

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
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 3
8 Monday, 27 June 2016
9 (The hearing starts in open session at 10.13 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 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 And for the record, we are in open session.
19 PRESIDING JUDGE FREMR: Thank you, court officer.
20 Now appearances please, starting with Prosecution.
21 MR VAN DER WERF: Good morning, your Honours. The Prosecution is represented
22 today by Julieta Solano, trial lawyer; Marion Rabanit, associate trial lawyer; Selam Yirgou,
23 case manager; and myself, Rens van der Werf, assistant trial lawyer.
24 PRESIDING JUDGE FREMR: Thank you, Mr van der Werf.
25 Defence now please.

Trial Hearing
WITNESS: DRC-OTP-P-0877

(Open Session)

ICC-01/04-02/06

1 MS GRANDON: (Interpretation) Good morning, your Honour, your Honours. For
2 the Defence, Bosco Ntaganda is here with us; Stéphane Bourgon; William St-Michel;
3 Marlène Yahya; Sandrine De Sena; and Chloé Grandon, myself.

4 PRESIDING JUDGE FREMR: Thank you, Ms Grandon.

5 And now Legal Representatives of Victims, please.

6 MS PELLET: (Interpretation) Thank you, your Honour. The former child soldiers are
7 represented by Mohamed Abdou and myself, Sarah Pellet, counsel with the Office of
8 Public Counsel for Victims.

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

12 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.

13 As you all know, we faced some technical problems, as usually on a Monday morning,
14 but as usually we succeeded to fix everything, so hopefully we will now continue
15 smoothly.

16 Mr Witness, good morning. Are you doing well today?

17 WITNESS: DRC-OTP-P-0877 (Continuing)

18 (The witness speaks French)

19 THE WITNESS: (Interpretation) Your Honour, I am well. The weekend went well.
20 Thank you very much.

21 PRESIDING JUDGE FREMR: Very good, Mr Witness.

22 So we then can continue with the rest of your testimony, which means rest of
23 cross-examination conducted by Defence.

24 And, again, it's my duty to remind you that you are still under oath, which means that
25 you have to speak the truth and nothing but the truth. Do you understand that?

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

2 PRESIDING JUDGE FREMR: So now I can hand over the floor to Ms Grandon.

3 And Ms Grandon, if I'm not wrong, you still have at your disposal one hour and six
4 minutes. Please, you may proceed.

5 MS GRANDON: (Interpretation) Thank you, your Honour.

6 QUESTIONED BY MS GRANDON: (Continuing) (Interpretation)

7 Q. Good morning, Witness.

8 A. Good morning.

9 Q. On Friday, before finishing the hearing, we addressed a new subject concerning the
10 incident with the plane at Mongbwalu airport. And before going back to this subject, I
11 would like to ask you a question with regards to a subject we dealt with on Friday,

12 (Redacted)

13 (Redacted)

14 PRESIDING JUDGE FREMR: Sorry. Sorry, Ms Grandon, we obviously have to move
15 into private session.

16 So let's move into private session.

17 (Private session at 10.18 a.m.)

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10 (Upon resuming in open session at 2.39 p.m.)
11 THE COURT USHER: All rise.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good afternoon.
14 Since I see some fundamental changes in composition of the teams, I will ask for a new, or
15 update on appearances starting with Prosecution.
16 MS LUPING: Good afternoon, Mr President. Good afternoon, your Honours.
17 Appearing on behalf of the Prosecution this afternoon are Ms Selam Yirgou, case manager;
18 Ms Laura Morris, assistant trial lawyer; Marion Rabanit, associate trial lawyer; and myself,
19 Dianne Luping, trial lawyer.
20 PRESIDING JUDGE FREMR: Thank you, Ms Luping.
21 Defence.
22 MR GOSNELL: Good afternoon, Mr President and your Honours. Christopher Gosnell
23 representing Mr Ntaganda this afternoon, who is present, assisted by Isabelle Martineau
24 and Elisa Binon. Thank you.
25 PRESIDING JUDGE FREMR: Thank you, Mr Gosnell.

1 And as to the Legal Representative of Victims I can note that the composition remains the
2 same, if I'm not wrong.

3 First as to the scheduling, due to the particular situation of upcoming witness we will sit
4 today from 2.30 p.m. until 4 p.m. and if feasible for the witness from 4.30 p.m. until 6 p.m.
5 I note that it's irregular time schedule so I thank everyone for their flexibility in this
6 regard.

7 Then I will deliver orally two rulings concerning not this upcoming witness, but the next
8 witness on the list, which is Witness P-850, and both those rulings may be delivered in
9 public session.

10 First decision concerns, or is oral ruling on the request for protective measures for
11 Witness P-0850 for whom the Prosecution requested face and voice distortion as well as
12 the use of pseudonym in filing number 1362.

13 After the Chamber shortened the response deadline by way of email, the Defence
14 responded on 13 June 2016 with filing number 1388, in which it opposes the request.

15 On 27 June 2016, the Chamber received the VWU's protective measures assessment which
16 recommends granting the same protective measures sought in the request.

17 The Chamber incorporates by reference the applicable law set out in its decision on
18 protective measures, which has filing number 824.

19 In ruling on the request, the Chamber has considered; first, the place of residence of the
20 witness and his family, which is in a region where the security situation remains unstable,
21 in which the accused allegedly exercises influence; second, the witness's professional and
22 family situation and the fact that his involvement in the proceedings is not known to
23 members of his extended family and to wider community; and third, the minimal degree
24 of protection currently provided. In addition, the Chamber has had particular regard to
25 the VWU's assessment in respect of the witness security situation.

1 The Chamber has not been made aware of any direct threat to the witness, but it notes the
2 reported instances when other witnesses, including crime-based witnesses, were allegedly
3 threatened as a result of their involvement with the Court.

4 In light of the above, the Chamber is satisfied that an objectively justifiable risk exists with
5 respect to the witness's security, and that of his family, warranting the protection of the
6 witness's identity from the public.

7 The Chamber further finds that the in-court protective measures sought do not unduly
8 infringe upon the rights of the accused, given that the accused and the Defence will be
9 able to see the witness give evidence and hear the witness's voice without distortion.

10 Accordingly, the Chamber grants the measures of use of a pseudonym for the purposes of
11 the trial and voice and face distortion during testimony pursuant to Rule 87 of the Rules.

12 Finally, the Chamber orders the filing of public redacted versions of the request and the
13 response within two weeks from the present ruling.

14 This concludes this Chamber's ruling.

15 And the second one is ruling on the Prosecution request for the admission under
16 Rule 68(3) of the Rules of the prior recorded testimony of Witness P-0850, together with
17 one associated document.

18 In its request contained in filing number 1361, the Prosecution seeks to admit parts of the
19 witness's statement and an accompanying sketch. It further seeks permission to use
20 leading questions to elicit from the witness any corrections or clarifications identified
21 during the preparation session and requests one hour to conduct a brief supplementary
22 examination, specifically on alleged crimes committed in Kilo.

23 The Defence responded with filing number 1389, in which it indicates that it does not
24 oppose the admission of the witness's statement and associated document, but that the
25 statement should be admitted in its entirety, and that, if not, the Prosecution should not be

1 authorised to conduct a supplementary examination on the matters contained in the
2 omitted paragraphs.

3 Having considered the materials for Witness P-0850 and the submissions received, and in
4 light of its practice with respect to the application of Rule 68(3), the Chamber is of the
5 view that use of Rule 68(3) is, in principle, appropriate for this witness. It will render its
6 formal decision on the admission of the requested materials when the witness appears
7 before the Chamber and if the requirements of Rule 68(3) are satisfied.

8 As to the Prosecution's request to only admit part of the statement and to elicit certain
9 portions of the evidence viva voce, the Chamber considers it appropriate to admit the
10 statement in full. However, the Chamber considers that should the Prosecution wish to
11 do so, supplementary examination may be conducted on the paragraphs of the statement
12 that the Prosecution had sought to elicit viva voce, as long as such questioning is
13 conducted in a manner which is not merely repetitive of the witness's statement. The
14 Chamber further considers that the sketch drawn by the witness is appropriate for
15 admission pursuant to Rule 68(3), as it is associated with the witness's statement in which
16 the sketch is used and explained.

17 Accordingly, the Chamber will authorise a supplementary examination of a maximum of
18 one hour, during which the Prosecution should also seek confirmation by the witness of
19 the accuracy of the material requested to be admitted and deal with any necessary
20 corrections and/or clarifications. Noting the scope of the witness statement, the Chamber
21 invites the Prosecution to try to use less than one hour to complete its examination, if
22 feasible.

23 The Chamber reiterates its previous finding that clarification should be sought in a
24 non-leading manner, by putting to the witness certain portions of the prior recorded
25 testimony and asking the witness whether any clarifications to that portion are required to

1 be made.

2 The parties are further directed to file public redacted versions of filings 1361 and 1389
3 within two weeks.

4 This concludes this second Chamber's ruling.

5 Now we can move to issues pertaining our upcoming witness. And the Chamber in this
6 connection recalls its decision last week, it is filing number 1418, granting in-court
7 protective measures for Witness P-0018 in the form of face and voice distortion and the
8 use of pseudonym.

9 The Chamber also indicated that it would defer its decision on the Prosecution's special
10 measures request until after receiving the vulnerability assessment for the witness from
11 the VWU. Having received this assessment via email on 24 June, the Chamber will now
12 go into private session to issue its ruling on special measures for the witness earlier today.
13 So, court officer, let's move into private session now.

14 (Private session at 2.50 p.m.)

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8 (Open session at 2.56 p.m.)

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

10 PRESIDING JUDGE FREMR: So I will rather repeat the last sentence said: According
11 to its email of 21 June 2016, the Defence objects to certain of the documents the
12 Prosecution may seek to use with this witness. These objections will be addressed if and
13 when they arise throughout the course of the examination-in-chief.

14 Fourth, in terms of timing the examination-in-chief for this witness is to be completed
15 within four hours, and the Defence will have equal time.

16 The Chamber understands there is no request by the legal representative to question this
17 witness. So I see Ms Pellet nodding.

18 Now we can turn to the scheduled testimony. So, court officer, you may now bring
19 witness into the courtroom, please.

20 (The witness enters the courtroom)

21 PRESIDING JUDGE FREMR: Good afternoon, Madam Witness. Can you hear me?

22 WITNESS: DRC-OTP-P-0018

23 (The witness speaks Lingala)

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

25 PRESIDING JUDGE FREMR: Very well, Madam Witness. On behalf of this Chamber, I

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1 would like to welcome you to the courtroom. You are called to testify in the case against
2 Mr Bosco Ntaganda. You will be soon asked questions both by the Judges and lawyers
3 in this courtroom and in that connection, I would like to guide you as follows:

4 Please listen carefully to those questions. If you do not understand, feel free to ask for
5 the question to be repeated. We want you to tell the truth and tell us what you saw,
6 heard or sensed yourself. If you didn't see or hear it yourself, but you found out some
7 other way, then you should explain how.

8 You may not remember all details, and it doesn't matter, please testify just on that which
9 you remember. Don't guess. Don't make things up. There is nothing wrong in saying,
10 "I don't know" or "I don't remember." Do you understand all this, Madam Witness?

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

12 PRESIDING JUDGE FREMR: Very good. Madam Witness, protective measures are put
13 in place to ensure that your identity is not revealed to the public. It means that the
14 public cannot see your face today and that your voice is being disguised so that the public
15 cannot recognize it. We will refer to you only as "Madam Witness" and ensure that your
16 name and any other information that risks revealing who you are is not broadcast to the
17 public. Therefore, whenever you need to describe anything that might reveal your
18 identity we will do so in private session so that no one outside the courtroom can hear
19 your answer. Do you understand, Madam Witness?

20 THE WITNESS: (Interpretation) Yes, I understand.

21 PRESIDING JUDGE FREMR: Good. Madam Witness, you will find a piece of paper in
22 front of you. Now you have it in front of you. It's paper with the solemn undertaking.
23 So please now make your solemn undertaking to tell the truth by reading out the
24 declaration you have in your hands now.

25 THE WITNESS: (Interpretation) I declare solemnly that I will tell the truth, the whole

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1 truth and nothing but the truth.

2 PRESIDING JUDGE FREMR: Thank you, Madam Witness. So it means that now you
3 are under oath, so you need to be aware that it's an offence within the jurisdiction of this
4 Court to give false testimony. Do you understand that?

5 THE WITNESS: (Interpretation) Yes.

6 PRESIDING JUDGE FREMR: Very well. Now, Madam Witness, a few practical matters
7 you should have in mind when giving your testimony.
8 First, it's important to speak into the microphone, to speak clearly and to speak at a slow
9 pace to allow the interpreters to translate everything. And I am highlighting that you
10 should only start speaking when the person asking you the question has finished and,
11 when a question is asked, please do not respond immediately, but please count in your
12 head to three and only then give your answer. This three-seconds pause is essential for
13 us to properly translate and record what you are saying. If you have any questions
14 during your testimony, or if you feel that you need a break, do not hesitate to let us know
15 by raising your hand and we will then give you the opportunity to speak. Have you
16 understood all that, Madam Witness?

17 THE WITNESS: (Interpretation) Yes, I've understood.

18 PRESIDING JUDGE FREMR: Very well. So it means we can start your testimony.
19 So Prosecution, you have the floor.

20 MS LUPING: Thank you, Mr President.

21 QUESTIONED BY MS LUPING:

22 Q. Good afternoon, Madam Witness. I have met you before. As you may recall, my
23 name is Dianne Luping and I'll be asking you questions today on behalf of the Prosecution.
24 Can you hear me well, Madam Witness?

25 A. Yes, I hear you perfectly.

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1 Q. Now, Madam Witness, as I would just repeat one of the instructions made by the
2 Presiding Judge, which is whenever there are any questions that you do not understand,
3 or that are unclear in any way, please don't hesitate to ask me to repeat the question.
4 Now, with your leave, Mr President, my first questions are of an identifying nature.
5 There will be some time needed in private session before I can move back into open
6 session.

7 PRESIDING JUDGE FREMR: Just for the information of public, this witness is a
8 protected witness, which means that the guarantee of not revealing any identifying
9 information was granted to this witness, that is why, as soon as such a risk we will have to
10 move into private session, which is the case at this moment.

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

12 (Private session at 3.06 p.m.)

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24 (Open session at 3.29 p.m.)

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

1 PRESIDING JUDGE FREMR: Thank you, court officer.

2 Ms Luping, please proceed.

3 MS LUPING: Thank you, Mr President. Thank you, court officer.

4 Q. Now, Madam Witness, you stated that you were present in Bambu when you
5 remember that there was war there and you refer to the war as -- in a Swahili term shika
6 na mukono. Now, could I ask you please to explain to the Judges what you remember,
7 from the very first moment you became aware there was an attack, what you remember
8 you saw and that you heard? If you can describe with as much detail as possible this
9 attack in Bambu or this war in Bambu from the very first moment you realised that there
10 was a war happening.

11 A. The war broke out when we were in Bambu. Suddenly we heard shots coming
12 from Mai Shari. The gunshots could be heard. We fled, and these people who were
13 firing went to Kobu, and from Kobu they went to Mongbwalu. The way in which they
14 went to Mongbwalu, well, they went there firing, they didn't go into the locality, but they
15 continued to Mongbwalu.

16 Q. Thank you, Madam Witness. You said that "suddenly we heard shots coming
17 from" -- and now I just want to clarify what we have recorded here. In the English
18 transcript it's recorded as Masherri (phon). Could you state the name of the place again.
19 And we're still waiting for the French transcript, so it's not clear what the name of this
20 place is.

21 Ah, in the French transcript it says Maikari, M-A-I-K-A-R-I. Could you repeat the name
22 of the place?

23 A. The place where they started to fire was called Shari. This is a river, or a stream, if
24 you cross it you arrive in Bambu. So it is in that place, in Shari, that we started to hear
25 the shots.

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1 Q. And how do you know that the shots were coming from Shari?

2 A. Well, it wasn't far, in the same region, and that's how we were able to hear the shots.

3 Q. And can you recall what time of day it was when you first heard these shots coming
4 from Shari?

5 A. It was in the morning, in the -- between 8 o'clock and 9 o'clock in the morning.

6 Q. Now, you stated that you then fled.

7 I'm just going to ask for leave to briefly go into private session for this question.

8 PRESIDING JUDGE FREMR: For sure.

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

10 (Private session at 3.34 p.m.)

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- 21 (Open session at 3.46 p.m.)
- 22 THE COURT OFFICER: We're in open session, Mr President.
- 23 PRESIDING JUDGE FREMR: Ms Luping, please.
- 24 MS LUPING: Thank you, Mr President. Thank you, court officer.
- 25 Q. Now, Madam Witness, you stated whilst we were in private session that you learnt

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1 that the people who were firing at Bambu were UPC soldiers. Now, my first question is
2 this: From whom did you learn that the people firing at Bambu were UPC soldiers?

3 A. In fact, it was an ethnic conflict and we were told that the Hema were coming to
4 attack the Lendu.

5 Q. And from whom did you learn specifically that UPC were attacking Bambu? Was
6 there any people that you spoke to in particular who told you this?

7 A. We knew that the Lendu couldn't attack Lendu localities.

8 Q. Now, when you say UPC soldiers, to what group are you referring? Do you know
9 what ethnicity or ethnicities the UPC were?

10 A. They're Hema.

11 Q. Now, Madam Witness, I had asked you from whom you heard that the UPC were
12 attacking Bambu, now your response was that "We knew that the Lendu couldn't attack
13 Lendu localities." I'm just going to rephrase my question: Did you hear from anybody
14 that the group that attacked Bambu were UPC soldiers? If you didn't, then say so. I'm
15 just asking if there was anyone who told you that these were UPC soldiers and, if so,
16 who?

17 A. I was with a person called (Redacted) and other people. And so it is (Redacted)
18 that gave you that information.

19 PRESIDING JUDGE FREMR: Sorry, I think it would be better to redact this part of the
20 response.

21 MS LUPING: Indeed, Mr President. And with your leave if we could go into private
22 session.

23 PRESIDING JUDGE FREMR: I find it reasonable, yes. So let's move into private session
24 again.

25 (Private session at 3.49 p.m.)

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10 (Open session at 4.00 p.m.)
11 THE COURT OFFICER: We're in open session, Mr President.
12 PRESIDING JUDGE FREMR: So we break now for 30 minutes and we will resume half
13 past 4 and then we will continue till 6 o'clock.
14 THE COURT USHER: All rise.
15 (Recess taken at 4.01 p.m.)
16 (Upon resuming in open session at 4.30 p.m.)
17 THE COURT USHER: All rise.
18 Please be seated.
19 PRESIDING JUDGE FREMR: Before we continue with the testimony, two piece of
20 announcement. The first one: unfortunately we, and you as well, will not have at your
21 disposal French realtime during this session. I'm sorry for that, but I hope that we will
22 commonly overcome this issue.
23 So I see no strong objections to that. As I said, we are not very happy with that, but we
24 were informed about that. Tomorrow everything should be okay.
25 And the second issue: Tomorrow we were invited to continue in courtroom 2, but

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1 because Chamber in fact would prefer to continue in this courtroom because there were
2 no technical problems so far, so I guess, I hope, we expressed this preference and Registry
3 hopefully will confirm, so at the moment we would like to continue in this courtroom. If
4 not, you will be informed.

5 Now, Madam Witness, are you feeling okay?

6 THE WITNESS: (Interpretation) Yes, I'm well, your Honour.

7 PRESIDING JUDGE FREMR: I would like to thank you, still a bit premature because
8 you perfectly observed my guidance. You patiently wait for the questions. You
9 responded clearly. You also observed pauses between your response and the question.
10 So please continue in the same way because so far you are doing very well. Do you
11 understand?

12 THE WITNESS: (Interpretation) Yes, I have understood you well.

13 PRESIDING JUDGE FREMR: Fine.

14 So now I can hand over the floor to Ms Luping. Ms Luping, do you want to proceed in
15 open or in private session?

16 MS LUPING: For the first few questions we can remain in open session, with your leave,
17 Mr President.

18 PRESIDING JUDGE FREMR: Very well.

19 Q. Madam Witness, just returning back to the answer you gave before the break, you
20 mentioned that in Buli there were people who came from different places also not
21 originally from Buli, including people from Mongbwalu, from Bambu and from
22 neighbouring localities. Now, my first question is this: Can you recall some of the
23 different neighbouring localities that these other people were from who were also in Buli
24 when you got there?

25 A. There were several villages around. Some came from Kobu among the people who

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1 were there, because other members of the population came from Gutsi and others went to
2 Buli.

3 Q. I just want to clarify the last response because there may be possibly an error in the
4 transcript. You said other members of the population came from Gutsi and others went
5 to Buli. Could you just clarify what you just said before. Were people coming from
6 Gutsi to Buli or were there members of the population that had gone to Gutsi? I'm just
7 trying to clarify that last response there, it's unclear.

8 PRESIDING JUDGE FREMR: Mr Gosnell.

9 MR GOSNELL: I do believe that's leading, Mr President, and there's no need for the last
10 element, which is a suggestion.

11 PRESIDING JUDGE FREMR: Let's make it in a different way.

12 Ms Witness, could you just repeat your last response because there is some uncertainty
13 whether it was precisely or correctly recorded.

14 THE WITNESS: (Interpretation) Where it concerns Gutsi it's another village. Buli is a
15 different village. Kobu is in the middle. I stated that the population of Kobu went to
16 Buli. Others, the Kobu population went to Gutsi. That's what I said.

17 PRESIDING JUDGE FREMR: Thank you, Madam Witness.

18 Ms Luping, please proceed.

19 MS LUPING: Thank you, Mr President.

20 Q. Now, just in terms of these people that you found in Buli that came from these
21 different locations, do you know why they were there in Buli?

22 A. All these people fled the war.

23 Q. You've referred to a place called Kobu. Do you know what -- at that time what the
24 majority of the population were, the ethnicity of the majority at Kobu at that time?

25 A. Kobu is a village of the Lendu. The Lendu are in the majority there.

1 Q. And when you were in Buli and you found there were these other people who were
2 from different places in Buli, what was the majority of the ethnicity of the people you
3 found there at Buli when you got there?

4 A. The majority were Lendu, Bira, Nyali, as well as Jajambo or people who came from
5 other provinces.

6 Q. And you've just referred to a term "Jajambo". Could you explain what language
7 that is and what it means?

8 A. Jajambo, as in Bunia. We say Jajambo are people who come from other provinces,
9 who do not come from Bunia. These are people who come from elsewhere.

10 Q. And when you say they are people who come from different provinces, from
11 outside which province, which province are you referring to?

12 A. Other provinces, for example Bas-Congo, Baluba (phon), people came from other
13 areas of the Congo. We call them by this term because these people are not from our
14 tribe.

15 Q. And just to clarify, from which province were you from at that time?

16 A. I'm from the Province Orientale.

17 Q. I'm going to ask you a few more questions about what happened in Buli, but before I
18 do, I just want to just briefly take you back in time when you said that you were living for
19 a short time in the bush whilst you were in Mpetsi and then you also said that you went
20 next to Enoka. This time that you were living in the bush, could you describe what life
21 was like living in the bush. What was it like?

22 A. Our life in the bush was difficult. First of all, it was difficult to find food. We
23 were living with difficult living conditions.

24 Q. And if you were to describe for the Judges a day living in the bush, how would
25 that -- what would that day be like? When you say "difficult living conditions" can you

1 explain what you mean by that?

2 A. I was speaking about the difficult life. It was difficult to get food. We slept under
3 very poor conditions. That's why I said that life was difficult in the bush.

4 Q. And when you say you slept under difficult conditions, what do you mean by that?

5 A. Well, that means there weren't houses in the bush. We just had to find makeshift
6 shelters. We were getting wet, soaked in the rain. That's why it was difficult.

7 Q. And when you say it was difficult to get food, was it possible to eat anything, and if
8 so, what were you eating?

9 A. Where it concerns the food, you could spend the whole day without eating. When
10 things calmed down in the evening we could go into the village in order to get something
11 to eat like bananas or cassava, and then we were still in the bush.

12 Q. And can you describe how you were feeling at that time? When you were living in
13 the bush, what were you feeling?

14 A. Well, it's difficult. We were suffering. We didn't know where to go, what could
15 we do? There was nothing to do.

16 MS LUPING: Mr President, for my next question I'd like to briefly go into private
17 session.

18 PRESIDING JUDGE FREMR: Certainly.

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

20 (Private session at 4.44 p.m.)

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7 (Open session at 5.17 p.m.)

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

9 PRESIDING JUDGE FREMR: Thank you, court officer.

10 Ms Luping, please proceed.

11 MS LUPING: Thank you, Mr President.

12 Q. Now, you -- just a moment before you were describing a woman coming from the
13 direction of Gula who was running and shouting that the Effacez had already entered,
14 and that she'd only just finished saying this when you heard the rattle of gunfire from the
15 direction of Gula. Now, this incident where you see a woman coming in, running from
16 the road from Gula and saying that the Effacez were on their way, was this on the same
17 day or a different day to when this group go for the meeting in Sangi, if you can
18 remember?

19 A. It was the same day.

20 Q. And when she was shouting out that les Effacez were on their way, could you
21 explain what you understand the term "les Effacez" to mean. Could you explain this to
22 the Judges.

23 A. Now, when she said "Effacez", basically the Effacez have to kill everybody they see,
24 they have to destroy everything they see and that's why they took that name.

25 Q. And to the best of your knowledge when you -- when you -- from what you

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1 understand the term "effacez" to mean, what ethnic group or groups does this group
2 belong to?

3 A. They spoke Swahili as if they were Rwandan because their Swahili is difficult to
4 understand, that is to say the Swahili spoken in Rwanda. And that's the kind of Swahili
5 they spoke.

6 Q. And when you say the Effacer had to kill everybody they see, they had to destroy
7 everything they see and that's why they took that name, where did you learn that from?

8 A. That's how we knew. They themselves called themselves Effacez le tableau. And
9 we know what effacez means. It means that you have to destroy everything you see.
10 And that's how things went.

11 Q. Just to be clear, when you say "they themselves call themselves Effacez le tableau,"
12 to whom are you referring to "they"? Who is "they"?

13 A. Those soldiers, the soldiers who came. It was they who gave themselves this name.

14 Q. Now, you've referred to a location called Gula. Can you describe where it is
15 located in relation to Buli and Sangi? Where is Gula? And only if you know.

16 A. Gula is between Sangi and Buli. It's close to the bush. So there is a stream there
17 called Gula and people would go to Gula also to go to the bush to hide.

18 Q. And you explain that you fled with others to a place called Jitchu. Could you
19 describe where Jitchu is located, in relation to Buli and Sangi, for example.

20 A. Jitchu is behind Buli. It's beyond Buli. You have to first go through Buli to get to
21 Jitchu.

22 MS LUPING: Mr President, with your leave I would like to show a document, it's at
23 tab 2, for my learned colleague's information, it is a sketch. Actually, before it is shown
24 though to the witness, before I give the ERN one further question.

25 Q. Madam Witness, do you remember meeting investigators of the Office of the

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1 Prosecutor in May 2005?

2 A. Yes. Yes, I met with them.

3 MS LUPING: If I could ask that the first document be called up, that's

4 DRC-OTP-0096-0128.

5 PRESIDING JUDGE FREMR: And one additional question before that And during those
6 meetings, were you asked to draw some sketches?

7 THE WITNESS: (Interpretation) Yes, yes they did ask me to do that.

8 PRESIDING JUDGE FREMR: All right then. Let's proceed.

9 MS LUPING: This document will not be able to be shown publicly. It is a confidential
10 document.

11 Q. Madam Witness, can you see the document in front of you?

12 A. Yes, I can see it.

13 Q. And can you explain -- do you recognize it?

14 A. Yes, I recognize it.

15 Q. And can you explain what it is?

16 A. It's a sketch that I did because they asked me questions about the localities that we
17 had passed through.

18 Q. And I'm just going to refer to the place names that you can see written there. There
19 is a place written, it looks like Winde, Jitchu, Buli, Gula, Kobu and then there is a place
20 written there S-A-G-I, Sagi. Is that correct, Madam Witness, is there a place called Sagi?

21 A. Yes, that's Sangi. That's the place where the meeting was to take place. It's called
22 Sangi.

23 Q. Now, Madam Witness, do you recall meeting investigators a second time? I'm not
24 going to refer to the month or the year in public session, but do you remember meeting
25 investigators of the Office of the Prosecutor a second time when you gave a witness

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1 statement?

2 A. Yes, I remember.

3 Q. And do you recall drawing a sketch that second time as well?

4 A. Yes, I recall.

5 MS LUPING: Mr President, with your leave, I would like to ask for a second document
6 to be called up, that's tab 4 for my learned colleague, DRC-OTP-2052-0188.

7 PRESIDING JUDGE FREMR: Defence, I guess no objections?

8 MR GOSNELL: I think it would have been preferable, Mr President, to have the witness
9 draw the sketch here in the courtroom rather than showing it, but having said that, there
10 is no objection.

11 PRESIDING JUDGE FREMR: All right.

12 MS LUPING: If we could have the second document shown now, Mr President.

13 Obviously with the interests of time as the reason why drawings drawn by the same
14 witness are being shown to her a second time.

15 PRESIDING JUDGE FREMR: Especially taking into account the importance of these
16 kind of sketches, I think it's fully fine with the Chamber.

17 MS LUPING: And this is again obviously not a public document. It is a confidential
18 document.

19 Q. Madam Witness, can you see the document in front of you?

20 A. Yes, I see the document.

21 Q. And do you recognize it?

22 A. Yes, I recognize it.

23 Q. And can you explain what it is.

24 A. When I met them for the second time they asked me more questions and I
25 mentioned the names of the localities you see here.

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1 Q. And who drew this document?

2 A. I did.

3 Q. And who drew the other sketch that we just saw a moment ago?

4 A. I did.

5 Q. Now, you stated that you arrived in Sangi. Can you please describe the
6 neighbourhoods of Sangi.

7 PRESIDING JUDGE FREMR: Ms Luping, could you be more specific? What do you
8 mean under description of neighbourhoods?

9 MS LUPING: I'm asking the witness, Mr President, to explain what she knows of the
10 village of Sangi and what were the various parts of Sangi.

11 PRESIDING JUDGE FREMR: All right.

12 THE WITNESS: (Interpretation) Well, the localities around Sangi, in fact there are three
13 Sangis. The first Sangi is on the side of Bambu. It's called Sangi-Sayo. And the other
14 is when you leave Buli, you walk up, and that place is Sangi-Singa -- no, sorry,
15 Sangi-Singa is when you're coming from Bambu and when you come down the road from
16 Buli that you arrive in Sangi-Sayo. And then in the middle there's what we call Sangi
17 and that Sangi goes to Kobu.

18 MS LUPING:

19 Q. And is this what we see in the sketch that you drew, the different parts of Sangi;
20 Sangi-Singa, Sangi-Sayo and then Sangi?

21 A. Yes, that's what I mentioned there. I indicated the difference between the three
22 Sangis; Sangi-Sayo, Sangi-Singa and Sangi where the meeting was held, and from there
23 there's a road that goes towards Kobu.

24 MS LUPING: Mr President, could we briefly go into private session for my follow-up
25 question?

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- 1 PRESIDING JUDGE FREMR: For sure.
- 2 Court officer, let's move into private session now.
- 3 (Private session at 5.32 p.m.)
- 4 (Redacted)
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15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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21 (Open session at 6.01 p.m.)

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

23 PRESIDING JUDGE FREMR: And usually short inquiry about, for the sake of planning,
24 because you know that especially for this week our schedule is a bit tight.

25 So, Ms Luping, according to my information you so far exhausted 2 hours 22 minutes so

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1 you should be entitled still to utilise 1 hour 38 minutes. Do you think that you will need
2 for the rest of your examination all that time?

3 MS LUPING: We'll have to see how it progresses I'm afraid, Mr President, tomorrow.
4 We certainly were making a lot better progress later on this afternoon. I do have quite a
5 number of exhibits, although we have really shortened the number of exhibits we planned
6 to show this witness, considerably shorter number than appears currently on the list.
7 That will still nevertheless take a bit of time. So at this stage I'm afraid it's possible I may
8 need all of that time. It may be shorter if all goes well.

9 PRESIDING JUDGE FREMR: And again, a question to Defence, I know that is pretty
10 premature, but, Mr Gosnell, do you expect that you will need also your four hours?

11 MR GOSNELL: Quite difficult to say at this stage, Mr President. I can only promise, as
12 I always do, that I'll do my best to keep it as short as possible.

13 And could I just in that vein ask one question, and it concerns page 67, line 3 of the
14 transcript. And there is what appears there to be an answer by the witness that then, if
15 I'm not mistaken, then records the next question by my colleague from the Prosecution,
16 but there's no actual indication that it's the next question. It appears that it's still the
17 answer from the witness. So I don't know whether this is something that customarily
18 can just be corrected or --

19 PRESIDING JUDGE FREMR: Sorry, you said page 67?

20 MR GOSNELL: Line 3.

21 PRESIDING JUDGE FREMR: Of the English?

22 MR GOSNELL: Yes, of the English.

23 PRESIDING JUDGE FREMR: It was "I was with a person called (Redacted) and other
24 people" --

25 MR GOSNELL: And you can see, Mr President, perhaps, just from reading the transcript

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1 why I raise this.

2 PRESIDING JUDGE FREMR: First of all, we have to redact my own because I read out
3 something that should be confidential.

4 Now, Mr Gosnell, so your comment on that is what?

5 MR GOSNELL: Unless I'm mistaken, and it does appear just from reading the text, that
6 what happened was that the subsequent question from the Prosecution which occurs
7 halfway, appears in the transcript to occur halfway through the answer is not actually
8 indicated. And then I know that the Prosecution then asked a question about a page
9 later. And I must say I myself had not heard the answer, that answer from that witness,
10 and so there's a bit of a problem here with the transcript and I don't know whether it can
11 just be fixed by way of the very competent people who prepare the transcript reviewing
12 the audio or (Overlapping speakers).

13 PRESIDING JUDGE FREMR: At least we can focus their attention to that to correct again
14 carefully and compare the written, what is written with the audio.

15 Ms Luping, could you make any comment on that? Do you remember? I think I don't.

16 MS LUPING: I have to admit, and I apologise, I don't recall the precise answer. It was
17 certainly -- my recollection was that I was getting the answer as to who provided certain
18 information, that was my understanding of the response. As to the precise words the
19 witness used, indeed I think it would be better if the audio is listened to so we can get the
20 precise response.

21 PRESIDING JUDGE FREMR: Very well. So we ask Registry really to focus their
22 attention to that. As usual I think that the whole transcript should be reviewed in
23 accordance with its audio, but especially now focus on that point.

24 Now we finish. Also, I would like to thank those who supported us and who had to stay
25 with us to such a late hour, so thank you court reporters, thank you interpreters, thank

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- 1 you guards. And tomorrow we will continue in the normal schedule and in this
- 2 courtroom, which had been confirmed by court officer. So tomorrow 9.30 in this
- 3 courtroom.
- 4 THE COURT USHER: All rise.
- 5 (The hearing ends in 6.06 p.m.)