

Trial Hearing
WITNESS: DRC-OTP-P-0790

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI - Courtroom 1
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
6 Judge Chang-ho Chung
7 Trial Hearing
8 Monday, 18 January 2016
9 (The hearing starts in open session at 10.38 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Thank you, Mr President.
16 Situation in the Democratic Republic of the Congo, in the case of The Prosecutor versus
17 Bosco Ntaganda, case reference ICC-01/04-02/06.
18 We are in open session.
19 PRESIDING JUDGE FREMR: Thank you very much.
20 Appearances now, please, starting from Prosecution.
21 MS SAMSON: Good morning, Mr President and your Honours. Appearing for the
22 Prosecution today are Ms Marion Rabanit, associate trial lawyer; Ms Claudine Umurungi,
23 legal assistant; Selam Yirgou, case manager; and myself, Nicole Samson, senior trial
24 lawyer.
25 PRESIDING JUDGE FREMR: Thank you very much, Ms Samson.

1 Defence now.

2 MR BOUTIN: Good day, Mr President, your Honours.

3 Appearing for the Defence today is Ms Berta Casas-Rochel, who is intern;

4 Ms Margaux Portier, who is case manager; myself, Luc Boutin. I am assisting

5 Mr Stéphane Bourgon, who is main counsel. Thank you.

6 PRESIDING JUDGE FREMR: Thank you very much, Mr Boutin.

7 And now Legal Representatives of Victims, please.

8 MS PELLET: (Interpretation) Thank you, Mr President. The former child soldiers are
9 represented by Mohamed Abdou and myself, Sarah Pellet, counsel at the OPCV.

10 MR SUPRUN: (Interpretation) Good morning, Mr. President. Good morning, your
11 Honours. Victims of the attacks against the civilian population are represented by Anne
12 Grabowski and myself, Dmytro Suprun, counsel for OPCV.

13 PRESIDING JUDGE FREMR: Thank you very much.

14 First of all, I would like to welcome you back, wish you a happy new year and also
15 express the Chamber's resolution to proceed in the same way like in 2015, which, in our
16 understanding, means that we would like to assure, as is our duty, to have our trial fair
17 and expeditious. And we also are aware of the fact that it requires your contribution.

18 And we believe, because we appreciate your contribution, your proactive and cooperative
19 approach in 2015, so we believe that we will continue in the same manner this year.

20 I also have to apologise for those troubles with high technology that betrayed us at the
21 very beginning, but I believe that hopefully it is the last time.

22 For that purpose I would like to -- we would like to adjust or modify our today's schedule
23 a bit because we know that we have just three days for this witness, so it can -- it may
24 easily become that our time schedule be tight, so we would like to change our today's
25 schedule in the following way.

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1 We would like to have in fact three sessions 90 minutes each. This one starting at 10.30
2 be finished at 12 o'clock, then we would like to shorten the lunch break just for one hour,
3 which means that we are going to continue at 1 o'clock and will have the second session
4 till 2.30, and then the third one should be from 3 p.m. till 4.30.

5 I would like to assure myself that it doesn't mean any fundamental obstacle to the parties
6 and participants.

7 Ms Samson?

8 MS SAMSON: We have no objection, your Honour.

9 PRESIDING JUDGE FREMR: In fact, I was not asking for objections, I was just asking
10 whether it's okay with you.

11 Defence?

12 MR BOUTIN: It is okay with the Defence, Mr President.

13 PRESIDING JUDGE FREMR: Legal Representatives?

14 MR SUPRUN: (Interpretation) No problem for the victims, Mr President.

15 PRESIDING JUDGE FREMR: Thank you.

16 So I see that hopefully we will really proceed in the way we would like to -- we have to.

17 As I said as concerns scheduling, we are limited by the fact that Judge Chung is also
18 sitting in Ongwen case, so we should for sure finish this witness by Wednesday late
19 afternoon.

20 Second, the Chamber's decision on in-court protective measures for Witness P-790 was
21 issued last week ordering face and voice distortion as well as use of pseudonym during
22 testimony.

23 In addition, the Chamber received the VWU's vulnerability assessment for the witness on
24 Friday and this assessment indicated that VWU may seek as a special measure under
25 Rule 88 that the witness be provided with reading assistance should he face difficulties

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1 reading items with small font.

2 This shall be dealt on an ad hoc basis should such the need arise.

3 Next I know that P-790 is a dual witness, dual status witness. And the Legal

4 Representative of Victims of the attacks has requested to examine him. In accordance

5 with our decision on the conduct of the proceedings, we will, as usual, ask Mr Suprun if

6 he maintains his application to question the witness and to what extent after the

7 Prosecution's examination-in-chief and then decide upon the request.

8 And finally, it is the first time that this Chamber is sitting in the Court's permanent

9 premises. I wanted to say that the technical equipment is more advanced in this

10 courtroom, but, you know, the start was not probably ideal, so I hope that we will avoid

11 the same glitches in the future.

12 It also puts high demand on our technological skills, but should any difficulties be

13 encountered, please refer to the court officer, Ms Caroline Bossette, who is ready to assist

14 you.

15 According to its email of 15 January 2016, the Defence objects to certain of the documents

16 the Prosecution may be using with this witness. We consider that these objections can be

17 best addressed if and when they arise throughout the course of the examination-in-chief;

18 however, I would like to indicate at the outset that consistent with our position with

19 previous witnesses, it is intended that any photographs shown to the witness must be

20 shown without annotations and if admitted, shall be admitted without annotations.

21 Are there any comments on that, Prosecution?

22 MS SAMSON: No, your Honour. In fact we intended to show the witness photographs

23 without annotations consistent with your Honours' previous decisions and our approach

24 previously. Thank you.

25 PRESIDING JUDGE FREMR: Very well. So I guess it satisfies the Defence as well?

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1 MR BOUTIN: Yes, your Honour. Thank you.

2 PRESIDING JUDGE FREMR: Fine.

3 So I think now nothing prevents us from bringing the witness in the courtroom. And I
4 would like to draw your attention to the new fact that we may remain in open session
5 during this operation in this courtroom since the witness will enter below the public
6 gallery so he can't be seen by the public.

7 So now please bring the witness in.

8 (The witness enters the courtroom)

9 PRESIDING JUDGE FREMR: Mr Witness, good morning. Can you hear me?

10 WITNESS: DRC-OTP-P-0790

11 (The witness speaks Swahili)

12 THE WITNESS: (Interpretation) Yes, I can hear you.

13 PRESIDING JUDGE FREMR: Very well.

14 Mr Witness, you are going to testify before the International Criminal Court and on behalf
15 of this Chamber I would like to welcome you to the courtroom.

16 THE WITNESS: (Interpretation) Thank you.

17 PRESIDING JUDGE FREMR: This Chamber has been established to try the case of the
18 Prosecutor against Mr Bosco Ntaganda and you are called to testify to assist us in our
19 search for the truth.

20 You will be soon asked questions both by the Judges and lawyers in the courtroom, and in
21 this connection I would like to guide you.

22 Please listen carefully to those questions. It is very important that you make sure that
23 you understand the question before you answer it. If you do not understand, feel free to
24 ask for the question to be repeated or rephrased.

25 We want you to tell the truth and tell us only what you really saw or heard or sensed

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1 yourself.

2 If you didn't see or hear it yourself but you found out some other way, then you should
3 explain how.

4 You will very likely be asked about events that happened many years ago, so it is natural
5 that you may not remember all details. It doesn't matter. Please testify just on that
6 which you remember. Don't guess. Don't make things up, please. There is nothing
7 wrong in saying "I don't know" or "I don't remember."

8 Do you understand all this, Mr Witness?

9 THE WITNESS: (Interpretation) Yes, I have understood clearly.

10 PRESIDING JUDGE FREMR: Very good.

11 Mr Witness, now let me explain to you how the protective measures work that the
12 Chamber has put in place for your testimony.

13 As you see you are sitting in a place that the public here in this building cannot see you.

14 In addition, face distortion is applied, which in practice means that your face is blurred on
15 the camera images and the public cannot see your face during the testimony.

16 We also decided to add the voice distortion, which means then the public will not be able
17 to identify you by your voice as it has been disguised.

18 And we ordered the use of pseudonym. This means that we will all refer to you only as
19 "Mr Witness" to make sure that the public does not know your name.

20 When you answer questions that will not give away who are you, we will do so in open
21 session, which means that the public can hear what is being said in the courtroom.

22 When you are asked to describe anything that relates specifically to you, we will do this in
23 a private session. For example, at the very start when a few general questions about you
24 as a person will be asked or when you are asked to mention facts that might reveal your
25 identity, where you live or your profession, then there is no broadcast and no one outside

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1 the courtroom can hear your answer.

2 Please do not refer to these details later on during your testimony whenever we are in
3 open session. If ever anything gets said during open session which should have been
4 said in private session, we will do our best to protect this information. Your testimony
5 will be broadcast on a delay, and we can remove any such remarks from the broadcast
6 which will be heard by the public and from the public transcript of the proceedings.

7 This Chamber recognizes that your security and well-being is important during the course
8 of this trial. If at any point you feel that you would like a brief break from giving your
9 testimony or you feel unwell, do not hesitate to let us know by raising your hand.

10 Do you understand, Mr Witness?

11 THE WITNESS: (Interpretation) Yes, I do.

12 PRESIDING JUDGE FREMR: Very good. Now, Mr Witness, you will find a piece of
13 paper in front of you, or the court officer is just putting in front of you now, with the
14 solemn undertaking, so please now make your solemn undertaking to tell the truth by
15 reading out the declaration of the piece of paper in front of you, please.

16 THE WITNESS: (Interpretation) I solemnly declare that I will speak the truth, the
17 whole truth, nothing but the truth.

18 PRESIDING JUDGE FREMR: Thank you, Mr Witness. It means you are now under
19 oath.

20 I suppose you will have already been informed by representatives of the Victims and
21 Witness unit and afterwards by the representatives of the Prosecution about the
22 importance of speaking the truth. You need to be aware that it is an offence within the
23 jurisdiction of this Court to give false testimony. Do you understand that?

24 THE WITNESS: Yes, I do.

25 PRESIDING JUDGE FREMR: Good.

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1 Now a few practical matters you should have in mind when giving your testimony.

2 Everything we say here in the courtroom is written down and interpreted into English
3 and French from Swahili. It is, therefore, important to speak clearly and to speak at a
4 slow pace like me now.

5 We want to make sure that your words can be well understood by the interpreters and
6 then by the rest of us. Please speak into the microphone and only start speaking when
7 the person asking you the question has finished. To allow for the interpretation,
8 everyone has to allow a few seconds before starting to speak. So I recommend to you
9 when the lawyer has asked his or her question, please count in your head to three and
10 only then give your answer. If you have any questions yourself, raise your hand so we
11 know that you wish to say something. We will then give you the opportunity to speak.
12 Have you understood all of that?

13 THE WITNESS: (Interpretation) Yes, I have fully understood your instructions.

14 PRESIDING JUDGE FREMR: Very well. It means we can start with your testimony.
15 Ms Samson, you have the floor.

16 MR BOUTIN: Mr President, if I may quickly, a matter of logistics.

17 PRESIDING JUDGE FREMR: Please, go ahead.

18 MR BOUTIN: I wonder if it would be possible to lower the Elmo reader a little bit so we
19 can have a direct view to the witness. My colleague, Mr Bourgon, cannot see the witness
20 directly.

21 PRESIDING JUDGE FREMR: I think it shouldn't be a problem because we are instructed
22 the readers are very flexible. So Court Officer, please try to meet Defence's request.

23 MR BOUTIN: Thank you, Mr President.

24 PRESIDING JUDGE FREMR: So I understood from Mr Bourgon that everything is okay.
25 So Ms Samson, you have the floor.

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1 MS SAMSON: Thank you, Mr President.

2 QUESTIONED BY MS SAMSON:

3 Q. Good morning, sir.

4 A. Good morning.

5 Q. We've met previously. As you know, my name is Nicole Samson, and I represent
6 the Prosecution. I'll be asking you questions today on behalf of the Prosecution.

7 My first series of questions, Mr Witness, will focus on your background. And for that,
8 Mr President, I would ask that we move into private session.

9 PRESIDING JUDGE FREMR: All right.

10 Let's move into private session now.

11 THE COURT OFFICER: We are in private session, Mr President.

12 (Private session at 11.00 a.m.)

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- 15 (Open session at 11.12 a.m.)
- 16 THE COURT OFFICER: We are back in open session.
- 17 PRESIDING JUDGE FREMR: Thank you, court officer.
- 18 Ms Samson, you may proceed.
- 19 MS SAMSON:
- 20 Q. Sir, for the benefit of those of us who are not from Ituri and for the Chamber in
- 21 particular, could you describe what the various administrative structures or divisions are
- 22 within Ituri? Starting with Ituri, you mention it's a district. And what comes below the
- 23 district level?
- 24 A. Yes, in Ituri the administration begins with the customary chiefs, the local chiefs.
- 25 Then the next level up is the groupement, the groupement is above the local chiefs. The

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1 third level above is the sector or collectivity or chefferie. They all mean the same thing.
2 Above the collectivity we have the territory. Above the territory we have the district.
3 So there you have it. That is the administrative structure in Ituri.

4 Q. You've mentioned the structure that is below the groupement as being the
5 customary or local level. Is there a particular name used to describe that level of the
6 administration below groupement?

7 A. Above the groupement --

8 THE INTERPRETER: Correction.

9 THE WITNESS: (Interpretation) Below the groupement we have the localities and the
10 chief of the various centres who comes under the collectivity or the sector. Under the
11 collectivity we have the localities.

12 MS SAMSON:

13 Q. Taking Kobu as an example, what level in the administrative structure does Kobu
14 fall under?

15 A. Kobu comes under the groupement level because the centre is within the
16 groupement. But the relationship between the administrative centre is direct -- sent
17 directly to the collectivity.

18 PRESIDING JUDGE FREMR: Ms Samson, if you want to go into further details,
19 probably it would be safer to move into private. I don't know what you have in mind,
20 but --

21 MS SAMSON: Certainly, your Honour, we can do that. I was going to get a few more
22 details on this topic.

23 PRESIDING JUDGE FREMR: So you agree it is better to go to private or --

24 MS SAMSON: I think at this point we could remain in open session, because I intend to
25 keep it quite general at this stage, just on the administrative structures. I will move with

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1 your leave into private session very soon after several more questions that I have on this
2 topic.

3 PRESIDING JUDGE FREMR: Very well.

4 But again, Mr Witness, be careful not to reveal anything that could indicate your identity.

5 THE INTERPRETER: Message from the English interpreter, correction: In the previous
6 reply the witness said that the report of the administrative centre was sent directly to the
7 collectivity.

8 MS SAMSON:

9 Q. And following on from your answer, sir, if Kobu is -- falls under the groupement,
10 does that make it a locality or something else?

11 A. Kobu is a centre; in other words, within the Walendu-Djatsi sector. Kobu is a local
12 administrative centre located -- well, that means that it is part of the groupement.

13 Q. Which groupement is Kobu a part of?

14 A. Kobu is part of the Tchudja groupement.

15 Q. Approximately how many localities are contained in the Tchudja groupement to
16 your knowledge?

17 A. Within the Tchudja groupement there are a number of localities. Before it was 75
18 localities.

19 THE INTERPRETER: Correction: 74 localities.

20 THE WITNESS: (Interpretation) And then after there were about four localities that no
21 longer existed, and now there is a new structure that includes 70 localities.

22 MS SAMSON:

23 Q. Tchudja is a groupement in which collectivity?

24 A. Tchudja is within the Walendu-Djatsi collectivity, and the sector. That's the same
25 thing, the same name. So once again Djatsi.

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1 Q. And the Walendu-Djatsi collectivity or sector is divided into how many
2 groupement?

3 A. The Walendu-Djatsi collectivity has 14 collectivities.

4 Q. It may be a question of interpretation, but did you say that the Walendu-Djatsi
5 collectivity has 14 collectivities, or is it 14 groupement?

6 A. The collectivity of Walendu-Djatsi is -- has 14 groupement.

7 MS SAMSON: Mr President, I'd like to show the witness a document. The document
8 itself would remain confidential and will not be displayed on the public screens. For my
9 first questions I would ask if possible that we go into private session, and then we can see
10 whether we can move into public session thereafter with your leave.

11 PRESIDING JUDGE FREMR: Defence, any objection?

12 MR BOUTIN: No, Mr President. If we maybe see the document or refer to what
13 document you intend to present, thank you.

14 PRESIDING JUDGE FREMR: I guess we do it in private session this reference.

15 Okay, so at the moment let's move into private session.

16 (Private session at 11.22 a.m.)

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17 (Open session at 11.47 a.m.)

18 THE COURT OFFICER: We are in open session.

19 PRESIDING JUDGE FREMR: Thank you.

20 Ms Samson, you have the floor.

21 MS SAMSON: Thank you.

22 Q. Sir, I'd like to ask you about certain places and have you tell the Court in which

23 groupement and collectivity these places are located. So I'll start with the place name

24 Tsili, which I spell as T-S-I-L-I.

25 In which collectivity and groupement is Tsili located, please.

1 A. Tsili is in the Walendu-Djatsi collectivity in the Ndjugu territory in the Ituri district.

2 Q. And in which groupement, please.

3 A. Tsili is, itself, a groupement. However, there is also a village known as Tsili, which
4 is located in the Tsili groupement. So Tsili is a groupement, but there is a village also
5 known as Tsili.

6 Q. And on that point is Tchudja only a groupement, or is it also a village?

7 A. Yes. We have the Tchudja groupement, but there is no village known as Tchudja.
8 There is, however, a village called Kpalu, which is located in the Tchudja groupement.

9 So, in fact, Tchudja is a groupement. And all those groupements fall under the
10 Walendu-Djatsi collectivity. And there are also other villages within the groupement.

11 Q. Thank you. And the village known as Wadda, W-A-D-D-A, which groupement
12 and collectivity is it in?

13 A. Wadda is -- well, you have Wadda and Wadza. Wadza is in the Tchudja
14 groupement, not far away from the centre in Kobu. Now, Wadda, however, is in another
15 groupement.

16 Q. Do you recall the name of the groupement that Wadda is in?

17 A. No, not right now. I don't remember. However, it must be in the Tchudja
18 groupement -- or, rather, Wadda is in another groupement and I don't remember the
19 name of that groupement right now.

20 Q. That's fine, sir. And what about Nyangarai and Lipri, do you recall which
21 groupement those villages are in?

22 A. Nyangarai and Lipri are located in the Tsili groupement.

23 Q. Thank you, sir.

24 I'd like to move on to another topic. Focusing your attention on events after the
25 year 2000, are you aware of any conflicts that took place in and around Ituri in 2000? 2000

1 or afterwards.

2 A. Yes, I do remember. The war broke out in Ituri in the Walendu-Pitsi area. We
3 heard about it, but we did not see what was happening. We heard about war having
4 broken out in the Walendu-Pitsi area. And the reason for the war was that cattle was
5 destroying the farms of the local inhabitants. You see in Ituri Lendus are involved
6 greatly in agriculture and the Hemas are stockbreeders. So at that time the cattle of the
7 Hema had destroyed the farms belonging to the Lendu inhabitants. The Hema
8 inhabitants did not offer any opportunities for the Lendus to complain. And whenever
9 the Lendus complained, the Hemas got them arrested and took them to the prosecutor's
10 office in Ituri, which is located in Bunia.

11 So when these people were arrested and imprisoned some of them while in prison
12 allegedly were in great difficulty; some Lendu people were killed and as the cattle
13 continued to destroy the farms belonging to the Lendus, one of the Lendus killed a cow,
14 and that is what sparked the conflict, that is the conflict with the Lendus.

15 Q. What is the date of the beginning of this conflict as you describe it?

16 A. I do not remember the date right now; however, it was in 1998, 1999 that this conflict
17 broke out in the Walendu-Pitsi collectivity. At that time we did not know that the
18 conflict was going to spread as far as our area where we used to live, that is with the
19 Lendu-Djatsi (phon).

20 Q. After 1998, 1999, when did the conflict spread to Walendu-Djatsi as you describe?

21 A. In Pitsi and from Walendu-Pitsi, the conflict spread as far as the Walendu-Djatsi.
22 Now, there are several localities in the Walendu-Djatsi such as Fataki, Pimbo, and going
23 up to the north. We were located in the south. The conflict spread to the south much
24 later when other parts of the country had -- of the region of the Walendu area had already
25 been affected by it.

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1 Q. When you say that it arrived into the south much later are you able to give a sense
2 as to which year or years the conflict arrived to the south of Walendu-Djatsi?

3 A. Yes, I can. The conflict spread to our place or to our area in our groupement in
4 Tchudja and Yalala. The conflict got to our area towards the end of 1999 and in
5 early 2000. And the conflict became more serious, it intensified, but you want to know
6 that in our area Lendus and Hemas were living together and we had no idea that we were
7 going to be divided against each other because of this conflict. We never knew that it
8 would happen to us because people used to go to the market at Barrière, then came a day
9 when people went to the market at Barrière and some of them were arrested and
10 murdered. That is how that conflict started in the area where we lived, and that is the
11 day that marked the division or separation between the Hemas and the Lendu of our area.

12 PRESIDING JUDGE FREMR: Ms Samson, sorry to interrupt you. I would like to
13 remind you of our amended schedule because we are going to break at 12. Is it
14 convenient? Or if you want to just put the last one or two questions we can still wait.

15 MS SAMSON: It's convenient, your Honour. I had missed the time indeed, but we can
16 break now.

17 PRESIDING JUDGE FREMR: Very well. So first of all, please escort Mr Witness out of
18 the courtroom.

19 Mr Witness, thank you. You will now have one hour to take your lunch and take some
20 rest.

21 Mr Bourgon, do you want to make a submission in the presence of the witness, or it's
22 not -- okay. So just please wait a second.

23 (The witness stands down)

24 PRESIDING JUDGE FREMR: Mr Bourgon, you have the floor.

25 MR BOURGON: Thank you, Mr President. Just to say that I will not return to the

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1 courtroom with your leave, Mr President, at the second session. I came this morning just
2 in case there would be some administrative matters that the Chamber would be interested
3 in dealing with with the Defence team. So with your leave I will not be back at the
4 second session. Thank you, Mr President.

5 PRESIDING JUDGE FREMR: Thank you very much, Mr Bourgon, for this information,
6 also for the fact that you are fully respecting the style we would like to establish here.
7 Thank you very much.

8 Now we are breaking and we will, due to our amended schedule, come back at 1 o'clock.

9 THE COURT OFFICER: All rise.

10 (Recess taken at 12.03 p.m.)

11 (Upon resuming in open session at 1.04 p.m.)

12 THE COURT USHER: All rise.

13 Please be seated.

14 PRESIDING JUDGE FREMR: Good afternoon.

15 Before we continue, I would like to say to Mr Witness, Mr Witness, I would like to
16 appreciate that you followed our instructions, that you are speaking slowly, that you are
17 making pauses, that you are carefully listening to the questions put to you. So thank you
18 very much, and please continue in the same way.

19 Ms Samson, you have the floor.

20 MS SAMSON: Thank you, Mr President.

21 Q. Sir, prior to the break, you were describing the time when the conflict had reached
22 the area of the south of Walendu-Djatsi. Do you recall the year in which that took place?

23 A. When the war arrived at the Walendu-Djatsi collectivity, I would say that it started
24 around the area of Fataki, and then it moved on to Pimbo, and from Pimbo the war spread
25 to surrounding localities around Pimbo, that area. And finally, it came to the place

1 where we were, that is, when for the first time we actually saw what an inter-ethnic
2 conflict was all about. Some UPC soldiers were there. There were also soldiers from
3 the Ugandan army. Those were the soldiers who came to the locality where we were at
4 the beginning of the war. Some of the local people fled into the forest. Others went into
5 the area surrounding the forest.

6 During that period, we were actually living in the forest. The UPC soldiers started to
7 chase the people who had fled into the forest. That was the beginning of the war in our
8 area.

9 Q. Thank you, sir. I wanted to know if you were able to identify the year in which the
10 war came to your area.

11 A. It was in the year 2001.

12 MS SAMSON: Mr President, with your leave, may we go into private session for one
13 question and then one exchange with the Chamber, please.

14 PRESIDING JUDGE FREMR: Certainly. Let's move into private session now.

15 (Private session at 1.08 p.m.)

16 (Redacted)

17 (Redacted)

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6 (Open session at 1.17 p.m.)

7 THE COURT OFFICER: We are back in open session, Mr President.

8 PRESIDING JUDGE FREMR: Thank you.

9 Ms Samson, you may proceed.

10 MS SAMSON: Thank you.

11 Q. Sir, to your recollection, how many times was Kobu and the environs around Kobu
12 attacked during the conflict?

13 A. I would say four times during the war.

14 Q. And starting with the first time, is this the event you described in 2001, or was it at a
15 different time?

16 A. That was the very first attack. The second attack was when Commander Alpha
17 was in that locality. That was -- that was the second attack.

18 Q. And briefly on the first attack in 2001, who was attacking Kobu? Do you know?

19 A. I was not able to identify the people who attacked Kobu because the war took us by
20 surprise. The attack came from the north. But they were UPC soldiers who came to
21 that place and who conducted battle.

22 Q. How were you able to identify them as UPC soldiers?

23 A. I knew that was so, when they got to the village, as we were fleeing, we saw how
24 those UPC soldiers came into the place. And what's more even before the war began
25 there had been rumours to the effect -- well, how they had gone to Nizi and Barrière,

1 which are Hema localities. We were able to see how they were going by. And there
2 were times when they passed by the village without disturbing the local people.

3 Q. You mentioned two villages, one of which isn't captured in the transcript. You
4 mentioned Barrière and you mentioned a second village. What was the name of the
5 other village you referred to?

6 A. I mentioned two places, Nizi and Barrière. These are localities where the Hema
7 people live. Those were the places where the UPC soldiers had their bases.

8 Q. Are you able to spell Nizi for us, please.

9 A. It is spelt this way: N-I-Z-I.

10 Q. Thank you. What was the ethnicity of the UPC soldiers who entered Kobu at that
11 time in 2001, if you know?

12 A. They were Hema soldiers. There were also a number of Ugandan soldiers. They
13 came together, the two groups had come together. They stayed for quite a long time at
14 Kobu centre. They were led by Alpha, Commander Alpha, who was also a Ugandan.
15 There were two groups of soldiers who came to Kobu at that time. The local population
16 had already fled into the bush.

17 Q. And how were you able to identify the other group as Ugandans?

18 A. I knew that there were Ugandans as well, because when we fled, Alpha, the
19 commander in Kobu, had sent some people to tell the people, the local people to come
20 back to the village. And the emissary who had brought that message or news telling the
21 people to come back to the village, that person was from Kobu, he was the one who had
22 been sent by Commander Alpha.

23 And so that's why we left the bush and went back to the village. We lived with them for
24 quite a period of time. And we saw a few changes. There had been Lendu people who
25 had fled the war and they had gone to the east. These people returned. They had had

1 some problems speaking. And some of them had been arrested and even killed because
2 these soldiers who were occupying the locality said that they had been militia members.
3 That situation continued. And so I decided to go see the commander, to speak to him.

4 Q. And to be clear, a moment ago you mentioned Commander Alpha in reference to
5 the second attack on Kobu. Was Commander Alpha present during the first or the
6 second attack on Kobu?

7 A. During the first attack when the war began, I didn't see Alpha then at that time.
8 We had fled. The UPC soldiers had occupied the area, but I didn't know which
9 commander led them. It was later that I learned that there was a new commander who
10 had arrived, Alpha. That was during the second battle. That second battle began when
11 Alpha found himself with us in Kobu.

12 Q. Are you able to date the second attack approximately?

13 A. That is difficult. It's difficult to remember the date because people were more
14 worried about fleeing into the bush, so their concern was to get away, to flee. They
15 weren't focusing on remembering a particular date.

16 Q. And at the time of the second attack, do you know who was governor of Ituri?

17 A. During the second attack we had a governor who helped us in Ituri, he was
18 Governor Loponde. Before him there was another governor. I can't remember his
19 name.

20 Q. So at the time of the second attack Mr Loponde was the governor of Bunia. Is that
21 a fair representation of what you've just said?

22 A. Loponde was also governor in Bunia, but his predecessor was another governor
23 whose name I do not know. All the Lendus were concerned with another matter entirely;
24 they were thinking only of the events unfolding, that is to say the war.

25 Q. And let's move to the third time that Kobu was attacked. Who attacked Kobu

1 then?

2 A. The third attack was launched from Bambu by UPC soldiers who were accompanied
3 by Ugandans on that day, and they attacked people on the market square. This was the
4 third attack launched against our village.

5 Q. I understand that dates are very difficult, particularly in those circumstances, but do
6 you have any recollection of the approximate year in which this third attack took place?

7 A. Yes; the third attack took place in the year 2002.

8 Q. Do you recall whether it was at the beginning of 2002, or in the middle, or towards
9 the end of 2002?

10 A. It was towards the beginning of the year. This attack lasted quite some time. And
11 a duration of time elapsed before the fourth attack was launched.

12 Q. How were you able to identify the attackers as UPC and Ugandans?

13 A. I was able to identify them by virtue of the fact that they came from Nizi and they
14 went through Bambu. In Bambu they chanced upon civilians, but they didn't touch them,
15 they continued on to Saint Thérèse. And in Boku they didn't actually menace or threaten
16 the population at all. It was market day, it was a Tuesday. The attack was launched
17 from the market square and they killed one of the tradesmen from Bambu. The soldiers
18 had already surrounded the market square and we were in our village. We were
19 eyewitnesses to this event. They started firing at people and the civilians were able to
20 note that amongst the assailants there were UPC soldiers and Ugandans present. We
21 were in a position to hear them talking to each other in a language that was different from
22 ours and we were able to identify the Ugandans that were talking to each other and also
23 identify the UPC soldiers who were speaking quite a different language.

24 Q. What language were the UPC soldiers speaking?

25 A. The UPC soldiers were speaking Swahili, but the Ugandan soldiers talk or speak a

1 slightly different variation of Swahili from ours.

2 Q. Can you describe what they were wearing, these UPC soldiers?

3 A. Yes. They were in the habit of wearing the -- wearing fatigues, whereas the
4 Ugandans were in the habit of wearing a uniform of one colour. And that was how we
5 were able to distinguish them, by their uniform that is.

6 Q. And when you refer to fatigues can you describe how that would be different from
7 the uniform of one colour?

8 A. We were able to tell them apart because the UPC soldiers were in the habit of
9 wearing these fatigues or camouflage and they also had a way of speaking that was
10 different from that of the Ugandans. The Ugandans wore a uniform of one single colour.
11 And that was how we were able to tell these soldiers of the UPC apart from the Ugandans,
12 but they were one -- they were members of one sole group.

13 Q. What did the inhabitants of Kobu do faced with this attack?

14 A. The civilians in Kobu fled and there were only two locations where they could hide.
15 Some fled in one direction and others in the other. These were the two places where the
16 civilians could hide because further down the hill was a locality occupied by Nyali.

17 Q. What are the names of these two locations where the civilian population could flee
18 and hide?

19 A. The two places where the civilians could hide, well, one was in the direction of Buli
20 and the other was in the direction of Gutsi.

21 Q. For our transcript could you please spell the location of Buli?

22 A. Buli is spelt as follows: B-U-L-I.

23 Q. Sir, I'm going to ask what you did when this third attack took place, but please take
24 care not to identify yourself in the answer. If you feel it best to go into private session,
25 please just let the Chamber know.

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1 A. I shall give you my answer, no problem, but if I do run the risk of identifying myself
2 we might move into private session.

3 MS SAMSON: Perhaps, your Honour, to be cautious we could move into private session
4 and then subsequently lift redactions if necessary at a later time.

5 PRESIDING JUDGE FREMR: So now let's move into private session.

6 (Private session at 1.41 p.m.)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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4 (Open session at 1.59 p.m.)

5 THE COURT OFFICER: We are back in open session.

6 PRESIDING JUDGE FREMR: Thank you, court officer.

7 Ms Samson, you have the floor.

8 MS SAMSON: Thank you.

9 Q. Sir, staying with the third attack for the moment, are you able to recall whether
10 Governor Lopondo was the governor of Bunia at the time of this attack in 2002?

11 A. Yes. At that time Mr Lopondo was still in Bunia. So that attack occurred when he
12 was still there. And when those soldiers arrived, I believe he too fought.

13 Q. Now I'd like to move into the forth attack in Kobu. You mentioned as well that
14 there was a subsequent attack. Are you able to put a date in general terms on the fourth
15 attack in Kobu?

16 A. The fourth attack -- the fourth attack was the last. It was in 2003. It was the very
17 last attack.

18 Q. Do you recall the month of this attack in 2003?

19 A. I believe it was in February, if my memory serves.

20 Q. Who attacked Kobu during this fourth attack of February 2003?

21 A. In February the people who attacked Kobu were once again the UPC soldiers who
22 had attacked Kobu previously. That was in 2003.

23 Q. Were there any other forces with the UPC such as during the earlier attacks where
24 you indicate that they were Ugandan forces?

25 A. At the time of the fourth attack I did not see any other groups. I only saw UPC

1 soldiers. Those were the ones I saw.

2 Q. Can you describe what happened during this attack, how it began to your
3 recollection?

4 A. Yes. At the time of the last attack, the day the attack began in Kobu, the attackers
5 arrived and they found everyone in Kobu, the entire civilian population. We didn't
6 know what was going to happen because we had spent many days without any war,
7 without hearing any gunshots. We didn't know what was going to happen. The first
8 time we heard gunshots and rockets that was from the direction of Kilo. We didn't know
9 what the noises were. When we heard the shots there were some young people from the
10 village, they rushed out to see what was happening. And when they went there, they
11 saw that these were real soldiers who were beginning to enter. They had come by way of
12 the Kilo road. And the young people saw them. They shot once again, and the fighting
13 came closer. They fled.

14 They came and told people, which helped quite a bit. They told the people that the UPC
15 were coming to begin waging war. And when people heard that, particularly the
16 women, they began to flee. It was no longer possible to wait.

17 And people were already used to this, they knew about fleeing more. Some people
18 headed towards Gutsi, others towards Buli, as usual, and that's how people managed to
19 get away. Some people went to Chubilinda.

20 And at that time -- at that time we -- we had to see what was happening. I stayed behind.
21 Many people had already left. And that is when I saw with my own eyes what was
22 happening. And that is why I had problems, troubles because, you see, people had
23 already left, the others had already gone to the valley. And no one took anything from
24 their homes.

25 Q. First, Mr Witness, you referred to a place which was pronounced as Chubilinda as a

1 place where people were fleeing to. Would you be able to spell that location.

2 A. Yes. Chubilinza starts with a P-S-U-B-I-L-I-N-Z-A.

3 Q. Thank you. And you said a bit earlier that some young people had gone to see
4 what was happening when they heard the gunshots and that some people told the people
5 of Kobu that the UPC were coming. And to be clear who told you and others in Kobu
6 that the UPC were coming?

7 A. Yes. The first thing to determine that the soldiers were coming, hearing the gunfire.
8 If they hadn't shot we would not have known that the soldiers were on their way. They
9 shot and it was the gunshots that allowed us to realize that there was a
10 problem -- problems. And when the young people left the village to go and see what
11 was happening, they saw that it was UPC soldiers. And when they met they shot once
12 again heavy gunfire. And people fled to the village. And that was so they could tell
13 people that the UPC soldiers were on their way to wage war. And then people began to
14 flee.

15 Q. And you stated earlier that no one took anything from their homes. What do you
16 mean by that?

17 A. Yes, I can explain that to you. When this attack began no one was able to take any
18 possessions with them. When something happens all of a sudden it is not possible to
19 take your possessions along with you. Everything remained behind in Kobu. So, you
20 see, everyone fled, and it was impossible to take anything, to take possessions. People
21 fled. They left their possessions at home.

22 Q. While you were in Kobu, did you see anybody else with the UPC such as, for
23 instance, the Hema civilians that you say were present during the third attack?

24 A. Yes. The fourth attack when the soldiers entered it was just the soldiers alone.
25 And the people fled. I believe I left and I was amongst the very last people to flee. I

1 went into the bush. At night I got there because (Redacted), so I wasn't able to
2 run. People had already left. And I stayed to (Redacted)
3 (Redacted) I wanted to see, so that is how it came to be that I was late in relation to the
4 other people.

5 Q. Thank you. And we'll get into that level of detail in a moment, but focusing on the
6 question that I had asked, did you see whether any of the Hema civilians that you saw
7 during the third attack were also present during the fourth attack?

8 A. No. At first when they came in it was just soldiers. I didn't see civilians behind
9 them.

10 Q. And did the population of Kobu offer any resistance to the attack by the UPC?

11 A. When the UPC soldiers entered there was no resistance to try to resist against the
12 UPC. There were young people who may have tried to resist around Watsa, in that area.
13 Some people went from Gutsi and some people went to -- by way of Buli. And the
14 young people in Watsa they tried to resist, they really tried, but it was not possible. They
15 fled ultimately and they left the village and they went away, but people went from
16 Chubilinza. They fled without trying to put up any resistance to the soldiers who were
17 advancing.

18 Q. Before I ask you more questions about that, you stated that people went from
19 Chubilinza. Is that a place?

20 A. Yes, from Kobu people were fleeing by way of the Chubilinza road and some other
21 people were -- you see, these villages were on the way when people were fleeing.

22 Q. And can you spell Chubilinza, please?

23 A. Yes. Chubilinza. I already did that. D-S-U-B-I-L-I-N-Z-A.

24 Q. Thank you, sir. Sometimes the pronunciation is different so it is hard to tell if it is
25 the same place.

1 Can you describe in greater detail what these young people were doing as they resisted,
2 how they were organised, what type of weapons they had?

3 A. Yes, I can explain that to you. These young people who tried to put up resistance
4 and who helped the local people at the time of the war they were youths who began to
5 resist.

6 You see, a Lendu person to wage war is not going to start with firearms. They only had
7 bladed weapons. They did not have rifles. They didn't have the appropriate firearms to
8 wage war. They were fighting with arrows, with machetes, with spears. That's all the
9 youths had to defend themselves in the case of war so that some people might be able to
10 get out of the village and flee.

11 And later they began to acquire firearms, firearms that they took when they went off to
12 war. And so that is how it came to be, they occasionally started to have firearms. Some
13 of the villagers did have weapons. Some people were in the habit of doing this sort of
14 thing.

15 So when a war broke out, they were the ones who would begin to go there and start to
16 resist so that people could leave the village and flee. So that is how it came to be that
17 they began to have some firearms that they would take with them when war occurred.

18 And these youths were the people in the case of war just because there was no way. If a
19 Lendu person could get a firearm -- well, he wouldn't even know where to buy such a
20 thing. They wouldn't know where to acquire a firearm, as I've just explained to you.

21 Q. And at the time of this fourth attack in February 2003, to be clear, did the young
22 people have firearms at that time? And I'm referring to the young people who were
23 inhabitants of Kobu.

24 A. Yes, I understand what you are saying. Now, these young people living in Kobu
25 they did not have any guns because the people who were living in Kobu had all fled.

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1 You see, when the war begins some people would go to Buli, Chubilinsa-Buli, there was
2 no resistance so as not to flee.

3 And the people who went to Gutsi and there, that is when we heard -- we heard gunshots,
4 we heard sustained gunfire. I was on the other side. I didn't hear, I didn't follow
5 everything that happened because (Redacted).

6 When I left the village, the UPC soldiers were already there and that's why I saw with my
7 own eyes and that is what I am telling you.

8 Q. Thank you. And coming back to these young men who had tried to resist the UPC
9 to some extent, was there a military base of the Kobu inhabitants? Did you have a
10 military base in Kobu?

11 A. No, there was no military base. Now, the place where the people gathered, that
12 was to find some way of acquiring guns. They met at one particular place. It wasn't a
13 military base. Each young person was staying at home and when there were problems
14 they would meet. There was a place where they would meet. And when they met, it
15 wasn't like soldiers, it wasn't the way soldiers would gather. They were there just there
16 to help the village.

17 During the last attack -- well, when the war ended, some young people entered the
18 government army and others were demobilised, they handed over their weapons and
19 they stayed in the village.

20 Q. At the time of the fourth attack, did the young people who were defending the
21 village, did they have -- did they wear uniforms?

22 A. At the time of the fourth attack, the people who came to help the village did not
23 have military equipment. They were wearing civilian clothing for the most part, most of
24 them. Some of them, just a few, had military uniforms. These were young people who
25 had come from the Asu village towards Titsa (phon). Now, I don't know where they had

1 got those militaries uniforms. Those who were there did not have any military uniforms.

2 Q. You just referred to Asu village. Can you spell that please.

3 A. This way: A-S-U.

4 Q. Thank you. And you've indicated for the most part these young persons who were
5 helping defend the village didn't wear military uniforms. Did they wear any other
6 particular clothing or items that could identify them as people who were defending the
7 village?

8 A. Yes. They did wear something to identify them. Some put on leaves around their
9 arms, others around their necks. It was a something, a sign to identify them so people
10 would know that they were defending the village in the case of war, to help.

11 So they did wear something to identify themselves. They had leaves around their arm or
12 their necks, or sometimes they had fabric of a -- of a particular colour. They did have
13 ways of identifying themselves.

14 Q. And on which part of their arm were they wearing these leaves?

15 A. They would often wear them on their left arm, around their wrist, and around their
16 neck, and also around their hips. And this was to distinguish them or tell them apart.

17 Q. Thank you, sir.

18 MS SAMSON: Mr President, I'm aware that it is time to break.

19 PRESIDING JUDGE FREMR: Thank you.

20 So we break now and we will then hold our last session today from 3 to 4.30.

21 So now we break.

22 THE COURT USHER: All rise.

23 (Recess taken at 2.30 p.m.)

24 (Upon resuming in open session at 3.05 p.m.)

25 THE COURT USHER: All rise.

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1 Please be seated.

2 PRESIDING JUDGE FREMR: So after the short break, we can continue with testimony.

3 Ms Samson, you have the floor.

4 MS SAMSON: Thank you, Mr President.

5 Q. Sir, I have one additional question in relation to the young persons who were
6 helping defend the village. Did they have a leader, or was there a head of the defenders
7 of the village?

8 A. When the young people were in a given location, they didn't actually have a leader
9 as such. There wasn't a formal leader. On occasion when there was some kind of small
10 conflict, they might meet in order to find a solution, and then they would continue
11 supervising the village.

12 MS SAMSON: Mr President, with your leave, could we move into private session so that
13 I can ask the witness some questions about his particular whereabouts during the attack?

14 PRESIDING JUDGE FREMR: For sure.

15 Court officer, let's move into private session now.

16 (Private session at 3.07 p.m.)

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Trial Hearing
WITNESS: DRC-OTP-P-0790

(Private Session)

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