

1 International Criminal Court
2 Trial Chamber VI
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 - Courtroom 3
7 Friday, 24 June 2016
8 (The hearing starts in open session at 9.33 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.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 And for the record, we are in open session.
18 PRESIDING JUDGE FREMR: Thank you, court officer.
19 Now appearances as usual, starting with Prosecution.
20 MS LUPING: Good morning, Mr President. Good morning, your Honours.
21 Appearing this morning on behalf of the Prosecution are Ms Selam Yirgou, case
22 manager; Mr James Pace, assistant trial lawyer; and myself, Dianne Luping, trial
23 lawyer.
24 PRESIDING JUDGE FREMR: Thank you, Ms Luping.
25 Defence now, please.

1 MR BOURGON: (Interpretation) Good morning, Mr President. Good morning,
2 your Honours. Good morning to everyone here in the courtroom. Representing
3 Bosco Ntaganda, who is present today, we have Elisa Binon, Marlène Yahya, William
4 St-Michel and Chloé Grandon, as well as myself, Stéphane Bourgon. Thank you. I
5 forgot to mention, I'm terribly sorry about this, I had to turn back for a moment to
6 glance, Ms Sandrine De Sena.

7 PRESIDING JUDGE FREMR: You have very numerous team today.
8 And now Legal Representatives of Victims, please.

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

11 MS GRABOWSKI: Good morning, Mr President, your Honours. Anne Grabowski
12 for the victims of the attacks. Thank you.

13 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Ms Grabowski.
14 And before we move to upcoming testimony, the Chamber was informed that
15 Prosecution would like to address us.

16 So, Ms Luping, you have the floor.

17 MS LUPING: Thank you, Mr President, your Honours. It was brought to my
18 attention that there was some discussion as to the timing potentially necessary for the
19 examination-in-chief of Witness 888, who's been recalled. The Prosecution did send
20 an email yesterday evening indicating that we would be needing to question the
21 witness in relation to a further document. It's an historical document and the
22 Prosecution does give the Chamber its apologies for the late admission and provision
23 of these documents. Unfortunately, this is partly a result of these legacy cases, if you
24 like, that we have a large collection in some instances of handwritten almost illegible
25 documents that have not been OCRed.

1 It is fortunate that this document was found. It appears to be the records of the
2 school named by the witness. We will find out obviously when he's questioned.
3 But looking at the entry -- I can't explain more in open session, but looking at the
4 entry it appears as if this would require a bit more time to ask the witness to explain
5 exactly what is contained in this record and to clarify whether it does -- it is indeed a
6 record that relates to him.

7 So for this reason, Mr President, your Honours, we would be seeking more than the
8 10 minutes as indicated. We believe that it may require approximately 20 minutes in
9 total to get a real clarification from the witness as to the names that appear in these
10 documents, including names of whether or not they correlate to him, the name of the
11 individual, the name of the parents, the date of birth and so forth.

12 PRESIDING JUDGE FREMR: All right. Ms Luping, it's not just about minutes,
13 whether it will be 15 or 20, but really your questions should be relevant.

14 But, Mr Bourgon, any comment from your part?

15 MR BOURGON: Indeed, Mr President. I'm glad that we have the opportunity to
16 make some submissions before the witness is called in.

17 As we mentioned in our first response to the Prosecution urgent request yesterday,
18 we indicated that any examination-in-chief should be strictly limited in, not only in
19 time but in terms of scope because we have the testimony of the witness as to whether
20 he would have attended a school or not, we have the information from the witness as
21 to what school it was. But more importantly, we have some documents now that
22 have been brought forward and these documents were very likely never seen by this
23 witness. He probably does not even know that these documents exist.

24 If it was a document that pertained to him, a report card like we've seen previously,
25 when we give a report card of a witness, then of course it's his report card. Now

1 I believe the Prosecution expects to show a document which is a list of all students
2 from the school from a period of seven years, and I doubt it very much that the
3 witness is aware that such a list even existed. And besides the names that will be
4 shown to the witness, there are some comments. It's too late to get evidence as to the
5 reason why he would or would not have been excluded from school because he
6 already testified on this. He already told us that he was excluded because of the
7 events he said in his testimony. He already said that he was excluded because of the
8 armed conflict.

9 Now, in the document of course we see that there are other reasons why he was
10 excluded. It's too late to come back now and to show, "Well, oh, by the way, is there
11 another reason why you were excluded? Do you remember now by seeing a
12 document that you don't know the existence of?" That's inappropriate.

13 We want this trial to be fair and that's why we did not oppose calling back the witness,
14 we did not oppose getting a new document in because we want things to be fair. But
15 fairness depends that this not be a second chance or, as we say, a second kick at the
16 can.

17 So we have the testimony, very few questions are needed from the witness.

18 Prosecution can make an argument whether the documents are relevant or not,
19 whether they have any probative value, and I will answer to the same and then we
20 proceed.

21 Now, in cross-examination now they're making new issues that I'd like to raise, but
22 very shortly, with the witness and that won't take much time in terms of with the
23 witness. The most time will be arguing on those documents and that should take
24 place not even in the presence of the witness.

25 Thank you, Mr President.

1 PRESIDING JUDGE FREMR: Ms Luping, any reaction?

2 MS LUPING: Yes, Mr President, your Honours. One comment I would make first
3 off is that the Prosecution understands the Defence's concerns in terms of the timing.
4 However, the documents are before us. The Defence has had an opportunity to
5 review them, so in that regard we would argue that there's no prejudice as such,
6 they've had an opportunity to review them.

7 As to the fairness of the proceedings, it's simply for the Chamber to be able to
8 properly assess the truth of the matter. It's important that very specific questions are
9 asked of this witness and he's asked to clarify certain circumstances and information
10 provided.

11 Now, the witness stated very clearly, and I refer to transcript 106, page 81, lines 3 to 9,
12 when asked about his date of birth and various records that may contain his date of
13 birth, that the school records would be one such record.

14 Now, unfortunately at the time, obviously as your Honours are aware, we did not
15 have the correct name of the school. Now we do and now we have the records. He
16 is here, he's present, he's before the Chamber, he can now have an opportunity to
17 explain to the best of his knowledge what he is aware of, whether or not the records
18 indeed correlate to him or not.

19 I think it's an artificial exercise to simply say, "Is that the same name as yours?" You
20 know, in my submission, your Honours, this would not be a helpful exercise at all.

21 We need to be able to get to the bottom of the truth of it. It's not a question of having
22 a second kick at the can, as Defence counsel has suggested. It's an issue of the truth,
23 it's an issue of getting to understand and have some clarity. And, as I say, this is -- it
24 will be an artificial exercise if I'm simply limited to saying, "Is this a name that is very
25 similar to yours?" or "Do you recognize this name?" There are other aspects in the

1 document that are necessary to ask the witness about before we can really be certain
2 that it's the same person.

3 And just as an example, just simply going over the records, what I saw just from a
4 very quick read is that there were at least three individuals from the same year with
5 the same last name, as an example. So it does need a little bit more than simply the
6 name, your Honours. Thank you.

7 PRESIDING JUDGE FREMR: Mr Bourgon, sorry, I don't need any further
8 submissions because I would like to proceed and I would like to sum it up, our
9 position.

10 I think we all should have in mind mainly the interest of justice. It's our main role, I
11 mean the Chamber, to find the truth in this case. In fact, there are still some doubts
12 about this part of witness's testimony because Prosecution came with objections and
13 with arguments that would really, some part, you know what part I mean, in doubts.
14 And there is ideally chance to dispel these doubts which should be, in my view, in the
15 interest of all of us. So we would like to give Prosecution and Defence this chance.
16 But my main concern, it was why just opened this issue about timing, is not to repeat
17 testimony we have already listened to. Really just to focus questioning, at least from
18 Prosecution part, on conditions that would allow to tender those documents. It's
19 really not about whether 15 or 20, simply those questions should be relevant to that
20 issue.

21 And then I agree with Mr Bourgon, the position of Defence is a bit different so that we
22 can be maybe more generous. But I think everything will be driven by the direct
23 examination by Prosecution.

24 So now we can start. Please, court officer, bring Mr Witness into the courtroom.

25 Mr Bourgon.

Trial Hearing
WITNESS: DRC-OTP-P0888

(Open Session)

ICC-01/04-02/06

1 MR BOURGON: Mr President, just at least to inform the Chamber that I will be
2 objecting to the witness commenting on a document he has never seen before.
3 Thank you.

4 PRESIDING JUDGE FREMR: All right.

5 (The witness enters the courtroom)

6 PRESIDING JUDGE FREMR: Mr Witness, good morning.

7 WITNESS: DRC-OTP-P-0888

8 (The witness speaks Swahili)

9 THE WITNESS: (Interpretation) Good morning.

10 PRESIDING JUDGE FREMR: Mr Witness, we have already met because you already
11 testified here a short time ago. And because of special circumstances there is a need
12 to conduct some really short further examination of you. So we will do that this
13 morning and, as I promise, it shouldn't take long. I just would like to assure you that
14 the protective and special measures we granted previously remain in place. So I will
15 not repeat it again. So everything will be the same with your testimony like two
16 days before. Again, you are a protected witness so we will do anything what is
17 possible that would prevent the public from identifying you. And the only thing we
18 have to repeat is your solemn undertaking.

19 So first of all, you agree with my instruction that everything will be under the same
20 condition, do you? Do you understand that?

21 THE WITNESS: (Interpretation) Yes, I've understood, your Honour.

22 PRESIDING JUDGE FREMR: Very well. So exactly the same like last time, you
23 should see in front of you a piece of paper. So please now make your solemn
24 undertaking to tell the truth again by reading out this declaration.

25 THE WITNESS: (Interpretation) Yes, I see.

Trial Hearing
WITNESS: DRC-OTP-P0888

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: So could you just read it out.

2 THE WITNESS: (Interpretation) I solemnly declare that I shall tell the truth, the
3 whole truth and nothing but the truth.

4 PRESIDING JUDGE FREMR: Thank you, Mr Witness. So I am repeating myself.

5 It means that you are now under oath and I have to remind you, as the last time, that
6 it is an offence within the jurisdiction of this Court to give false testimony. So you
7 must tell the truth and only the truth.

8 Do you understand that?

9 THE WITNESS: (Interpretation) I understand, your Honour.

10 PRESIDING JUDGE FREMR: Very well. So far we conducted this proceedings in
11 open session, but since I know what will be the topic of direct examination, we will
12 have to move into private session now.

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

14 (Private session at 9.49 a.m.)

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

18 PRESIDING JUDGE FREMR: Thank you, Court officer. So we break now. We

19 resume 11.40 and then we will continue with further witness.

20 Now court is adjourned.

21 THE COURT OFFICER: All rise.

22 (Recess taken at 11.11 a.m.)

23 (Upon resuming in open session at 11.46 a.m.)

24 THE COURT USHER: All rise.

25 Please be seated.

1 PRESIDING JUDGE FREMR: I see there are some changes in composition of the
2 teams. I would like first ask for putting those changes into record starting with
3 Prosecution.

4 MR VAN DER WERF: Your Honour, the Prosecution is represented by Julieta
5 Solano, trial lawyer; Marion Rabanit, associate trial lawyer; Selam Yirgou, case
6 manager; and myself, Rens van der Werf, assistant trial lawyer.

7 PRESIDING JUDGE FREMR: Thank you, Mr Van der Werf.
8 Now Defence.

9 MS GRANDON: (Interpretation) Good morning, your Honour. The only change
10 for the Defence is Elisa Binon has left the room.

11 PRESIDING JUDGE FREMR: Thank you.

12 And as concerns Legal Representatives, there is no change.

13 Before we move to testimony, there are a few procedural issues we have to solve first
14 and the first one has to be made in private session.

15 So, court officer, please let's move into private session.

16 (Private session at 11.48 a.m.)

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13 (Open session at 11.53 a.m.)

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

15 PRESIDING JUDGE FREMR: Thank you, court officer.

16 The Chamber also puts on the record that on 12 May 2016 the Prosecution sent an
17 email to the Chamber seeking to be provided with access to the victim application
18 form of Witness P-877. On the same day and in accordance with its order number
19 1060, the Chamber responded via email recalling its direction to the VPRS to transmit
20 the full length application form of all dual status witnesses to the Prosecution and
21 further noting that the victim application form of Witness P-877 should be provided
22 forthwith.

23 The Chamber was informed that the document in question was transmitted to the
24 Prosecution on 13 May and subsequently informed the disclosure to the Defence in
25 redacted form took place on 2 June 2016. For the record, this is document

1 DRC-OTP-2092-0288.

2 Now we should move to the rest of the testimony of our witness.

3 Prosecution, do you want to -- because I was told that Prosecution would like to
4 address the Chamber before that. Am I right?

5 MR VAN DER WERF: That is correct, your Honour.

6 PRESIDING JUDGE FREMR: Okay. So you have the floor, Mr van der Werf.

7 MR VAN DER WERF: Thank you. Your Honour yesterday I didn't have an
8 opportunity to respond to the Defence's argument that they did not have an
9 obligation to reveal the basis of their objection. I wish to make brief supplementary
10 submissions on the admission of the three pages of the witness's notebook and I will
11 just have three points.

12 First, the Defence has not offered any legal or factual basis for its objection to the
13 admission at this stage of the three pages. Rule 64(1) of the Rules requires that the
14 party opposing the admission of a document to raise an issue. The Defence did not
15 do so and in the absence of such an issue there is no objection.

16 Allowing the Defence to object to the admission of a document without offering any
17 legal or factual basis gives the Defence a degree of control over the record of the case
18 that is unwarranted and we submit unreasonable.

19 Second, the Defence is free in cross-examination to attack the document and to
20 challenge the truthfulness of the information it contains, and the Chamber may
21 properly take that into consideration in assessing the document's weight, but that
22 should not detract from the document's admissibility.

23 And third, your Honours have deferred the admission of these three pages on the sole
24 basis that it was also done in relation to one document during the testimony of
25 Witness P-315. However, your Honours, the situation of that document was very

1 different from the situation of this document which relates to P-877. Whereas the
2 document concerning P-315 was not explained in detail in her statement, this witness
3 has extensively commented on the three pages of his notebook in his second
4 statement. This statement contains three pages containing comments of the witness
5 on the three pages of the notebook.

6 The statement and these comments have been admitted into evidence and the
7 Defence did not object to these comments and this information being admitted into
8 evidence.

9 Accordingly, the Prosecution submits that these three pages should be admitted at
10 this stage because it's relevant and probative and it has been authenticated by the
11 witness as its author. There is no issue of prejudice arising from the admissibility of
12 the document at the present stage because the Defence simply has not articulated the
13 prejudice.

14 We therefore request the Chamber to admit the three pages of the notebook already at
15 this stage including -- as well as the corresponding pages of the transcript of this
16 document.

17 PRESIDING JUDGE FREMR: Thank you.

18 Defence?

19 MS GRANDON: (Interpretation) Thank you very much, your Honour. Where it
20 concerns the reasons why I objected yesterday to the admission of the three excerpts
21 of the notebook, I was basing it on the jurisprudence of your Chamber, which in the
22 past had pushed the admittance of a document after the cross-examination had been
23 finished. To tell you a bit more about my doubts with regards to the notebook, it is
24 quite simply that I think we can't evaluate the reliability and credibility of the
25 notebook and witness with just the three excerpts that were chosen by the OTP. And

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1 during my cross-examination I intend to draw the attention of the witness to other
2 passages and to draw the conclusions that you can rule on and consider whether
3 relevant or not. That's the only answer that I can give the Office of the Prosecutor
4 today.

5 PRESIDING JUDGE FREMR: Mr van der Werf, I think I don't need any submissions
6 because I think our position, we will maintain our position. I have to admit that it's
7 not ideal for the Chamber, even for the proceedings, if the other party is not totally
8 clear about the kind of objections, but in this -- in this occasion or this case the
9 Prosecution -- the Defence indicated that they will during the cross-examination at
10 least try to put some doubts on the criteria that would allow us to admit this
11 document. And at the moment we don't see any prejudice to Prosecution if we
12 would wait until the end of the cross-examination.

13 So it's our position, we will maintain this for the moment and we will decide after
14 cross-examination.

15 Now, court officer, please bring Mr Witness into the courtroom.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE FREMR: Mr Witness, good morning. Are you feeling okay
18 today?

19 WITNESS: DRC-OTP-P-0877 (On former oath)

20 (The witness speaks French)

21 THE WITNESS: (Interpretation) Thank you, Mr President. I must confess that
22 I'm feeling fine and I spent a good night. Thank you.

23 PRESIDING JUDGE FREMR: That's good to hear that. So, Mr Witness, we are
24 going to continue today with the rest of your testimony. So it's my duty just to
25 remind you that you are still under oath, which means that you have to speak truth

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1 and nothing but the truth, which I guess is clear to you. And as concerns my
2 previous instructions, you yesterday observed them very well, so please just continue
3 in the same way.

4 Now I will hand over floor to Mr van der Werf. And, Mr van der Werf, you still
5 have at your disposal 27 minutes.

6 MR VAN DER WERF: Thank you, Mr President.

7 We can remain in open sessions for my first questions.

8 QUESTIONED BY MR VAN DER WERF: (Continuing)

9 Q. (Interpretation) Witness, as I already pointed out to you, I will not be putting
10 questions to you on your entire statement. I will focus only on a few aspects of your
11 testimony -- or your statement, rather, so that you can provide additional information
12 and explanations as need be.

13 We don't have much time and I therefore want to urge you to be as clear and as
14 concise as possible in your answers. Please listen carefully to my questions and
15 answer only the questions that have been put to you. Is that fine?

16 A. Yes. Thank you.

17 Q. Let me remind you as well that we are in open session and please do not
18 provide any information that may lead to your identification. If you have any need
19 to mention any such information, we will have the option to go into private session.
20 First question. In your statement you indicated that when you arrived in Kilo after
21 the UPC attack shops had been looted. My question in that regard is the following:
22 How did you become aware of that?

23 A. Thank you for your question.

24 PRESIDING JUDGE FREMR: Sorry, Mr Witness. Please hold on for a second.
25 Defence.

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1 MS GRANDON: (Interpretation) My colleague is referring to a statement. Could
2 he please provide the statement and the paragraph?

3 PRESIDING JUDGE FREMR: Mr van der Werf, please.

4 MR VAN DER WERF: (Interpretation) Number DRC-OTP-2069-2086, paragraph
5 25. And to gain time, I intend to refer to this statement as the first statement.

6 Q. Witness, let me repeat my first question to you. How did you become aware of
7 this?

8 A. Thank you very much for your question. The question about looting of stores
9 and shops is not something that I learned, but it is something that I saw myself the
10 next day after the UPC troops had come into Kilo. When we came out of the bush
11 the next day, we saw that shops had -- which previously had goods in them had been
12 broken into and there was nothing in them. The owners of the shops themselves
13 were there complaining about what had happened.

14 Q. What type of goods are you talking about?

15 A. Quite ordinarily in our area you have grocery shops where you can have
16 foodstuffs such as beans and rice and other items such as cigarettes, so you have
17 shops providing food such as fish and oil, and then you have other shops which sell a
18 number of items, including clothes and shoes and various appliances. So all those
19 type of shops were looted.

20 PRESIDING JUDGE FREMR: Sorry, sorry to interrupt you. I would like to ask
21 both of you please observe pauses, three seconds between question and answer,
22 because otherwise we have problems with transcript and translation. So please
23 observe 3-second pauses. Thank you.

24 MR VAN DER WERF: Yes, I apologise, Mr President.

25 Q. (Interpretation) My next question is the following. In your first statement,

1 paragraph 30 you stated that while the UPC was in Kilo, the soldiers would go into
2 the forest every day and come back with two or three Lendu prisoners. You also
3 stated that they would be tied up and that you would not see them again.

4 My question in that regard is the following: How did you know that those prisoners
5 were Lendus?

6 A. Thank you very much for the question. Mr President, you must know that in
7 my statement when the UPC arrived it was on 6 December 2002 in Kilo. They settled
8 in Kilo and thereafter, the Lendu combatants and the Lendu inhabitants fled to their
9 territory or their territory in the Walendu-Djatsi area, which is neighbouring the
10 Banyali-Kilo sector.

11 It is from Kilo that the UPC troops would launch patrols into the forest, and
12 whenever they returned from such patrols they would return with some Lendu
13 combatants and inhabitants who had been captured in the bush.

14 Now, the question as to how I became aware that those were Lendu people, there is a
15 very simple answer to it. You see, in our area the Lendus can be identified by their
16 looks, just like the Nyali and the Hema. So in addition to that, they have a way of
17 speaking which leads one to understand that they are Lendus. Furthermore, the
18 direction from which those captured persons were brought in is directly in the Lendu
19 area. It is for those reasons that I was able to confirm that we were dealing with
20 Lendu combatants and inhabitants.

21 PRESIDING JUDGE FREMR: And, Mr Witness, please a bit slow down because it's
22 also not easy for, not only for interpreters but also for court reporters to write your
23 speech down. So a bit, please, slow down. Thank you.

24 Mr van der Werf, please proceed.

25 THE WITNESS: (Interpretation) Thank you.

1 MR VAN DER WERF: (Interpretation)

2 Q. You have just talked about the inhabitants or population. What was the
3 gender of the prisoners you saw?

4 A. Generally it was men.

5 Q. And their age?

6 A. Normally they were adults. I did not see any children who had been captured.
7 I did not see any women either. In any event, what I saw or the people I saw were
8 male adults of a certain age.

9 Q. In paragraph 33 of your first statement you mentioned that after the UPC left
10 Kilo you found a hole about 2 by 3 metres which was filled with at least 10 bodies
11 piled up one on the other?

12 A. Yes. Thank you. Yes, that is what I stated. And it is because, you see, when
13 the UPC extended its attacks towards Kobu, they left Kilo and then set up or settled in
14 Kobu. Now, behind them the chief of the village, Mr Bazonga, noticed that there
15 was some smell coming out of a valley and so he asked the inhabitants of the village
16 to go and cover up those bodies for fear of an epidemic breaking out. That is what
17 happened. I think that I also mentioned on my sketch the location of the camp and
18 the location of that lower area where that grave was.

19 Q. Can you describe what you saw in that hole?

20 A. Yes. What we saw in the hole is the following: There were dead bodies of
21 people who had been killed using bayonets because we could see on their heads that
22 their heads had been struck with bayonets and we also saw on some of the bodies
23 marks of some kind of blows that may have been given using a hammer or something
24 else. And the bodies were piled up one on top of the other.

25 Q. Do you know the gender of the bodies that you saw?

1 A. What I saw with my own eyes was men. I did not see any women and I did
2 not see any children.

3 Q. Were the dead bodies wearing any clothes?

4 A. No. Generally no. Most of them had no tops, others had their trousers on.
5 And that's how they were piled up.

6 Q. In your first statement in paragraph 34 you said that in 2011 some skulls were
7 found near the hole and that the back parts of those skulls were dented and that gave
8 you the impression that these people had been killed because they had been struck by
9 something?

10 A. Yes. In 2011 the dead bodies were dumped somewhere, but let me say that
11 before then the Belgians had occupied a building in that area and when people looked
12 around, they found that around that area there was a little dump site for rejects of the
13 gold mining process.

14 So it is in that area that people started digging and then subsequently came upon a
15 number of skulls and other body parts. There were skulls as well as some other
16 bones that were found in that area. The chief of the locality did everything to stop
17 people from continuing to work in that area. In any event, whenever any bones
18 were found, they would be buried.

19 What I said, however, was that we found skulls with holes at the central level here.
20 That's what we saw.

21 Q. One more question in that regard: Did you see the skulls yourself?

22 A. Yes.

23 MR VAN DER WERF: Mr President, I would like to move into private session for
24 my next questions.

25 PRESIDING JUDGE FREMR: Certainly.

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- 1 Court officer, let's move into private session now.
- 2 (Private session at 12.16 p.m.)
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17 (Open session at 1.01 p.m.)

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

19 PRESIDING JUDGE FREMR: Thank you, court officer.

20 So we will continue after the lunch break. You all know that Defence had been

21 allotted three hours for cross-examination of the witness. It's clear that if you will

22 take all the time, you will not be able to finish this witness before the end of this

23 because we still have only two hours at our disposal. So that is why I am just asking

24 you, Ms Grandon, obviously in consultation with Mr Bourgon, to consider whether if

25 you wouldn't be able to streamline a bit more the rest of the cross-examination. But I

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1 don't want to push you. You are still entitled to full three hours. Because I don't
2 want to hide that it's probably not ideal to keep witness over the weekend just
3 because of some 40, 45 minutes of the rest of the testimony. It's up to you. So far
4 witness was very cooperative. He responded very clearly, even very fast. There is
5 no time-consuming issue of double translation. Do you want to comment at the
6 moment, Ms Grandon?

7 MS GRANDON: (Interpretation) Just to mention that the witness speaks quite a
8 lot, so I don't know if that's going to slow me down in the process. But if I could
9 finish at the end of the day, I will do that if I can.

10 PRESIDING JUDGE FREMR: Yes, you are right that sometimes he is providing a bit
11 too much, too much extensive narrative. In such a case feel free to break him and
12 say, with my full support, that "It's beyond the question and please, Mr Witness, we
13 will turn to another question." So feel free to do that.

14 Now we break and we will resume half past 2.

15 THE COURT USHER: All rise.

16 (Recess taken at 1.03 p.m.)

17 (Upon resuming in open session at 2.32 p.m.)

18 THE COURT USHER: All rise.

19 Please be seated.

20 PRESIDING JUDGE FREMR: Good afternoon, everybody. We will continue with
21 cross-examination of our current witness by the Defence.

22 So, Ms Grandon, you have the floor. Ms Grandon, do you want to proceed in open
23 or in private session, depending on the character of your upcoming questions?

24 MS GRANDON: Private please.

25 PRESIDING JUDGE FREMR: Private session. So just for the information of public,

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1 it's because this witness is protected one, so he got granted that his identity will not be
2 revealed to the public.

3 Now, court officer let's move into private session.

4 (Private session at 2.34 p.m.)

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1 (Open session at 4.19 p.m.)

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

3 PRESIDING JUDGE FREMR: Thank you.

4 Ms Grandon, please proceed.

5 MS GRANDON: (Interpretation) Could we now have the following document:

6 2069 at page 88. Reference number 2069-0096 at page 98.

7 Q. Witness, during your first meeting with the OTP you made mention of this
8 incident and you explained that when you arrived at the airport in Mongbwalu you
9 were amongst some people, you were a group and two Lendus were part of the
10 group and they were taken apart from the main group. Do you remember?

11 A. Yes.

12 Q. Do you remember the names of these two people?

13 A. I beg your pardon.

14 Q. Do you remember the names of these two people?

15 A. Yes.

16 PRESIDING JUDGE FREMR: Probably at least for this response we will move into
17 private.

18 (Private session at 4.21 p.m.)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

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23 Open session at 4.24 p.m.)

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

25 PRESIDING JUDGE FREMR: Thank you, court officer.

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1 So, Mr Witness, we have to break your testimony now and we will continue on
2 Monday. So I hope that you are not sorry that we are -- we have to keep you in The
3 Hague for upcoming weekend, but on Monday it should be relatively short.
4 Otherwise, I would like to thank you that you patiently responded to all questions
5 put to you. And I also, it's my legal duty to remind you one important thing, that in
6 the meantime you must not discuss your testimony with anybody else, including
7 your family members, simply with anybody else.

8 Have you understood that?

9 THE WITNESS: (Interpretation) Yes, I have understood. And I do thank you for
10 your wise counsel.

11 PRESIDING JUDGE FREMR: Thank you.

12 And now, court officer, please escort Mr Witness out of the courtroom.

13 (The witness stands down)

14 PRESIDING JUDGE FREMR: As to the time remaining to the Defence,
15 cross-examination, I think I got two different data. But at least, or least roughly it
16 should be something around 1 hour, Ms Grandon. But we will clarify that on
17 Monday morning.

18 So we will continue on Monday with the rest of this testimony and then we should
19 continue -- or, yes, we should then follow this testimony with testimony of Witness
20 P-19.

21 Any requests for the floor at this moment? I see it's not the case so --

22 MR VAN DER WERF: Your Honour.

23 PRESIDING JUDGE FREMR: Yes, please, Prosecution.

24 MR VAN DER WERF: I'm told that it would be P-18 and not P-19 on Monday
25 morning.

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- 1 PRESIDING JUDGE FREMR: So sorry, yes, you are right. It was my mistake. It's
- 2 P-18. Exactly. So I would like to thank all of you. I wish you a relaxed weekend
- 3 and see you on Monday.
- 4 THE COURT USHER: All rise.
- 5 (The hearing ends open session in 4.27 p.m.)