out the bullets they call plastic from the bodies of the injured themselves, without medical procedure, and with knives, torturing the injured—I think they did that in order not to leave behind evidence. Because those bullets they call plastic were of a different sort, it kills people; it explodes inside your skin. And then they started landing on the deck from helicopters. [...] We understood that they were coming on board to kill when we saw that they were aiming at heads and chests of people. So zodiacs came first, shooting at us. When people saw that they were firing at us, that people were shot, fear and panic took over. [...] As zodiacs approached bombs came from helicopters. Sound bombs, smoke bombs, gas bombs, and light bombs. When those bombs tore into pieces the pieces came to hit people and injured them—many were injured this way. They had serious wounds. Then they started landing on the deck from helicopters. Israeli soldiers were shooting at us from one of the helicopters, from the other soldiers were descending. On the deck Israeli soldiers opened fire with the sole aim of killing people. Some bullets sounded like they were plastic but then our friends were killed by them. Because they were firing from a very close range, from 1.5 meters or so.

39. V321 subsequently adds that “most of our friends were killed after we surrendered.”¹²

40. V321’s account appears, like that of V285, to be exaggerated in at least some respects, containing allegations which are unsupported by other witnesses. V321’s account is also highly generalised. Unlike other witnesses, he does not explain his own movements, actions, and observations aboard the *Mavi Marmara* but rather provides a broad narrative of events.

41. V321 suggests that both the first and second attempts at boarding were preceded by gunfire, and used live ammunition. This is inconsistent with other accounts, which generally suggest that the first attempt was made without warning. V321 appears to doubt that the IDF sought to use less-lethal, rather than lethal, ammunition. This is inconsistent with other accounts.¹³ V321’s speculations about the kind of ammunition used by the IDF, the incidence of “serious” shrapnel-type wounds from the use of flash-bangs, and the practice of non-medical IDF personnel removing bullets with knives, also lack broader support. V321 also suggests that “machine guns” were fired from both the boats and helicopters but, if this is meant literally, it is not generally supported, except by V285.¹⁴

42. V321 states that fire was opened from one helicopter, while troops landed from another helicopter. He does not specifically state that live ammunition was used in this context.

V115

43. V115 does not state where he was located on the *Mavi Marmara*. He recalls that, “[i]mmediately” after seeing boats surround the ship, “a helicopter that was flying

¹² This allegation is addressed elsewhere in the Prosecutor’s final decision.

¹³ The use of less-lethal, as well as lethal, ammunition is borne out by the items subsequently recovered from the *Mavi Marmara* (as detailed in the Prosecutor’s final decision)—although, of course, this information cannot speak to the order in which these items were used.

¹⁴ See above paras. 15-18.

over us” was “shooting at the ship and soldiers had started to be lowered”. The soldiers were “shooting randomly” as they were lowered down. V115 stated that, “[a]s we had nothing to hand we neither fought back nor resisted”. At “about 05:00” he was wounded in both ankles.

44. Although V115 asserts that fire was coming from the helicopter, he makes no allegation as to the kind of ammunition used. Nor does he explain whether he saw the fire emanating from the helicopter himself, or whether he heard reports. He does not refer to the noise and shooting which resulted when the first boarding attempt (by sea) failed, shortly before the helicopter arrived.

45. V115’s account of IDF soldiers “shooting randomly” appears to relate to the roughly 30-minute time period after IDF troops had boarded the *Mavi Marmara* and were seeking to gain control.¹⁵ This is demonstrated by his estimate of the time he was himself wounded. Nor does he refer to any resistance by the passengers in this period; indeed, he appears to suggest that there was no resistance, although he may only have been referring to his own conduct in this respect. To the extent V115 suggests that there was no resistance from the passengers, this is inconsistent with the other available information.

¹⁵ See Annex B.