

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing
7 Tuesday, 3 November 2015
8 (The hearing starts in open session at 9.35 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: Thank you, Mr President. The situation in the Democratic
15 Republic of the Congo in the case of the Prosecutor versus Bosco Ntaganda, case
16 reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: Thank you.
19 Now appearances, please, starting with Prosecution.
20 MS SOLANO: Good morning, your Honour. For the Prosecution today behind me is
21 Ms Nicole Samson, senior trial lawyer; on my left is Ms Kristy Sim, assistant trial lawyer;
22 to her left is Marion Rabanit, associate trial lawyer; on the bench next to Ms Samson,
23 Ms Claudine Umurungi, legal assistant; and Selam Yirgou, case manager. I am Julieta
24 Solano, trial lawyer.
25 PRESIDING JUDGE FREMR: Thank you, Ms Solano.

1 Now Defence, please.

2 MR BOUTIN: Good morning, Mr President, your Honours. Appearing for the
3 Defence this morning, Mr Ntaganda is here with us, Dennie Michielsens, stagiaire;
4 Chloé Grandon, (Interpretation) legal assistant; Maître Stéphane Bourgon, lead counsel;
5 and myself, Luc Boutin, associate counsel.

6 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

7 Now Legal Representatives for Victims, please.

8 MS PELLET: (Interpretation) Thank you, your Honour, the former child soldiers are
9 represented by myself, Sarah Pellet, counsel with the Office of Public Counsel for
10 Victims.

11 MR SUPRUN: (Interpretation) Good morning, you Honour, your Honours. The
12 victims of the attacks are represented by myself, Dmytro Suprun, counsel with the Office
13 of Public Counsel for Victims.

14 PRESIDING JUDGE FREMR: Je remercie vous deux.

15 Now, before we commence the testimony of the next witness, I will be addressing a
16 couple of procedural matters.

17 First of all, as concerns (Redacted), we noted that there was some progress.

18 I'm not sure that -- maybe I could ask Ms Samson but, Ms Samson, could you give us any
19 further information? But I am afraid that in such a case we should go into private
20 session?

21 MS SAMSON: Yes, your Honour.

22 PRESIDING JUDGE FREMR: Okay.

23 So, court officer, let's move into private session for a while.

24 (Private session at 9.37 a.m.)

25 (Redacted)

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 3 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Open session at 9.40 a.m.)

11 THE COURT OFFICER: We're in open session, Mr President.

12 PRESIDING JUDGE FREMR: Thank you.

13 Next the Chamber notes that according to the emails from the Defence -- sorry?

14 Mr Bourgon, sorry. You are in a rather bad angle to me. Sorry, I omitted. Please.

15 MR BOURGON: Thank you, Mr President. I just wanted to -- regarding my last

16 submission I'm not sure if this can be made in open or closed -- or private session, the

17 idea is I just wanted to make clear on the record that the reasons we were not able to

18 offer any submissions, the main reason is certainly the disclosure of the information of

19 the session that took place on Friday. Thank you, Mr President.

20 PRESIDING JUDGE FREMR: Thank you for this qualification. So I will continue that

21 the Chamber notes also that according to the emails from the Defence received on 1 and

22 2 November, the Defence objects to certain of the documents the Prosecution may be

23 using with the upcoming witness. The Chamber considers in this case that these

24 objections can be best addressed if and when they arise throughout the course of the

25 examination-in-chief.

26 Are there any comments on that? Ms Solano?

1 MS SOLANO: Your Honour, I would have preferred to address the objection now.
2 I'm guided by what your Honour has just said. I will just say that the reason I would
3 have preferred to address the objection now is that the witness indicated both during his
4 interview in 2005 and during his preparation session last week some emotional difficulty
5 in viewing the photographs that the Prosecution wanted him to view and, for that reason,
6 it would have been my preference, your Honours, that we resolve the question as to
7 whether I am allowed to show him this photograph when the witness is not on the
8 stand.

9 PRESIDING JUDGE FREMR: Okay. Why not. But I guess maybe it would be better
10 to, again, to move into private session because -- there's no need of that you mean?
11 Okay. So we will stay in the regime of open session and you may go ahead with your
12 comment, please.

13 MS SOLANO: Thank you, your Honour. If I can summarize, there -- the Defence
14 objects to the use and admission of these photographs on the grounds that they have
15 been annotated by hand. And that is correct, they have been annotated by hand.
16 However, as I indicated to counsel from the Defence yesterday, we do not intend for the
17 photographs that will be shown to the witness to show these annotations. We have
18 hard copies with us in which we have covered the annotations. They have not been
19 shown to the witness during the preparation session, so I respectfully submit that the
20 objection on that basis should be overruled.

21 I also submit, your Honours, that -- or, rather, I inform your Honours that although there
22 are a number of photographs listed, I will, in fact, only seek to show him one photograph.
23 It is a photograph listed at number 3 in the Prosecution's list. And as your Honours
24 will know, the Prosecution added three copies of that photograph to our list yesterday.
25 We did so because the Defence objected to the use and admission of the photograph

1 listed at number 3.

2 But for the sake of clarity, your Honours, I will tell you that the photographs listed at
3 numbers 3, 4, 5 and 6 are, in fact, copies of one and the same image. The reason why I
4 wish to show him the photograph listed at number 3 is that it is the best quality one that
5 is available to the Prosecution, and given the witness's stated discomfort with what is
6 visible in this very graphic image, I thought it only fair for the witness to show him the
7 best quality photograph.

8 But if my friends from the Defence have a problem with or insist on their objection with
9 that photograph, I can -- I could, your Honours, as a last resort, show him the
10 photograph listed at number 6, which has, in fact, already been admitted by your
11 Honours into evidence when Witness 805 testified. However, that photograph is
12 smaller in size and the quality is much much poorer than the photograph listed at
13 number 3, which is the one I wish to show him.

14 My friends from the Defence have also objected, your Honour, to the use and admission
15 of these photos on the basis that the one I want to show the witness, the one listed at
16 number 3, was added to the list of evidence only on 1 May in filing 587. This is a
17 photograph that was disclosed to the Defence on 30 April. Through an oversight we
18 were not able to include it on the original list of evidence; however, the three other
19 copies of this same photograph, that is, the photographs listed at numbers 4, 5 and 6 of
20 the list are all included on the list of evidence.

21 And so, your Honours, I submit that there is really no prejudice to the Defence in
22 allowing me to use and seek to admit into evidence the photograph listed at number 3.

23 PRESIDING JUDGE FREMR: Ms Solano, one additional question could make my
24 understanding. Apart of photographs, there is also another proposal to admit into
25 evidence electoral card. Could you comment this?

1 MS SOLANO: Certainly, your Honour. That is the document listed as number 13 on
2 the updated list of evidence. This document was disclosed to the Defence on 7 October
3 and included on the list of evidence on 19 October. And while we concede that it
4 would have been much preferable to disclose it and add it to the list of evidence earlier,
5 we don't really see what the prejudice to the Defence is if I am allowed to show this
6 document to the witness and seek to admit it.

7 It's an electoral card which shows a photograph of the witness and his name. The
8 witness will be able to confirm whether the person visible on the photograph and the
9 identity on the card are his.

10 And if I can add, your Honour, by way of explanation as to why we did not disclose and
11 add this document to our list of evidence sooner, it is because we had not -- we had not
12 really foreseen that the identity of this witness might come into question.

13 I don't know at this point whether it has in fact -- whether the Defence intends to
14 challenge that this witness is who he -- who he says he is, but it was our review that out
15 of an abundance of caution, it would be wisest to provide the Chamber with the
16 documentary evidence available to us, which was obtained in the year 2011 as a way to
17 bolster the identification of this witness.

18 PRESIDING JUDGE FREMR: Just to assure myself that I understood, also the relevance
19 of this exhibit should be to confirm identity of the witness?

20 MS SOLANO: Yes, your Honour.

21 PRESIDING JUDGE FREMR: Thank you, Ms Solano.
22 Defence, your reaction?

23 MR BOUTIN: (Interpretation) Yes, thank you, your Honour. Indeed, as the
24 Prosecutor mentioned, the Defence objects to -- or, has the intention or objective to
25 the finding and use of some of the photos. And there are several reasons for this.

1 Where it concerns certain photos, your Honour, these photographs are annotated, so the
2 evidence that the photo contains, and that the Prosecutor intends to present, as indicated,
3 it intends to present the annotation. And this, in itself, could be very leading to the
4 witness where it appears on the photo, and so on that basis we object.

5 However, for reasons of admission of the photograph while the annotation is not
6 presented to the witness, then the evidence in itself, if it is admitted, is admitted as a
7 whole. So the photograph and the annotated part.

8 And there, that's where there's a problem for the Defence. If the Court accepts this
9 document as an annotated document, annotated by somebody who's not the witness,
10 and it accepts this photo which has been annotated for the truth of its content, obviously
11 then it includes also the comments or annotations which are indicated. So on that basis
12 we think that the Prosecutor is wrong because -- and it's indicated.

13 The evidence or item 3, 4, 5, 6 are essentially the same photo with different resolutions.
14 And on that, your Honour, I would like to mention guidelines that the Prosecutor was
15 given by the Chamber within the framework of photos with a previous witness. And
16 the exact reference is transcript T-37 ENG RT 23 October 2015, page 88, at lines 11 to 19,
17 where the Chamber issued guidelines to the extent that it would prefer that the
18 Prosecutor makes a selection of photos in order to avoid photos being presented from
19 different angles.

20 In this case, your Honour, we are not speaking about photos from different angles, we
21 talk about the same photo with a different resolution. This photo was already admitted.
22 Photo 6, photo number 6 in particular which covers 3, 4, 5, 6, so photo 6 was already
23 admitted into evidence through witness -- through a previous witness.

24 So on that basis, we simply think that the witness obviously can -- or, the Prosecutor can
25 use the exhibit which is already in evidence. It's not annotated and it doesn't give rise

1 to debate, it can be presented to the witness.

2 With regard to other exhibits which the Defence objects to, I'll mention here for example
3 item 7, this photo is already tendered into evidence. Photo number 9 on the
4 Prosecutor's list, this also is already in evidence, a non-annotated version thereof. That
5 has been admitted and there's an objection thereto.

6 And if you allow me to go back a bit you've got photograph number 8, if I remember
7 well. There is one which is annotated as well. Photograph 10 is already tendered into
8 evidence. Photograph 11 is already tendered into evidence. Photograph number 12 is
9 already tendered into evidence. So the Prosecutor is trying for reasons only it knows to
10 multiply it before this Court the amount of evidence which is essentially the same exhibit,
11 but evidence which sometimes is annotated in some cases. And in our view, the
12 Chamber shouldn't accept it because it's prejudicial to the accused.

13 Now with regards to the electoral card, and I will conclude on that point, the electoral
14 card, well, we think it's a principle because this card wasn't on the list of the evidentiary
15 items. It should have been disclosed. And it was only disclosed very late.

16 So the Prosecutor has stated, but our position is one of principle, and this is that the
17 Prosecutor should not be able to use items which are added to the evidence late, exhibits
18 which weren't disclosed at the appropriate time and place and in the framework of this
19 card, which haven't been checked at the appropriate time by the Defence. So those are
20 the comments that I'd like to make, your Honour.

21 PRESIDING JUDGE FREMR: Thank you, Mr Boutin.

22 Ms Solano, maybe before you make your reply, it seems that the core of the dispute is
23 first annotations, so my question to you would be whether it is not possible to use those
24 pictures without those annotations, either hide them or it's just technical -- technical
25 point.

1 The other issue of obvious dispute is do you really intend to -- those pictures would be
2 admitted as a whole, or whether wouldn't it be sufficient to you just admit the picture
3 without the annotations? Yeah, I think it's done.

4 And the other, maybe the third issue from my point of view, that there is an objection
5 that you are trying to tender and we, frankly saying, we faced the similar issue in the
6 past in this case that you are trying to tender many pictures of the same place very
7 similar to each other or just from different angles or from different distances. So I think
8 it should also be reconsidered on your part whether just the one, the best one shouldn't
9 be sufficient. Ms Solano.

10 MS SOLANO: Thank you, your Honour. Your Honour, I apologize if I wasn't clear
11 enough when I first addressed this issue this morning. The Prosecution will not be
12 showing Witness P-106 the photographs listed at numbers 7 through 12. We will not be
13 showing those photographs to the witness.

14 As for the photographs listed as numbers 3 to 6, those are all, indeed, the same
15 photograph in different quality. So they're not photos of the same event from a
16 different angle, they are, in fact, the same photo. And I maintain, your Honours, that it
17 will be more fair to the witness and that your Honours will be better served by -- if you
18 allow me to show the witness the photograph at number 3 because if your Honours
19 permit, perhaps the court officer can show it to you, but it is considerably a better quality
20 than the photograph admitted via Witness P-805, which is a photograph listed at number
21 6 of our list.

22 The photograph shown and admitted via P-805 is smaller in size, the quality is poorer.
23 The reason for that is, your Honours, one of the copies of the photograph was shown to
24 another individual, the individual signed and dated that copy of the photo and the

1 signed copy of the photograph was re-registered in evidence. That's why in the
2 photograph admitted via P-805 your Honours can see two ERN labels. That's all can I
3 add, your Honours.

4 PRESIDING JUDGE FREMR: And as to the annotations, you really insist to use the
5 pictures with annotations?

6 MS SOLANO: No, your Honour. There again I apologize if I was not initially clear.
7 We have come to court prepared with hard copies where the annotations have been
8 hidden as I tried to explain to Defence counsel yesterday.

9 PRESIDING JUDGE FREMR: Okay, thank you. So we will consider the submissions.
10 And because we anyway will have to break before deciding on in-court protective
11 measures, we probably will accumulate all those issues in during our break.
12 So now, we will have -- I'm sorry for that, we will have to go again into the regime of
13 private session. My estimation is for maybe 15 or 20 minutes. So let's move into
14 private session now.

15 MS SOLANO: Your Honour --

16 PRESIDING JUDGE FREMR: Ms Solano.

17 MS SOLANO: Your Honour, there is no request for in-court protective measures in
18 relation to this witness, so I submit that it is not necessary to go into private session.

19 PRESIDING JUDGE FREMR: Well, unfortunately, there is some new information you
20 probably don't know, so we will inform you, that is why we have to move into private
21 session.

22 (Private session at 10.01 a.m.)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 12 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 13 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Open session at 10.09 a.m.)

1 THE COURT OFFICER: We're in open session now, Mr President.

2 PRESIDING JUDGE FREMR: Thank you. So we now have heard submission of the
3 parties concerning protective -- in-court protective measures of -- it should be that are
4 proposed to be provided with this witness and also we have heard submissions on the
5 exhibit which may be used and admitted in accordance with this testimony and we will
6 need now deliberate on that.

7 So we will break our hearing at the moment and my estimation that we will need
8 something between 20 or 30 minutes to deliberate.

9 So for the moment we break.

10 PRESIDING JUDGE FREMR: All rise.

11 (Recess taken at 10.10 a.m.)

12 (Upon resuming in open session at 10.37 a.m.)

13 THE COURT USHER: All rise.

14 Please be seated.

15 MR BOUTIN: Mr President, if I may.

16 PRESIDING JUDGE FREMR: Yeah. Mr Boutin, you have the floor.

17 MR BOUTIN: For the record, please note that Mr Bourgon has left the Chamber.

18 PRESIDING JUDGE FREMR: Thank you very much.

19 So, yeah, we are in the regime of open session, so as we indicated before the break, the
20 Chamber has deliberate on party submissions concerning possible in-court protective
21 measures that could be granted to upcoming witness, and we ruled in the following
22 way:

23 The Chamber notes that certain risks have been identified in relation to the witness
24 testifying publicly, including the potential impact on his safety when he returns home
25 should the fact that he testified become known there.

1 The Chamber considers that disclosing the identity of the witness to the public enhances
2 the risk of any retaliation. Noting that the requested measures are limited in nature,
3 consisting only of a pseudonym and of use of limited private session for potentially
4 identifying information, the Chamber is satisfied that the measures are not prejudicial to
5 or inconsistent with the rights of the accused to a fair and impartial trial.

6 Accordingly, the Chamber orders first the continued use of pseudonym with respect of
7 Witness P-106; and second, the introduction part of his testimony, which consists of
8 identifying information, particularly his location and his recent place of residence, his
9 occupation, and his name and also the rest of his testimony should be done in private
10 session.

11 So that is the -- that concludes our ruling.

12 And as concerns submissions on evidence used during the testimony, we have no
13 problem and we approve the use of this picture number 3. And as to the possible
14 further objections, we will decide on a case-by-case basis, but in order to avoid any need
15 to go into a private session, both parties may just refer to the previous submissions if
16 there would be no need to amend them.

17 So unless there are no further issues, we can now proceed with the witness testimony.

18 We still have -- Mr Boutin.

19 MR BOUTIN: If I may, Mr President. I might be wrong, but just for the sake of
20 clarification, what I heard is that you said that his testimony would be provided in
21 private. Is that the intent of the Chamber to have this witness testifying in private
22 throughout or just at the beginning? And it is just for the sake of clarification.

23 PRESIDING JUDGE FREMR: As we agreed that the identity of the witness at least
24 shouldn't be directly revealed by questions of the parties, which means that for sure the
25 introductory part of his testimony, which normally starts with questions on his name,

1 current place of residence, occupation, and also the following parts which could directly
2 reveal his identity should be made in private session.

3 So obviously maybe it's not easy to make this distinction, maybe it's -- that it's not such a
4 high level of risk compared to other witnesses, which mean that we may be a little bit
5 less careful than in the case of other witnesses who are at a higher level of risk, but still
6 we would like, and we also ask parties, to follow this instruction. We don't want to
7 reveal the identity of this witness by questions put by parties. Am I clear on that?

8 MR BOUTIN: Yeah. Thank you, Mr President.

9 PRESIDING JUDGE FREMR: So to sum it up, it would depend on -- up to the parties
10 what part of the testimony would be made in private and open session.

11 As usual, we highlighted -- our desire is to keep the prevailing part of testimony in -- of
12 the regime of open session if possible.

13 Well, so I concluded the reasoning of our decision and now court officer, you have -- you
14 please have the witness brought in.

15 Please let's move in the regime -- into closed session just for the time needed to bring
16 witness in the courtroom. It's not because of the witness but because of the member of
17 the VWU, because they also enjoy some protection. So in order to hide identity of the
18 assistant to the witness, we, for the moment when we escort witness into courtroom, we
19 will have to go into the closed session.

20 (Closed session at 10.45 a.m.)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Open session at 10.47 a.m.)

4 PRESIDING JUDGE FREMR: And I also ask technicians not to focus cameras on our
5 witness assistant. Just limit it to the picture of -- of the witness himself.

6 THE COURT OFFICER: We're in open session, Mr President. And your instruction is
7 duly noted.

8 PRESIDING JUDGE FREMR: Thank you.

9 Mr Witness, good morning. You are going to testify before the International Criminal
10 Court.

11 PRESIDING JUDGE FREMR: Mr Witness, on behalf of this Chamber, I would like to
12 welcome you to the courtroom. This Chamber has been established to try the case of
13 the Prosecutor against Mr Bosco Ntaganda and you are called to testify to assist us in our
14 search for the truth.

15 At the beginning I would like to guide you on a few practical matters. You will be soon
16 asked questions both by the Judges and lawyers in the courtroom, so please listen
17 carefully to those questions. It's very important that you make sure that you
18 understand the question before you answer it. If you do not understand, feel free to ask
19 for the question to be repeated or rephrased. We want you to tell the truth and tell us
20 only what you really saw or heard or sensed yourself.

21 If you didn't see or hear it yourself but you found out some other way, then you should
22 explain how. You may be asked about events that happened many years ago, so it is
23 natural that you may not remember all details. It doesn't matter. Please testify just on
24 that which you remember. Don't guess, don't make things up, please. There is
25 nothing wrong in saying "I don't know" or "I don't remember."

1 Do you understand all this, Mr Witness?

2 WITNESS: DRC-OTP-P-0106

3 (The witness speaks Swahili)

4 THE WITNESS: (Interpretation) Yes, I understood. Thank you.

5 PRESIDING JUDGE FREMR: Very well.

6 Now, court officer, can you please administer the solemn undertaking to tell the truth?

7 THE COURT OFFICER: The solemn undertaking is already on the witness' table,
8 Mr President.

9 PRESIDING JUDGE FREMR: Mr Witness, I would like to ask you to read the solemn
10 undertaking -- the solemn undertaking which is laying in front of you.

11 THE WITNESS: (Interpretation) I solemnly state that I will state the truth, the whole
12 truth and nothing but the truth.

13 PRESIDING JUDGE FREMR: Thank you very much, Mr Witness. So it means,
14 Mr Witness, that now you are under oath. You have already been informed by
15 representatives of the victim and witness unit and afterwards by representatives of the
16 Prosecution about the importance to speak the truth. Nevertheless, it's my obligation to
17 reiterate to you that as you have just promised, you have to speak the truth and that it is
18 an offence within the jurisdiction of this Court to give false testimony. Do you
19 understand that?

20 THE WITNESS: (Interpretation) Yes.

21 PRESIDING JUDGE FREMR: Very good. Very good. Mr Witness, the victims and
22 witnesses unit has recommended that a support assistant be seated next to you while
23 you testify just to help you get used to the courtroom. The Chamber has agreed to this.
24 In addition, the victims and witness unit has requested protective measures to be put in
25 place for your testimony today, which the Chamber has also agreed to. So let me now

1 explain to you how the protective measures work that the Chamber has put in place for
2 your testimony.

3 The Chamber decided on use of pseudonym. In accordance with that, we will all refer
4 to you only as "Mr Witness" to make sure that the public does not know your name.

5 When you answer questions that will not give away who you are, we will do so in open
6 session, which means that the public can hear what is being said in the courtroom. You
7 can see that we are in open session if the light in front of you is red.

8 When are you asked to describe anything that relates specifically to you or you are asked
9 to mention facts that might reveal your identity, for example, any locations, where you
10 live or persons close to you, we will do this in a private session. The light in front of
11 you will then be green. Then there is no broadcast and no one outside the courtroom
12 can hear your answer.

13 If ever anything gets said during open session which should have been said in private
14 session, we will do our best to protect this information. Your testimony will be
15 broadcast on a delay and we can remove any such remarks from the broadcast which
16 will be heard by the public and from the public transcript of the proceedings.

17 The Chamber recognizes that your security and well-being is important during the
18 course of this trial. If at any point you feel that you would like a brief break from
19 giving your testimony or you feel unwell, do not hesitate to let us know.

20 Now, if a few practical matters you should have in mind when giving your testimony.

21 Everything we say here in the courtroom is written down and interpreted from -- in your
22 case from Swahili into English and French. It's, therefore, important to speak clearly
23 and to speak at a moderate or rather slow pace like me.

24 We want to make sure that your words can be well understood by the interpreters and
25 then by the rest of us. Please speak into the microphone and only start speaking when

1 the person asking you the question has finished.

2 To allow for the interpretation, everyone has to wait a few seconds before starting to

3 speak, so I recommend to you when the lawyer or another -- another else has asked his

4 or her question, please count in your head to three and only then give your answer. If

5 you have any questions yourself, raise your hand so we know that you wish to say

6 something. We will then give you the opportunity to speak.

7 Have you understood all that?

8 THE WITNESS: (Interpretation) I understand.

9 PRESIDING JUDGE FREMR: Thank you very much, Witness. Before -- we have to

10 break now, we will break for 30 minutes. You will break too. And after the break we

11 will continue by questions put to you by the representative of Prosecution. So for the

12 moment, I thank you very much and we will see you after the break after 30 minutes.

13 So now, in order to escort witness and his assistant, we have to move into regime of

14 closed session.

15 (Closed session at 10.57 a.m.)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Open session at 10.58 a.m.)

21 THE COURT OFFICER: We're in open session, Mr President.

22 PRESIDING JUDGE FREMR: Thank you, court officer.

23 So we break now and we will continue at half past 11 by examination-in-chief of the

24 witness.

25 THE COURT USHER: All rise.

1 (Recess taken at 10.58 a.m.)

2 (Upon resuming in open session 11.31 a.m.)

3 THE COURT USHER: All rise.

4 Please be seated.

5 PRESIDING JUDGE FREMR: Before we move to examination-in-chief of the witness,

6 I would like to get some information about the timing estimate because I know that the

7 Prosecution originally estimated duration of this examination-in-chief on four hours.

8 Now there is some change, which also have impact on the timing. We agreed on those

9 protective measures.

10 So, Ms Solano, you still think that you will be able to manage this examination-in-chief

11 within four hours?

12 MS SOLANO: Yes, your Honour.

13 PRESIDING JUDGE FREMR: Question to Mr Suprun: Mr Suprun, if I am not wrong,

14 you hadn't required to question this witness?

15 MR SUPRUN: (Interpretation) I haven't asked for leave to ask questions to the

16 witness.

17 PRESIDING JUDGE FREMR: Thank you very much.

18 So now Mr Witness may be escorted in the courtroom. And I was informed that in case

19 of this concrete assistant, there is no need to keep blinds down.

20 So now please escort witness in.

21 (The witness enters the courtroom)

22 PRESIDING JUDGE FREMR: Welcome back, Mr Witness. As I indicated before the

23 break, now Ms Solano, representing Prosecution in our case, will be questioning you, so

24 please try to observe my guidance.

25 Ms Solano, you have the floor.

1 MS SOLANO: Thank you, your Honour.

2 QUESTIONED BY MS SOLANO:

3 Q. Good morning, sir. Can you hear me clearly? Sir, can you hear me?

4 Mr Witness, can you hear me?

5 A. Yes.

6 Q. We've met before, but I will repeat for the record that I am Julieta Solano, and I will
7 ask you questions on behalf of the Office of the Prosecution.

8 If you don't understand one of my questions, please ask me to clarify, and I will do so.

9 Please pay close attention to all my questions so that you can answer them as precisely
10 and succinctly as possible.

11 I will first be asking you some questions about your identity and your background.

12 MS SOLANO: We can move into private session, your Honour.

13 PRESIDING JUDGE FREMR: We will have to.

14 So now, court officer, let's move into private session.

15 For the information of public, it seems it will be for the introductory part of the
16 testimony.

17 Can you estimate, Ms Solano, how much time you will need to spend in private session?

18 MS SOLANO: Five to 10 minutes, your Honour, is my estimate.

19 PRESIDING JUDGE FREMR: Very well.

20 So let's move into private session.

21 (Private session at 11.36 a.m.)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 24 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 25 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Open session at 11.54 a.m.)
- 20 THE COURT OFFICER: We are in open session, Mr President.
- 21 PRESIDING JUDGE FREMR: Thank you.
- 22 Ms Solano, you may proceed.
- 23 MS SOLANO: Thank you, your Honour.
- 24 Q. Sir, you mentioned the interethnic conflict. Please explain to the Judges what
- 25 you mean by that.

- 1 A. I have not understood your question. Please kindly repeat it.
- 2 Q. Of course. You said your wife died during the interethnic conflict. Who was
3 fighting in that conflict?
- 4 A. The conflict was between the Lendu and the Hema.
- 5 Q. Where did you live during the interethnic conflict?
- 6 A. At that time, we used to live in Kobu.
- 7 Q. What was your occupation at that time?
- 8 A. I was a farmer.
- 9 Q. Was there a time during the interethnic conflict when you had to leave Kobu?
- 10 A. When the conflict broke out, we fled to the Agora forest.
- 11 Q. What happened that made you flee?
- 12 A. We fled because the clashes had become more intense and so we decided to flee.
- 13 Q. Are you able to say when exactly you fled?
- 14 A. I do not recall the exact date on which we fled.
- 15 Q. Were there any intense clashes in your village?
- 16 A. Yes.
- 17 Q. Please explain what happened when there were clashes there.
- 18 A. The enemy came from Kilo and we decided to flee to the bush.
- 19 Q. Who was the enemy?
- 20 A. The enemy was the Hema.
- 21 Q. Is that an ethnic group, sir?
- 22 A. Yes.
- 23 Q. Were they organised in any particular way?
- 24 A. Yes, they were a group.
- 25 Q. What was the group called?

1 A. This group was called "The group of Bosco."

2 Q. Did the group reach your village?

3 A. Yes. They arrived in our village in Kobu. Afterwards, they followed us to the
4 bush where we had fled to.

5 Q. How do you know that they came from Kilo?

6 A. I found out because of the way in which they arrived, so it was clear for us in order
7 to be able to see that.

8 Q. Please describe the arrival of this group in Kobu.

9 A. This group came from Kilo. They stopped in Kobu. Afterwards, some days
10 afterwards, they followed us. We were in the bush, and they arrested people there.

11 Q. Did you hear them arrive at Kobu, or did you see them arrive?

12 A. When they arrived in Kobu, some of us saw them and they even recognized some
13 of them.

14 Q. Who recognized some of them?

15 A. It was young people recognized them. These young people had already known
16 Bosco before that, and that's how they said, "That's Bosco's group."

17 Q. Did you hear them arrive?

18 A. Yes, we heard them arrive.

19 Q. What did you hear?

20 A. I didn't understand what you said.

21 Q. Did you hear any noise when they arrived?

22 A. Yes, we heard them. We heard the explosions, firing. That was to warn us that
23 they were coming.

24 Q. You said you fled into the bush. Who else was with you in the bush?

25 A. I was with my family and other persons as well. When there was a conflict, we

1 used to flee into the forest.

2 Q. How about others who lived in your village, did they flee as well, or did they stay
3 in Kobu?

4 A. Yes, all those from my village fled. They fled into the bush.

5 Q. What were the attackers firing?

6 A. When they arrived from Kilo, they had heavy weapons. I don't know the names
7 of these weapons, but they were weapons which produced significant explosions.

8 Q. You said these people followed you into the bush. Please explain that. How did
9 they follow you? For what purpose?

10 A. They followed us into the bush. They wanted to eliminate us. All those who
11 would be stopped would be killed.

12 Q. Did you learn why they wanted to eliminate you?

13 A. I didn't know the reason.

14 Q. Do you know if this group, Bosco's group, had another name?

15 A. This group was called "The group of Bosco." He knew the troops. He knew who
16 he was going with there.

17 Q. Sir, when you fled into the bush, what was going through your mind? How did
18 you feel in that moment?

19 A. When we fled into the bush, we were thinking, well, these clashes are intense,
20 that's the reason why we have to protect our families, so people must flee and stay in the
21 bush. That's what I was thinking of at the time.

22 Q. Did you do anything to defend your village?

23 A. To defend our locality during this attack against us. First of all, we thought that
24 they were going to dialogue with us, but it wasn't that what they did.

25 Q. Why did you think they were going to dialogue with you?

1 A. Well, we thought that's it because when they followed us into the bush, they went
2 to the hill and we thought that they were there to dialogue with us, Sangi hill.

3 Q. I want to stay for a moment, sir, in Kobu or the bush near Kobu where you fled.
4 How long did you stay in that bush?

5 A. We fled and went to Kobu. That was where we stayed.

6 THE INTERPRETER: We fled from Limani adds the interpreter.

7 MS SOLANO:

8 Q. Sir, when did you flee from Limani? Was this before or after the attack on Kobu?

9 A. Before the attack on Kobu. It was a long time before the attack and we were,
10 therefore, in Limani and from Limani we went to Kobu.

11 Q. I want to concentrate on what happened to Bosco's group after the attack on Kobu
12 and you fled into the bush. How long did you stay in the bush after you fled Kobu?

13 A. When we fled into the bush, we stayed there. We didn't know what day they
14 were going to come and we thought: What are we going to do to continue to stay here?
15 It was a difficult time for us.

16 Q. What made it difficult? What were the conditions while you were in the bush?

17 A. The situation was very difficult in the bush. We were asking ourselves: If the
18 enemy arrive, will we be saved? How are we going to continue to live? We didn't
19 think about anything else other than that.

20 Q. Did you have shelter and food while you were in the bush?

21 A. Yes. When we arrived in the bush, we built places to shelter us so that the rain
22 wouldn't affect the members of our family and we went into the bush in order to find
23 something to eat.

24 Q. You said that Bosco's group followed you into the bush and arrested people and
25 killed others. Did you see this yourself?

1 A. Yes, I saw that.

2 Q. Can you describe what you saw while you were in the bush?

3 A. Yes, I've understood you. When they started to call, "Come, come, we're going to
4 dialogue," it was at that time that I left the bush. And I spoke to young people about
5 coming out and they said, "If the enemy arrives, you remember, in Limani they arrived
6 and they called the young people to come out and the population of Limani did and they
7 were eliminated, the whole population at that time. So now if we surrender, go and see
8 if they're going to tell us something which is good, go ahead."

9 Afterwards, when we arrived near where they were, I and other young people were
10 arrested. There was no possibility to go back.

11 Q. Sir, where exactly were you when you were arrested?

12 A. Okay. When we arrived in Sangi on the hill, they arrested us, and they beat us as
13 well. They stopped everybody who was with me, including me, and they started to
14 beat us and the situation got worse so we fled. And they said even if they fire at us,
15 even if they shoot at us, we have to escape. One of us was hit. But I was able to flee
16 into another bush.

17 Q. Sir, I'm going to ask you several questions about what happened in Sangi, but
18 before we get to Sangi I would like you to tell the Judges a little more about what
19 happened in between you being in the bush in Kobu and you going to Sangi. So can
20 you tell me, sir, when you and other members of your village were in the bush near
21 Kobu, were you armed?

22 A. No, no, we didn't have any rifles.

23 Q. Do you know how long you stayed in the bush near Kobu?

24 A. The time we spent in the bush, the time that we were living in the bush, I would
25 say, that was several days.

1 Q. Were you with your wife and children in the bush?

2 A. There were a lot of people in the bush. Everybody tried to save their family.

3 Q. Was your wife and were your children in the bush with you?

4 A. When the enemy entered, I was in another place. I didn't know where the
5 members of my family were. I didn't know where they had fled.

6 Q. Before going to Sangi, were you able to go back to your house in Kobu?

7 A. Before arriving in Sangi, we were in the bush, Agora bush, and there I said to the
8 members of my family, "Leave the village. Go into the bush."

9 Q. And where did you go from the bush near Kobu? Did you directly to Sangi or
10 did you go somewhere else first?

11 A. When I left Sangi, when I fled, I went back to the village where we lived. I didn't
12 find anyone there. The house had been burnt down. The parents of my wife told me
13 to go to Kobu because one of them died and they'd asked me to go there to see who had
14 been killed there.

15 Q. Sir, are you familiar with the villages of -- with the village of Buli?

16 A. Yes, I know Buli well.

17 Q. Were you ever in Buli during the interethnic conflict?

18 A. Yes, I was in Buli. Buli is a locality near to Abula (phon) -- Agora.

19 Q. Did you go to Buli while you were fleeing?

20 A. I fled taking the road towards Agola. And 400 metres away there was the place
21 where we looked for the members of Bule's (phon) family and we found them in the
22 Agola village in the valley where there's a stream.

23 Q. Sir, where were you looking -- I'm sorry, whose family were you looking for?

24 Whose family did you find in the Agora valley where there's a stream?

25 A. In the valley of Agola, there wasn't a family, it was a place where we were living

1 together, all of us.

2 Q. Do you mean you and the people from Kobu who had fled?

3 A. Yes, we were there with people who had fled from Kobu because of the war. At
4 that time people got together and would greet each other and find out from each other
5 how things were in the village.

6 Q. And what did you find out from the people in Buli?

7 A. Even before the war, we had good relations with people from Buli. Now, when
8 the enemy entered Buli through Kujitchu (phon), we all fled in different directions.

9 Q. Was that the same enemy you had fled in Kobu or was it a different enemy?

10 A. Yes it was the same enemy, the same enemy we had fled from in Kobu. That
11 enemy continued to pursue us right into the bush. The same enemy, yes.

12 Q. Was the enemy armed?

13 A. Yes, the enemy was armed.

14 Q. Did you see them or hear them use their weapons?

15 A. Yes, I heard them. They had weapons. They had arms. And I saw them when
16 they captured us in Sangi. I saw them with my own eyes.

17 Q. How did you know that the enemy had entered Buli through Jitchu?

18 A. The enemy entered Buli through Jitchu because they thought that there were many
19 people elsewhere and that people may have fled from Kobu. That is why when they
20 got to Jitchu they stopped.

21 Q. Sir, who thought there were many people elsewhere? Did Bosco's group come to
22 Jitchu -- or come to Buli because there were no people in Jitchu? Can you please
23 clarify?

24 A. When they stopped at Jitchu, that was after Sangi. They started firing and
25 everyone escaped from the village towards the bushes or towards the bush because they

1 were afraid of being caught up in the village.

2 Q. Sir, I want to stay for a little longer in the period before Sangi. You said that
3 when the enemy entered Buli, you and others fled in different directions. What
4 directions did you all flee in?

5 A. When they arrived in Sangi, young people were captured. I fled to one of the
6 valleys in Sangi. I fled towards Sangi and the young people were captured and taken
7 away by the enemy.

8 Q. Who were these young people? What do you mean by "young people"?

9 A. There were many, many people. It was difficult to identify anyone or to
10 recognize anyone.

11 Q. Were they members of your community or of your ethnic group?

12 A. Those who arrived in Sangi with us belong to our ethnic group.

13 Q. Sir, earlier today, you said that when you were in the bush after Bosco's group
14 attacked Kobu, you thought that they wanted dialogue. Do you remember saying that?

15 A. When they were pursuing us, they stopped in Sangi and that is when they started
16 to tell us not to be afraid because they had come to negotiate with us or to have a
17 dialogue with us.

18 Q. Did you hear this yourself?

19 A. Yes, I heard that myself. You see, when we got to Ngabulo, which is about
20 200 metres from Sangi, he came from elsewhere and told us to come, "Come, I have come
21 to dialogue with you." It is at that time that we were able to hear what was being said
22 very clearly.

23 Q. And who was "he"?

24 A. The one who said so was Bosco.

25 Q. Do you know if this Bosco had any other names?

1 A. I did not know him, but some of us knew him, some of those who were with us
2 knew him.

3 Q. Was he with anyone else?

4 A. Yes, he was with his men.

5 Q. Were they armed?

6 A. They were all armed.

7 Q. Sir, how did you know that this man was called Bosco?

8 A. Some people were saying that the man was Bosco because they had known him
9 previously. They said that Bosco was there with his men. They also said that this
10 group was Bosco's group.

11 Q. And where -- where exactly were you when you heard this man invite you to
12 dialogue?

13 A. At that time, we were in Ngabulo village, which is down the slopes; whereas, Sangi
14 village is higher on the slopes.

15 Q. And, sir, when were you supposed to go dialogue with this -- these men --

16 A. It was at the time when they had stopped at the entrance to Sangi village. It was
17 difficult to recognize the faces because they were at the summit of the village from where
18 they started calling on us to come and have a dialogue or discussion with him.

19 Q. Did you want to accept this invitation to dialogue?

20 A. We agreed to go and hear him out or listen to what he was going to say and we
21 told our families to go into hiding in the bush and we promised them -- to tell them upon
22 our return what he would have said. So we agreed to go and listen to what he had to
23 say and then to inform our family members thereafter. But that is not what happened.
24 He captured us, took us to Kobu and started to maltreat us and beat us, and that was
25 quite different from what he had told us.

1 Q. Thank you, sir. Let's -- let me ask you a few questions so that you can explain to
2 the Judges what happened step by step. Is that okay?

3 A. Well, I came here to testify about every question that you put to me. Now, if that
4 is what you think, that is fine by me. It's up to you. I am here. I am available to
5 answer all your questions.

6 Q. Thank you, sir. When you left the bush, where did you go for this dialogue?

7 A. We heard those things being said at Ngabulo at the summit or the top of Sangi
8 village.

9 Q. And who from among your group, who went to meet Bosco's group?

10 A. It is difficult to remember the names. What happened is that we had come with a
11 number of young people, but I do remember one person in particular whose name is
12 Libaji Panu (phon).

13 Q. Can you please spell that, sir.

14 PRESIDING JUDGE FREMR: Mr Witness, if you want, we can provide you with piece
15 of paper and pencil to facilitate the spelling.

16 MS SOLANO: Sir, I note that the usher has placed the piece of paper on the ELMO, the
17 piece of paper on which the witness has spelt the name.

18 Q. Thank you, sir. And who was this person? Who was Dhikpanu?

19 A. He was a young man from our village.

20 Q. Do you remember the names of any others who attended the dialogue with Bosco's
21 men?

22 A. No. I do not know any other names.

23 Q. What was Dhikpanu's occupation at the time?

24 A. I do not know what he was doing at that time. We only met during the war.
25 That is how I became aware of his name.

1 MS SOLANO: I'm waiting for the transcript, your Honour. Now it's there.

2 Q. Had you met Dhikpanu before you arrived in Sangi?

3 A. No. He is already dead.

4 Q. Did you know him before you arrived in Sangi or did you meet him in Sangi for
5 the first time?

6 A. No, I had never met him before. I only got to meet him in Sangi.

7 Q. Sir, and what did Dhikpanu do? Where did he go?

8 A. They were captured, he was the first to be captured. When we realised that
9 things had become critical, I fled.

10 Q. Did you see him get captured?

11 A. Yes, I saw it with my own eyes and that is why I fled.

12 Q. Can you explain to the Judges exactly what happened. What did you see? How
13 was he captured?

14 A. He was tied up, his arms were tied up to his back or behind his back. He was
15 struck with sticks -- or I was struck with sticks and I was wounded and I, however, made
16 some effort and was able to run off, run away. But those who remained at that place
17 were not able to flee, not at all.

18 MS SOLANO: Your Honour, I'm mindful of the time and if it suits the Chamber,
19 I think this would be a convenient point at which to break.

20 PRESIDING JUDGE FREMR: Very well.

21 So, Mr Witness, thank you very much. You just followed our guidance. You
22 responded clearly. You waited, you observed pauses. So you are doing very well.
23 Thank you very much.

24 Now we will break so you can and all of us, we can take our lunch and we will then
25 continue at half past 2.

1 So now witness, court officer, may be escorted out of the courtroom.

2 (The witness stands down)

3 PRESIDING JUDGE FREMR: So we reconvene, we will reconvene at half past 2.

4 THE COURT OFFICER: All rise.

5 (Recess taken at 1.00 p.m.)

6 (Upon resuming in open session at 2.36 p.m.)

7 THE COURT USHER: All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: Good afternoon, everybody.

10 Before we proceed with the testimony, one brief announcement: The Chamber, just
11 few minutes ago, has received some further information concerning (Redacted), if
12 I'm not wrong, and we will, after this session, we will deliberate how to proceed and
13 whether to proceed, and also we will deliberate about the request made by the
14 Defence on disclosure of our ex parte meeting, and we will rule on that tomorrow,
15 tomorrow morning.

16 Now we will proceed with the testimony.

17 Mr Witness, are you feeling well? Is everything okay?

18 THE WITNESS: (Interpretation) Yes, I feel good.

19 PRESIDING JUDGE FREMR: Very well.

20 So we will proceed. And Ms Solano, you have the floor.

21 MS SOLANO: Thank you, your Honour.

22 Q. Sir, before we broke for lunch, you had just told us how you witnessed

23 Dhikpanu being captured by Bosco's men, and his arms being tied behind his back. I
24 would like you to tell us before Dhikpanu was captured was he armed?

25 A. When we were arrested, along with that gentleman, there were other people

1 present. When Dhikpanu was arrested, the arrest was not conducted under good
2 conditions. That is why I -- I fled. Now, Dhikpanu had already been arrested at
3 that time, and his arms had already been tied up.

4 Q. Before Dhikpanu's arms had been tied, had he been carrying a weapon?

5 A. No, he was not bearing any weapon. He was empty handed. He had nothing
6 on him, on himself.

7 Q. How many other people were arrested at the same time as Dhikpanu?

8 A. They arrested all the young people with whom we were. They were all
9 arrested, and all those young people were not able to flee.

10 Q. How about you, sir, how did you manage to flee?

11 A. What helped me and made it possible for me to flee is that at some point I
12 noticed that those people were very angry against us. They had started beating us
13 up. I had already been struck several times, and so I did everything possible to flee.

14 Q. How many people were in your group? How many of you were arrested at
15 that time?

16 A. Not -- not too many of us. The majority of the group or most people who were
17 with the group were arrested in Jitchu.

18 Q. How many of Bosco's men were there arresting you?

19 A. Bosco's people, there were very many of them, several of them. When they
20 arrived, they came in great numbers, and it was impossible to escape, but we had
21 escaped before. So when they arrived, not everybody was at the location.

22 Q. Where did you go to once you escaped?

23 A. When I fled, I went to the bush near Sangi.

24 Q. Sir, you said that Bosco's men hit you with sticks. Where on your body did
25 they hit you?

1 A. When they beat us and hit us with those sticks, I was struck on the back and on
2 my head. In fact, I was wounded on my head, and to this day I still feel pain in my
3 head.

4 Q. In what part of your head were you wounded?

5 A. I was wounded on the left side of my head.

6 Q. How about the other people who were beaten at the same time as you, do you
7 know where, on what parts of their bodies they were beaten?

8 A. They beat us up on all parts of the body.

9 Q. Did Bosco's men use their weapons while they were beating you?

10 A. While they were beating us up with the sticks, that's all they did. They fetched
11 a few sticks from around and beat us with those sticks, but some of the soldiers also
12 used their guns. They also used the butt of their guns to beat us up.

13 Q. The people in your group who were being beaten by Bosco's men, did you see
14 what happened to them after you escaped?

15 A. Well, what happened after I fled I really don't know. I can't really say. I don't
16 know what happened after I left. However, what I can tell you is in relation to what
17 I saw, what I witnessed when I was at that place.

18 Q. And how is it, sir, that you managed to escape? What did you do in order to
19 escape?

20 A. I was lucky. I was lucky to escape. When I found or I saw an
21 opportunity -- because I felt that we were going to be massacred ultimately; so when
22 the opportunity arose, I escaped and I left. It must have been the will of God. So
23 God helped me to flee at that time.

24 Q. Sir, I need you to explain to the Judges exactly what was this opportunity that
25 allowed you to escape.

1 A. When I fled, the other persons who were in my group were arrested and tied up,
2 and they were taken and dumped in a house somewhere. Then, at that time, Bosco's
3 group left Ngabulo, Buli and went to Jitchu, but all these things happened after I had
4 left.

5 Q. Sir, it is very important that you focus on the question that I am asking you and
6 that you try your best to answer it. How did you manage to get away from the
7 beating?

8 A. Well, the opportunity to flee arose because I had not yet been tied up, so I was
9 free to move. And that is how I managed to leave.

10 Q. You've said that after you escaped you went to the bush. How long were you
11 in the bush for?

12 A. When I fled I spent the night in the bush, an entire night in the bush, and I
13 didn't have the opportunity to return to the village. It was night-time, so I felt that I
14 should spend the night there. I couldn't return to the village because it was already
15 night-time.

16 Q. Was anyone else in the bush with you that night?

17 A. No, I spent the night in the bush alone.

18 Q. And where did you go the next day?

19 A. Very well. The next day, in the morning, I left the spot at which I had spent the
20 night and went further into the bush because his group was tracking down people.
21 I was in Sangi when those soldiers were looking for people in the Jitchu, Sangi and
22 Agora bushes.

23 Q. How were they tracking down people?

24 A. Very well. Well, they started looking for people in the bushes. And they
25 were firing into the bushes as they tried to locate all those who may have been hiding

1 in the bush. It was a small valley with a stream. So they went to that valley to try
2 and find those who may have been hiding there, but by God's grace some people
3 were able to flee while others were arrested. And they took back with them the
4 people or persons whom they had arrested.

5 Q. How do you know that they arrested people? Did you see this yourself, or did
6 someone tell you?

7 A. Okay. The reason why I can tell you that people were arrested is that all those
8 people who had been hiding in that small valley tried to come out and find out what
9 was happening in the village. So one lady told me that somebody had fled to Agora
10 and that all those people there had been arrested.

11 Q. Who was this lady?

12 A. She was a lady whose name I do not know. She is the one who told me that
13 those people who had gone into hiding in Agora, in the Agora valley, where there
14 was a stream, in the valley where there was a stream, that all those people had been
15 captured or arrested. And this happened in the evening, around 6 p.m., 6 p.m. in the
16 evening.

17 Q. Is that the time when the people were arrested, or is that the time when you
18 spoke to this lady?

19 A. Okay. That is the time at which I talked to that lady.

20 Q. And what did you do after talking to that lady?

21 A. After talking to that lady, well, first of all, let me say that I met that woman as I
22 was entering the village. My house was a little further up on the hill and so this lady
23 gave me that information as I came into the village. She told me that she had found
24 the dead body of an old man outside and that the old man had been killed by a
25 gunshot. So I went to find out what had happened, but many people were afraid.

1 And when I got there I realized that it was my father who had been shot dead.

2 Q. Sir, where on his body had your father been shot?

3 A. He was shot in the back.

4 Q. Sir, and in which village was it that you found your father's body?

5 A. I found his body in the village of Agola.

6 Q. What did you do after finding your father?

7 A. Well, after I saw the body of my father, I saw some young people running away
8 into the bush and I called out to them and I said they couldn't -- they shouldn't
9 abandon his body, so we buried it that very night so that his body would not stay
10 outdoors.

11 Q. Where did you bury him?

12 A. We buried it in Agola.

13 Q. In what part of the village did you bury him?

14 A. It was in the same village, a little bit further down, further downhill. That's
15 where we buried his body.

16 Q. Sir, and where did you go after burying your father?

17 A. Well, okay, after he was buried we went back to the bush where we spent the
18 night. I didn't know those young people that I was with. So we lit a fire and we
19 spent the night. The next day they left. And I don't know where they went, in
20 which direction they went.

21 Q. Sir, if I understand you properly, you found your father in Agola. Why did
22 you go back into the bush for the night instead of staying in Agola?

23 A. We decided to go back into the bush to spend the night because the houses had
24 been burned down and we thought that if we spent the night in the village, the
25 attackers would come back to attack us and, therefore, we decided to go and spend

1 the night in the bush.

2 Q. Do you know how the houses had been burnt down?

3 A. Yes. Well, I don't know the precise circumstances under which the houses
4 were burned down, but we could see that all of the houses in the village had been
5 burned down.

6 Q. Sir, and you've just said that you were scared that the attackers would come
7 back. Which attackers are you talking about?

8 A. Okay. I thought that that was a possibility, that's why I decided to go and
9 spend the night in the bush, but in fact the attackers did not come back.

10 Q. Sir, if you can please focus on my question. My question is: Who were the
11 attackers that you feared would come back?

12 A. The attackers that we were afraid of were Bosco's men. We thought that they
13 might come back to attack us; but, in fact, that night they left for Kobu. That's why
14 they didn't come back to our place to attack us. They didn't come back a second
15 time.

16 Q. Sir, I want to go back a little bit to when you were still in the valley hiding
17 before you found your father. You said that somebody was firing into the bushes
18 trying to find those in hiding and that some people were arrested. My question is
19 who was firing into the bushes, and who was arresting people while you were in the
20 bush before you found your father's body?

21 A. Okay. The -- the ones who captured people left and went to Kobu with the
22 people that they had captured. The ones who went off to the bush, those were the
23 people who escaped from Bosco's men. For example, if someone is chasing after you
24 and they catch up to you, they capture you, and they take you with them.

25 Q. Sir, and after you buried your father's body and you saw that all the houses had

1 burned down in Agola, where -- and you spent the night in the bush, where did you
2 go next?

3 A. Afterwards, we went back to the bush to spend the night. The next day, we
4 came out of the bush to find out what the situation was in our village that -- because it
5 had been burned down, and we found out that the people who had been captured in
6 the bush and the ones who had been tied up had all been killed.

7 Q. And how do you know that they had been killed?

8 A. I was given that information by my sister-in-law, that is, the younger sister of
9 my wife. She was amongst the people who were captured. She was captured with
10 all of her brothers and sisters, and they were taken to Kobu. She was able to come
11 back, however, and she told us that the house where they had been locked up in, or
12 enclosed in, in fact, was not locked. The others, however, all the others who had
13 been taken to Kobu had been killed. And that's why I decided to go to Kobu, to find
14 out who had been killed.

15 Q. Sir, what was your sister-in-law's -- actually, your Honour, can I ask this
16 question in private session, please?

17 PRESIDING JUDGE FREMR: All right.

18 Court officer, please, let's move into private session.

19 (Private session at 3.11 p.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Open session at 3.15 p.m.)
17 THE COURT OFFICER: We are back in open session, Mr President.
18 PRESIDING JUDGE FREMR: Thank you.
19 Ms Solano, you may proceed.
20 MS SOLANO: Thank you, your Honour.
21 Q. Sir, and you've told us that you decided to go to Kobu to find out who had been
22 killed. Did you reach Kobu?
23 A. Yes, I got to Kobu, and I saw what the situation was. I saw the state of the
24 bodies. Amongst the bodies, I saw my wife's body, and I thought that my children
25 were also amongst the dead bodies, and so I began looking, and all of my children

1 were amongst the people who had been killed.

2 Q. Sir, where -- in what part of Kobu did you find your wife's and your children's
3 bodies?

4 A. Their bodies were very close to a church and next to the church there was a bar,
5 and it's right in the beginning of the village, a place called Wasa.

6 Q. What was the name of the bar?

7 A. Okay. The bar was called Paradiso. Next to that bar we found those bodies
8 just behind that bar. Next to the bar there was a house with several floors, a wooden
9 house, and it was next to that house that we found those bodies.

10 Q. Were the bodies outside, sir?

11 A. Yes. All of those bodies were out in the open.

12 Q. In addition to your wife and your children's bodies, how many other bodies did
13 you see?

14 A. Well, it was difficult to count the number of bodies. There were many of them,
15 and it was no time to be counting. Anyone who came to that spot could only think
16 of searching for their own family member's bodies and taking it away.

17 Q. Sir, what state were your wife and your children's bodies in?

18 A. My wife had been decapitated and disembowelled. It was the same thing for
19 one of my daughters. As regards my son, he was also decapitated. And for the
20 younger daughter, she was -- had been knifed with a bayonet. In fact, her head was
21 pierced with a bayonet. She was stabbed. And it crushed her head.

22 Q. Sir, I'm very sorry to have to ask you this, but what do you mean by
23 "decapitated?" You say that your wife was decapitated.

24 A. Yes. Her throat was slit and she was disembowelled.

25 Q. Sir, did you notice what state the bodies, other than your wife and children,

1 were in?

2 A. Yes. All the other bodies were in the same condition; they had been
3 decapitated, disembowelled.

4 Q. Sir, were -- did any of the bodies have their hands tied?

5 A. The bodies that we found on site did not have their hands tied. I saw that my
6 wife had been decapitated and disembowelled as well as other bodies had undergone
7 the same thing.

8 Q. Did you see any -- did you see any weapons lying around?

9 A. The people who killed them did not leave their weapons on site next to the
10 bodies. They left with their weapons as well as all their other belongings.

11 Q. Sir, I'm sorry to ask you this question, but you said that your younger daughter
12 had been pierced with a bayonet. What part of the body had she been pierced in?

13 A. Yes. It's true, my younger daughter had been stabbed with a bayonet in her
14 head. The others had been disembowelled.

15 Q. Sir, were your wife and children's bodies clothed when you found them?

16 A. The bodies of my children were naked.

17 Q. How about your wife's body, sir?

18 A. No, she did not have any clothes.

19 Q. Sir, what did you do with your family's bodies?

20 A. After I discovered their bodies, I did what I could to move the bodies, to
21 transport them to the village of Agola.

22 Q. And what happened to the bodies once you reached Agola?

23 A. Once I got to Agola we buried them.

24 Q. Where did you bury them, sir?

25 A. I buried them near our house that had been burned down.

1 Q. Sir, at this point I would like to show you a photograph. It might be difficult to
2 look at, but it is very important that you try. Do you agree to look at it, sir?

3 A. The day on which I was shown that picture I was highly traumatized and I
4 really do not want to see that photograph again.

5 MS SOLANO: Your Honour, may I take a moment, please?

6 PRESIDING JUDGE FREMR: Yes, take your time.

7 (Pause in proceedings)

8 MS SOLANO:

9 Q. Sir, do you remember when you were shown this photograph?

10 A. I was shown that picture in Bunia on some date or day that I don't remember.

11 PRESIDING JUDGE FREMR: Ms Solano, I see one problem because now it's not
12 clear whether you are talking about the same photograph. So maybe try to be -- just
13 to clarify or be more specific, at least give us some indirect idea that you are talking
14 about the same concrete photograph.

15 MS SOLANO: Yes, your Honour.

16 Q. Sir, do you remember what the photograph showed?

17 A. I was shown that photograph, but before they did so they asked me if I wanted
18 to see the photograph and I said yes. So I was shown a photograph and that's when
19 I became worried and then told them that I did not want to see that photograph any
20 longer and I asked them to take it away from me.

21 Q. Sir, what did you see on the photograph?

22 A. I looked at the photograph on which I saw my wife decapitated and
23 disembowelled and I told them that it was indeed the photograph of my wife, and
24 then I became quite uncomfortable, and then I told them to stop showing me the
25 picture.

1 Q. Very well, sir. Do you remember who showed you this photograph?

2 A. The person who showed me the photograph was the lady who had summoned
3 me or who had invited me to meet with her. She's the one who showed me the
4 photograph.

5 Q. Was she a lady from your country, or was she -- or, was the lady white?

6 A. She was a white lady.

7 Q. Do you remember whom she worked for?

8 A. This lady asked us to see her in Bunia. She told me, "Sir, please, come and
9 meet us if you lost any members of your family during the conflict." And that is
10 how it came about that we went to meet her in Bunia. She put a number of
11 questions to me
12 regarding my testimony, and then later on she showed me the photographs, and she
13 said that she had come from over here.

14 Q. Sir, I'm sorry to ask you this. I do so simply because it is important for the
15 Judges. It would be important for the Judges if you are able to look at the
16 photograph once more. So I ask you, sir, whether you would be willing to look at it
17 just very briefly?

18 PRESIDING JUDGE FREMR: Mr Witness, maybe I will have to intervene. It would
19 be really, really necessary only for absolutely a short while. And the only question
20 I would like to permit is whether you can recognize your wife, and that's it. So just
21 one second. If you are sure that on the picture is your wife, you can just remove the
22 picture, and there will be no further questions permitted on this issue.

23 THE WITNESS: (Interpretation) Okay. You can show me the photograph.

24 MS SOLANO: Thank you, sir.

25 Can the usher please approach.

1 Your Honour, I have copies of a photograph, one for the witness, for the Bench, for
2 the Defence, but I see my friend is on his feet.

3 PRESIDING JUDGE FREMR: Mr Boutin.

4 MR BOUTIN: Yes, Mr President.

5 PRESIDING JUDGE FREMR: Sorry. Do you think it is proper to make this, I guess
6 it will be an objection, in the presence of the witness?

7 MR BOUTIN: Yes. I don't think there is any significant issue.

8 PRESIDING JUDGE FREMR: Then proceed.

9 MR BOUTIN: We are aware of the circumstances in which a photograph was shown
10 to the witness in the past, and we are prepared to let the Prosecution enter that
11 picture into evidence without showing it to the witness because we know what the
12 picture is about, and we know that he confirmed that that person appearing on the
13 picture is his wife. So on that basis, I think that would save the witness some
14 turmoil. Thank you.

15 PRESIDING JUDGE FREMR: Thank you very much, Mr Boutin. It is really a nice
16 gesture.

17 Ms Solano, do you still insist on showing the picture to the witness?

18 MS SOLANO: Your Honour, I'm grateful to the Defence. I just seek confirmation
19 from the Defence that they will not contest that the person visible in the photograph is
20 this witness's wife.

21 PRESIDING JUDGE FREMR: Mr Boutin?

22 MR BOUTIN: We are prepared to admit that if the picture were shown to the
23 witness, he would identify that person as his wife. With regards to how the
24 identification came about, obviously in cross I will have some questions to him.

25 PRESIDING JUDGE FREMR: Thank you.

1 Is this assurance sufficient to you, Ms Solano?

2 MS SOLANO: Yes, your Honour. I'm grateful.

3 PRESIDING JUDGE FREMR: And could you kindly, for the record, quote the
4 number of this exhibit?

5 MS SOLANO: DRC-OTP-0152-0240.

6 PRESIDING JUDGE FREMR: So --

7 MS SOLANO: Your Honours, and this photograph is a copy of the photograph that
8 was shown to the witness, which is DRC-OTP- --

9 PRESIDING JUDGE FREMR: Could you kindly provide at the moment at least the
10 Chamber with a hard copy of this document.

11 MS SOLANO: Yes, your Honour. If the usher can please -- if the Usher can please
12 collect the photo for the Bench and for the Defence and the legal representatives.

13 Could you please take care not to show the photograph to the witness. Thank you.

14 It is DRC-OTP-0077-0292. This latter number, your Honours, is the number of the
15 photograph that was shown to the witness during his interview in 2005. The copy
16 that your Honours are receiving now, which is the one I seek to have admitted, is the
17 first number that I read out, DRC-OTP-0152-0240.

18 PRESIDING JUDGE FREMR: So I hope I watch it carefully, and I note for the record
19 there is no annotation on this picture; am I right?

20 MS SOLANO: That's right, your Honour, because in the copies that are being
21 circulated we have covered the annotation.

22 PRESIDING JUDGE FREMR: Very well. So just to assure myself, Mr Boutin, you
23 now can see the picture again. So there is no objection to admit this into evidence?

24 MR BOUTIN: No, your Honour, on the basis that the annotation has been removed
25 and based on what I just told you what we are aware of, we are prepared to let the

1 document be tendered.

2 PRESIDING JUDGE FREMR: Thank you very much.

3 So the document mentioned, the picture itself, and I am repeating that no annotation
4 at all is admitted into evidence as a Prosecution exhibit.

5 Ms Solano, you may proceed.

6 MS SOLANO: Thank you, your Honour.

7 I would like to show the witness document --

8 Q. Sir, I'm going to show you a document. I think perhaps you have followed the
9 discussion between the lawyers and the Presiding Judge, and we will not be showing
10 you the photograph. Do you understand, sir?

11 A. Yes.

12 Q. I would, however, sir, like to show you one document which is, your Honours,
13 the document that appears as number 13 on the list of documents for use with this
14 witness, it is the carte d'électeur?

15 PRESIDING JUDGE FREMR: Mr Boutin, any objection against using of this
16 document with the witness?

17 MR BOUTIN: Yes, your Honour. On the same basis that I expressed before, this is
18 a document that was disclosed to the Defence at the last minute. We have not been
19 in a position to certify or to check it out and make sure that it is a genuine document.
20 So on this basis, I will object.

21 PRESIDING JUDGE FREMR: Give us a second. We will briefly deliberate.

22 (Trial Chamber confers)

23 PRESIDING JUDGE FREMR: So after silent deliberation, our ruling is that the
24 objection is overruled. And according to our knowledge, the Defence has been on
25 notice for 6 days only, it is true, that the Prosecution seeks to use this document and

1 had knowledge of it approximately 4 weeks ago when it was disclosed to them. So
2 while the Chamber considers that the Prosecution must make every effort to effect
3 timely disclosure, it does not consider that the use or admission of this concrete
4 document, having into account that it's just card, it is not an extensive document, so
5 the use or admission of this document into evidence would cause undue prejudice to
6 the accused.

7 So, Ms Solano, you may proceed.

8 MS SOLANO: Thank you, your Honour.

9 If the court officer could please display on the screen but not broadcast publicly this
10 document, which is a confidential exhibit, the ERN is DRC-OTP-2088-0446.

11 THE COURT OFFICER: Ms Solano, which redacted version would you like to have
12 published?

13 MS SOLANO: The most recent one, please. I'm not sure which -- how many
14 redacted versions you have. The second one then, please.

15 THE COURT OFFICER: There are two redacted versions, one ending with R01 and
16 the other one with R02.

17 MS SOLANO: R02, please. Thank you.

18 Q. Sir, can you see the document on the screen?

19 A. Yes, I can see it.

20 Q. Do you recognize it?

21 A. Yes. It is my voter's card.

22 Q. Had you seen this particular card before?

23 A. Yes. It is, indeed, my voter's card.

24 Q. Sir, is the date of birth indicated on the card correct?

25 A. Yes, the date on the card is correct.

1 Q. Can you see near the bottom of the card, towards the right, where it says -- there
2 is a number "12/04/2011"? Sir, do you see that date?

3 A. Yes, I can see it.

4 Q. And, sir, I'm not sure you can read this, but just above that date it says "date
5 de deliverance," date of issue.

6 Do you recall whether 12 April 2011 was the date on which this card was issued to
7 you?

8 A. On 12 April 2011, in fact, that -- that is a date I am not familiar with, but if that is
9 the date on which the authorities issued the card, I must say truthfully that I do not
10 remember the date.

11 Q. Very well, sir. Now I'd would like to show you three photographs of a man.
12 If the court officer can please display DRC-OTP-0096-0093.

13 MR BOUTIN: Excuse me.

14 PRESIDING JUDGE FREMR: Yes, Mr Boutin.

15 MR BOUTIN: Could Madam Prosecutor provide us with the number on the list,
16 please.

17 MS SOLANO: Yes.

18 PRESIDING JUDGE FREMR: It is 16, if I'm not wrong.

19 MS SOLANO: Thank you, Mr President.

20 The photograph is not yet visible on my screen. Can you show the photograph
21 without redactions, please.

22 Q. Sir, do you recognize what this photograph shows?

23 A. Yes, I recognize that person.

24 Q. And who is that person?

25 A. I can recognize this person. I have just recognized this person.

1 Q. Who is that?

2 A. I have just told you that I have already seen this person.

3 PRESIDING JUDGE FREMR: Excuse me, Mr Witness. The question is whether you
4 know the name of this person. If yes, please tell us.

5 THE WITNESS: (Interpretation) That person's name is (Redacted).

6 PRESIDING JUDGE FREMR: Thank you.

7 MS SOLANO: Sir, can the court officer please now show document number 15 on
8 the Prosecution's list. It is DRC-OTP-0096-0095 without redactions.

9 Q. Sir, is this the same person on this photograph?

10 A. Yes, it is the same person.

11 MS SOLANO: And can the court officer please show the item number 14 on the
12 Prosecution's list', DRC-OTP-0096-0091, without redactions.

13 Q. Sir, do you recognize this photograph and what it shows?

14 A. Yes, I recognize the photograph, and I remember what is depicted on it.

15 MS SOLANO: Your Honour, for my final question in relation to -- or my final two
16 questions in relation to these photographs might we move into private session, please.

17 PRESIDING JUDGE FREMR: All right.

18 Let's move into private session now.

19 (Private session at 3.58 p.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1

2

3

4

5

6

7

8

9

10

11

12

13 Page 57 redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (The hearing ends in private session at 4.03 p.m.)