

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 2
7 Wednesday, 14 September 2016
8 (The hearing starts in open session at 9.38 a.m.)
9 THE COURT USHER: [9:38:29] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:38:48] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:39:03] 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 For the record, we are in open session.
18 PRESIDING JUDGE FREMR: [9:39:19] Thank you, court officer.
19 Now appearances, please, in usual order.
20 MS SOLANO: [9:39:24] Good morning, your Honours. For the Prosecution
21 appear this morning Marion Rabanit, associate trial lawyer; Ms Selam Yirgou, case
22 manager; and I am Julieta Solano, trial lawyer.
23 PRESIDING JUDGE FREMR: [9:39:41] Thank you, Ms Solano. Defence.
24 MR BOURGON: [9:39:43] (Interpretation) Good morning, your Honour, good
25 morning, your Honours, as well as everybody else present in the courtroom. Present

1 here this morning, Han Catherine Morin; Isabelle Martineau; Chloé Grandon; and
2 myself Stéphane Bourgon. Thank you, your Honour.

3 PRESIDING JUDGE FREMR: [9:40:02] Thank you, Mr Bourgon. And Legal
4 Representatives of Victims, please.

5 MS PELLET: [9:40:08] (Interpretation) Thank you, your Honour. The former child
6 soldiers are represented by myself Sarah Pellet, counsel with the Office of Public
7 Counsel for Victims.

8 MR SUPRUN: [9:40:25] (Interpretation) Good morning, your Honour, your
9 Honours. The victims of the attacks are represented by the Office of Public Counsel
10 for Victims Anne Grabowski, associate lawyer; and myself Dmytro Suprun, counsel.

11 PRESIDING JUDGE FREMR: [9:40:39] Thank you, Mr Suprun. Thank you,
12 Ms Pellet.

13 THE COURT OFFICER: [9:40:46] I have a message from the French interpretation
14 booth: We cannot hear you.

15 PRESIDING JUDGE FREMR: [9:41:08] Thank you. Now it seems it's okay.
16 First of all, I have to note that Mr Ntaganda is not present, neither in the courtroom
17 nor in the video link facilities. And in this regard, I have to put on the record that
18 video link facilities from the detention centre were again made available for
19 Mr Ntaganda this morning. He is not using those facilities and the Chamber was
20 advised that Mr Ntaganda refused to go to the video link room and, if forced to go, he
21 would refuse to wear the headphones to follow the proceedings, the set.

22 Regardless of whether Mr Ntaganda's absence is the result of his self-induced
23 condition or deliberate refusal to attend, the Chamber considers it to be disruptive
24 and to constitute a voluntary waiver of his right to present.

25 It's noted in this regard that facilities which would enable Mr Ntaganda to lie down

1 and follow the proceedings in as comfortable a manner as possible have been made
2 available. Mr Ntaganda was made aware of the Chamber's intention to continue the
3 proceedings this morning.

4 While the Chamber has had regard to the nature of the hearings, and in particular the
5 fact that the upcoming witness is dual status, the Chamber notes that there is no
6 foreseeable time frame in which this situation may change.

7 Noting that legal advice remains available to Mr Ntaganda and that pursuant to the
8 Chamber's order of yesterday his rights continue to be represented in the courtroom,
9 the Chamber sees no reasonable alternative but to the continue the proceedings. The
10 Chamber directs Defence counsel to convey this ruling to Mr Ntaganda as promptly
11 as possible.

12 Mr Bourgon.

13 MR BOURGON: [9:43:35] Thank you very much, Mr President. First, I would
14 like to be heard on the issue of Mr Ntaganda's absence this morning, and secondly, I
15 will, immediately after these brief submissions, request an adjournment so I can at
16 least speak to him and discuss the matter with him once again.

17 Mr President, Mr Ntaganda is not here this morning. We did not receive any report
18 from the detention centre whether he was fit either to go -- to come to court or to go to
19 the video room.

20 I did speak to Mr Ntaganda this morning. I did discuss on the phone and ask him
21 how he felt. Mr Ntaganda informed me that he had just seen a doctor, that the
22 doctor had performed some medical checks, but that the doctor did not ask whether
23 he was fit to go to court or to the video room.

24 I inquired with Mr Ntaganda whether he himself had asked the doctor or informed
25 the doctor, and he said no, this was straight medical.

1 Before I give you a bit of what happened yesterday during my consultation with
2 Mr Ntaganda, for what I can say of this matter, I would first like to raise a very
3 important issue which is that of disclosure of medical information.
4 Yesterday we received a report and the report is dated 13 September 2016, and
5 without quoting the contents of the report, which of course is confidential - although
6 it doesn't say here that it is confidential - the conclusion of an independent
7 psychiatrist who would have examined Mr Ntaganda yesterday and concluded that
8 he is mentally competent to oversee the implications of his decisions. This report,
9 Mr President, follows the medical appointment that Mr Ntaganda had yesterday just
10 before we resumed the hearing at 2.30 in the afternoon.
11 Based on the information that I have, this happened during a very short encounter
12 which was interrupted because of the hearing. The psychiatrist who interviewed
13 Mr Ntaganda spoke only English and there were no interpreters present. In
14 Mr Ntaganda's view, this meeting was -- this meeting or examination was interrupted
15 and was to continue at a later time.
16 Then we received this report, and what is important here is that this report is not, in
17 our view, a medical document. It is the conclusion of a deputy medical officer to the
18 deputy chief custody officer.
19 This is very important because, to us, we require the medical information in order to
20 know what we are dealing with, and at the present time we are not getting this
21 information.
22 On Monday, when I met with Mr Ntaganda at the detention centre, I had him sign a
23 consent form for the Defence to obtain his medical record complete, plus any daily
24 update as the situation develops.
25 Mr Ntaganda provided me this document. There was, of course, some kind of

1 administrative issue as to whether he should give it or I should give it. In the end
2 we made a photocopy of the original document, which is handwritten. The original
3 was given to Mr Ntaganda, who handed in as part of the normal handing of
4 document routine at the detention centre. For myself, I took the photocopy which
5 was scanned and which was sent to the Director of Judicial Services and with the
6 mention that "Please ensure that we get the information so that we are able to do our
7 work."

8 I did get a response very shortly from the director and he said that, yes, we will act
9 accordingly.

10 To this day all we have received is the note of yesterday morning, fit to -- "Unfit to
11 travel but fit to attend video," and this report this morning -- or concerning
12 yesterday's meeting that he would be mentally competent to oversee the implications
13 of his decisions.

14 Yesterday as we were in the courtroom the Director of Judicial Services was
15 accompanied by the legal adviser of the Registry, who informed me, actually, he
16 asked me, "Did you get the other medical report?" I said, "What other medical
17 report?" Well, he says, "There was an examination conducted." Well, I said, "My
18 consent is in. Please send it to me." We have not received it.

19 I don't know if the Chamber is receiving all of this information. I don't know if the
20 Chamber is in possession of Mr Ntaganda's medical record. If a consent is required
21 to obtain these records, Mr Ntaganda will definitely provide his consent so that the
22 Judges get his medical records, but for the time being we would like to have the
23 medical record.

24 So this brings two issues: One issue of either a disclosure or obtaining the
25 information allowing us to do our job. That's number one. And of course, to get

1 this information in a timely manner so that we can hopefully react when it's not too
2 late.

3 The second issue, of course, has to do with our request yesterday for an independent
4 medical exam of Mr Ntaganda. This is part of the Trial Chamber's decision
5 yesterday, where the Chamber said, "The Chamber," and I quote here from
6 yesterday's decision, which is public, "The Chamber is however willing to partially
7 grant the Defence request to the extent of appointing a medical expert to assess
8 Mr Ntaganda's fitness pursuant to Rule 135 and in accordance with its obligation
9 under Article 64."

10 The Registry has been ordered to perform such a medical examination. We would
11 like to place on the record that we do not consider what happened yesterday before
12 the 14.30 hearing as fulfilling the order of the Trial Chamber and we insist on an
13 independent medical examiner to see Mr Ntaganda.

14 Again, yesterday the Trial Chamber decided that there were no issues regarding his
15 mental state. I don't know on what basis the Trial Chamber made that call. Maybe,
16 and I hope you have more information than I have, because honestly and respectfully,
17 we do not have such information.

18 So that's the issue of the medical record and medical state of Mr Ntaganda, which
19 brings me to why Mr Ntaganda is not here this morning.

20 Mr Ntaganda informed me this morning that he did not feel well enough to either
21 attend or to go to the video room, but he did also tell me that "If they come and get
22 me, I will refuse to go." This is Mr Ntaganda's call, and this is my message I convey
23 to the Chamber on his behalf.

24 Why is this so? Well, yesterday we had a meeting with Mr Ntaganda. We were
25 given 50 minutes for this meeting. We understand that there are difficulties in

1 getting meetings later at night, but we were given 50 minutes to address yesterday's
2 events with Mr Ntaganda. These are highly emotional events. Mr Ntaganda, what
3 I can say on his behalf is that he sees that there is progress being made towards the
4 possibility of seeing his wife and his kids in normal conditions. But now he is being
5 asked, or at least we try to convey to him that he should cease his protests on the basis
6 of what happened yesterday, and he fails to understand why we were not given some
7 time to at least obtain those assurances.

8 I understand that, in the Chamber's view, these are to be obtained in parallel to the
9 hearings, but there are things that must be done during daytime and it will be very
10 difficult to make these negotiations. No matter how many counsels are on the team,
11 these are very sensitive issues that need to be addressed between director and myself,
12 to see if there is the room to accommodate a visit that would be acceptable to
13 Mr Ntaganda and that would also, of course, abide with the Chamber's guidance.
14 We came to you yesterday; maybe we were too positive, maybe we conveyed the
15 message, don't worry, we'll make it happen and we'll find a solution. Our aim
16 yesterday was to inform you that there was a solution possible, but this solution, if I
17 may use a very Canadian expression, we are skating on thin ice and the ice is melting.
18 The other issue that is on Mr Ntaganda's mind, which is the main issue for which I
19 guess he was -- well, I'll use the word, he was upset, is that he believes that his
20 statement was not understood, that he referred to the fact that the Prosecution, the
21 Legal Representatives of Victims for child soldiers, the Legal Representatives of
22 Victims for attacks, the three of them, à l'unisson, are saying that Mr Ntaganda is
23 complaining about the result of one decision, and his reaction is, can't they see that it's
24 much more than one decision, that it is a situation that goes way beyond that
25 decision?

1 A hunger strike is the ultimate protest means an individual can use. I didn't know
2 that before, or if I knew, I know better now because I've been doing some reading on
3 the issue. And now we're asking Mr Ntaganda to basically, on the basis of what was
4 heard in court yesterday, without any information whatsoever, other than the legal
5 reassurances of the Chamber, which were explained to him, as to the meaning of that
6 decision, this was explained to Mr Ntaganda because the Chamber did try to explain
7 at least on two occasions to Mr Ntaganda its view of the decision that was rendered.
8 But it goes way beyond in his view, and his view must be associated with his state of
9 mind, and his state of mind at the present time I would say is still proper, in the sense
10 that he can think, and I don't have the feeling that I have before me a man who cannot
11 think, but I do have the feeling that I have before me a man who is emotionally really
12 confused, and I'm doing my best to remove this confusion, to make it clear for him.
13 But as it stands, based on what he said in his statement yesterday and based on what
14 he heard and we was informed of, he voluntarily, as you say so, decided not to attend
15 the hearings and he voluntarily gave us instructions to -- not to represent him in his
16 absence.

17 We have a conflict. We've addressed this issue yesterday, the conflict between
18 instructions from the client and an order from the Chamber, and it's for the third time
19 we will mention the issue of the grey area. We as responsible -- well, myself in the
20 first place, but with the team, we are discussing this and see what is the best course of
21 action for the Defence. And we are here this morning and we will continue to abide
22 with the orders of the Chamber, but it must be placed on the record that we are
23 having a difficult time in finding a way out and whereas we -- again, we're maybe too
24 positive yesterday, now I have to say that the situation is not developing for the best.
25 Now, we look at the interests of justice. Should we force Mr Ntaganda, take him out

1 of his chair and sit him in the video room? Last week I myself, I was the one to say I
2 recognize that the Chamber has the power to do this, and of course the Prosecution
3 jumped on this and recalled what I said last week. I did have time to look at the
4 matter now more carefully, to do some legal research, and it is our understanding that
5 this has never been done before.

6 I stand to be corrected. We understand that in one specific case before the ICTY it
7 was decided, and that was the case of Mucic, I believe, at the ICTY where the Trial
8 Chamber had issued an order for the accused to be brought before the Court.

9 It's Mucic, Mike-Uniform-Charlie-India-Charlie, Mucic.

10 And in the end he was not forced to go to court as he claimed he had to see a doctor.

11 We don't have any other precedents. We don't know what you will decide
12 regarding Mr Ntaganda's absence. I have just heard the Chamber's further ruling
13 this morning that you intend to proceed with Mr Ntaganda not there and to treat this
14 as a voluntary waiver.

15 Mr Ntaganda did not waive, at least, his right to be in the courtroom. He is
16 voluntarily refusing to be here. Is that -- does that mean that it is voluntary? The
17 issue is that Mr Ntaganda should not be brought before Court and that we should, as
18 we mentioned yesterday, be striving -- and we are and we will continue to do so -- to
19 find a solution.

20 But one must wonder, Mr President, what is the interest of justice? We have a man
21 who is sitting at the detention centre. Whether he is self-induced or not, he has not
22 eaten for seven days, there are no signs that he will resume eating, and we will
23 continue in the courtroom with no accused present, no accused involved.

24 Even if we decide to cross-examine, this decision has not been made yet, even if we
25 decide to cross-examine, is this the type of justice that we want before the

1 International Criminal Court? And the second question is: What happens after this
2 witness? And what happens next week when Mr Ntaganda falls unconscious?
3 What will happen then? We will continue with the trial with Mr Ntaganda
4 unconscious in his bed?

5 I don't know what we want, but these must be reflected upon.

6 With all this said, Mr President, I would like simply to have a short break to see if it's
7 possible to speak to Mr Ntaganda and get the update with the information that you
8 just conveyed just before I took the floor this morning. Because although he did tell
9 me what he would do, I don't know what happened and I would like to know what is
10 happening with Mr Ntaganda at the detention centre.

11 Thank you, Mr President.

12 PRESIDING JUDGE FREMR: [10:03:44] I believe it's in the interest of all of us to
13 find some positive solution. But still it's not clear to me, Mr Bourgon, because your
14 client through your mouth is criticising everything what we have already done. But
15 what is your positive proposal how to proceed?

16 MR BOURGON: [10:04:03] Mr President, if I was in a position to provide
17 Mr Ntaganda with concrete information that his views are not being ignored and that
18 there will be a family visit, maybe let me put it this way, not in the negative form but
19 in a positive form, so that I don't want to be disrespectful in any way. Not that his
20 views are being ignored but that his views are being addressed. I want to be
21 positive and I hope that the Chamber sees our effort to take a positive approach. If I
22 could bring some concrete information to Mr Ntaganda about a family visit and that
23 conditions are possible, there is an opening. But it was not possible yesterday and
24 last night to meet with the director of judicial services. It's not something I can ask
25 someone else to do right this morning as I am here. And I believe it is my duty to be

1 here to inform you personally of how my client is feeling this morning.

2 And if I feel that if I could bring that type of information to him, at least I could get -- I
3 could make some progress and I could strengthen rather than minimise or reduce the
4 trust of my client in my services and the relationship between him and I.

5 PRESIDING JUDGE FREMR: [10:05:42] And is my understanding correct that you
6 would like to call him?

7 MR BOURGON: [10:05:46] I would like to call him immediately if the Chamber
8 will allow me to do so. I know we are wasting time and there's a witness waiting in
9 the -- just beside. I'm fully aware of that. I know that the view might be that this is
10 self inducted, but the situation calls, Mr President, for at least to be handled.

11 PRESIDING JUDGE FREMR: [10:06:09] So you believe there is some chance for
12 some progress? Otherwise it would be really wasting of time, even 15 minutes. If
13 you've no chance to change the view of Mr Ntaganda, why to allow you to call him?

14 MR BOURGON: [10:06:26] There's always a chance, but I can certainly not make a
15 promise. And you've heard what I said, it's your call, Mr President.

16 PRESIDING JUDGE FREMR: [10:06:35] All right. Fine. Prosecution, your
17 position.

18 MS SOLANO: [10:06:38] Your Honour, given that we've already spent 20 minutes
19 hearing the Defence submissions, I will try to be brief.

20 In the Prosecution's view, there is no need for an adjournment, your Honours, of any
21 sort. Defence counsel has responsibility to ensure that he can have discussions with
22 his client when we're outside of court and, in our view, this should not take further
23 time away from the witness who is waiting to be heard. Your Honour, the
24 Prosecution's position remains that now with a medical note, which we haven't seen,
25 but a medical report, that if anything supports the view that Mr Ntaganda is fit to

1 continue, there continues to be no legitimate basis for his refusal to appear before the
2 Chamber, be it in person or through video link. And, in our submission, this
3 constitutes a violation of the Court's orders and we submit that the Chamber ought to
4 compel him to be present during the continued proceedings and move to impose
5 sanctions under Article 71 and Rule 171.

6 Thank you, your Honour.

7 PRESIDING JUDGE FREMR: [10:07:48] All right.

8 So, Mr Bourgon, as a sign of really goodwill of this Chamber, even if our patience is,
9 you know, very close to the end, I am giving you 10 minutes to call your client.

10 Now we break for 10 minutes.

11 THE COURT USHER: [10:08:10] All rise.

12 (Recess taken at 10.08 a.m.)

13 (Upon resuming in open session at 10.26 a.m.)

14 THE COURT USHER: [10:26:39] All rise.

15 Please be seated.

16 PRESIDING JUDGE FREMR: [10:26:55] Well, so now the Chamber would like to
17 listen to Mr Bourgon about the update and about this call to Mr Ntaganda.

18 MR BOURGON: [10:27:06] Thank you, Mr President. I did succeed in speaking
19 with Mr Ntaganda. He informed me how the situation developed this morning. I
20 informed him of the situation which had unfolded in the courtroom in the last few
21 minutes. I made it clear to him that the Trial Chamber's patience is very close to the
22 end.

23 Mr Ntaganda's response is, "I was present yesterday, despite not feeling well, because
24 I wanted to make the issues and have my issues addressed. This is not the case. I
25 have -- I don't feel able to go this morning whether to the court or to the video room,

1 but I don't want to go either."

2 This is the message from Mr Ntaganda. Thank you, Mr President.

3 PRESIDING JUDGE FREMR: [10:28:06] All right. So no progress, if I may
4 summarise.

5 One additional issue as regards the report on examination of the accused yesterday, I
6 have to confirm that so far the Chamber has no information or no report available.
7 We haven't been provided with this report, but I would like just to assure myself that
8 you just indicated that but for the case of need of the consent of your client to be
9 provided with any medical information concerning his current situation, I understood
10 that he was ready to or he, in effect, he was giving us this consent?

11 MR BOURGON: [10:28:56] Yes, Mr President. On behalf of Mr Ntaganda I am
12 able to provide his consent to the Trial Chamber to have access to all medical
13 information.

14 PRESIDING JUDGE FREMR: [10:29:08] All right. Very well. Which means that
15 now we will continue as we indicated so -- and one minor point before we bring the
16 witness in. One information as usually as our usual practice, the Chamber will hear
17 any submissions in relation to Mr Suprun's request to examine the witness following
18 completion of the Prosecution's examination, and we also have to note that we
19 received the VWU's vulnerability assessment for this witness on Friday and hereby
20 grants, the Chamber grants the following special measures: First, reading assistance
21 in Swahili should be available for the witness, if required; second, the presence of a
22 support assistant next to the witness in the witness box is granted for the first session
23 of his testimony or for however long as may be required; and finally, that questioning
24 is adapted to the needs and capacity of the witness, please, parties, have it in mind.
25 The Chamber will remain vigilant as to whether any further measures are required as

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1 we proceed and shall, if required, permit that the witness take additional breaks.

2 This concludes the Chamber's ruling.

3 And now, court officer, please have the witness brought into the courtroom.

4 And, in the meantime, allow me to, just to remind you that both parties have been
5 granted 3 hours for direct examination and cross-examination respectively.

6 (The witness enters the courtroom)

7 PRESIDING JUDGE FREMR: [10:31:49] Good morning or "jambo" if you wish,
8 Mr Witness. Mr Witness, can you hear me?

9 WITNESS: DRC-OTP-P-0100

10 (The witness speaks Swahili)

11 THE WITNESS: [10:32:10] (Interpretation) Good morning.

12 PRESIDING JUDGE FREMR: [10:32:13] All right. Mr Witness, I would like, on
13 behalf of this Chamber, to welcome you to the courtroom. You are called to testify in
14 the case against Mr Bosco Ntaganda. You will be soon asked questions both by the
15 Judges and lawyers in this courtroom, and in this connection I would like to guide
16 you as follows: Please, listen carefully to those questions. It's very important that
17 you make sure that you understand the question. If you do not understand, feel free
18 to ask for the question to be repeated.

19 Mr Witness, we want you to tell the truth and tell us what you saw, heard and sensed
20 yourself. If you didn't see or hear it yourself but you found out some other way,
21 then you should explain how.

22 You may not remember all details, and it does not matter. Please testify just on that
23 which you really remember. Don't guess. Don't make things up. There is nothing
24 wrong in saying, "I don't know" or "I don't remember."

25 Do you understand all this, Mr Witness?

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1 THE WITNESS: [10:33:44] (No interpretation)

2 PRESIDING JUDGE FREMR: [10:33:53] Even my poor knowledge of Swahili --

3 THE WITNESS: [10:33:58] (Interpretation) I understand.

4 PRESIDING JUDGE FREMR: [10:34:00] Yes, now I got the translation. Thank
5 you.

6 Now, Mr Witness, protective measures have been put in place to ensure that your
7 identity is not revealed to the public. It means that the public cannot see your face
8 and that your voice is being disguised so that the public cannot recognize it. We will
9 refer to you only as "Mr Witness" and ensure that your name and any other
10 information that risks revealing who you are is not broadcast to the public.
11 Therefore, whenever you need to describe anything that might reveal your identity or
12 the identity of your family members, we will do so in so-called private session so that
13 no one outside the courtroom can hear your answer.

14 Do you understand that, Mr Witness?

15 THE WITNESS: [10:35:04] (Interpretation) I understand.

16 PRESIDING JUDGE FREMR: [10:35:08] Fine. Mr Witness, now you will be
17 provided with a piece of paper - now you have it - with the solemn undertaking. So
18 please now make your solemn undertaking to tell the truth by reading out the
19 declaration you have in your hands.

20 THE WITNESS: [10:35:31] (Interpretation) Do I have to read it aloud?

21 I solemnly declare that I will tell the truth, the whole truth and nothing but the truth.

22 PRESIDING JUDGE FREMR: [10:36:02] Very good, Mr Witness. Thank you.
23 It means that you are now under oath and you also need to be aware that it's an
24 offence within the jurisdiction of this Court to give false testimony. Do you
25 understand that?

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1 THE WITNESS: [10:36:27] (Interpretation) I understand.

2 PRESIDING JUDGE FREMR: [10:36:30] All right. And finally, a few practical
3 matters you should have in mind.

4 It's important to speak clearly and to speak at a slow pace, approximately like me
5 now. You should only start speaking when the person asking you the question has
6 finished, and what is very important, please do not respond immediately but wait just
7 for at least 3 seconds before you give your answer because this pause of 3 seconds is
8 essential for our interpreters to interpret your response correctly.

9 And if you have any questions during your testimony or if you feel that you need a
10 break, do not hesitate to let us know by raising your hand. We will then give you
11 the opportunity to speak.

12 Have you understood all that, Mr Witness?

13 THE WITNESS: [10:37:41] (Interpretation) I understand.

14 PRESIDING JUDGE FREMR: [10:37:44] Very good, Mr Witness.

15 Then the Prosecution can start asking their questions. Ms Solano, you have the floor.

16 MS SOLANO: [10:37:53] Thank you, your Honour.

17 QUESTIONED BY MS SOLANO: [10:37:55]

18 Q. [10:38:00] Good morning, sir. Can you hear me?

19 A. [10:38:03] Good morning. Yes, I can understand you very well.

20 Q. [10:38:07] Sir, we met before. I am Julieta Solano and I will ask you questions
21 on behalf of the Prosecution.

22 MS SOLANO: [10:38:14] Your Honour, for my first few questions can I request
23 please to move into private session.

24 PRESIDING JUDGE FREMR: [10:38:21] Certainly.

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

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- 1 (Private session at 10.38 a.m.)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
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- 9 (Upon resuming in open session at 11.32 a.m.)
- 10 THE COURT USHER: [11:32:19] All rise.
- 11 Please be seated.
- 12 PRESIDING JUDGE FREMR: [11:32:35] We are going to continue with direct
- 13 examination of our witness.
- 14 Ms Solano, you finished before the break in the regime of private session. Do you
- 15 want to continue in the same regime or you prefer to continue in the regime of open
- 16 session.
- 17 MS SOLANO: [11:33:19] Private session, please, for a few more questions.
- 18 PRESIDING JUDGE FREMR: [11:33:24] All right.
- 19 Court officer, let's move into private session.
- 20 (Private session at 11.33 a.m.)
- 21 (Redacted)
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9 (Open session at 11.39 a.m.)

10 THE COURT OFFICER: [11:39:40] We are back in open session, Mr President.

11 PRESIDING JUDGE FREMR: [11:39:43] Thank you, court officer.

12 Ms Solano, you have the floor.

13 MS SOLANO: [11:39:46] Thank you, your Honour.

14 Q. [11:39:48] Sir, what was the name of the village that you lived in when

15 Bosco Ntaganda and his troops entered via Mongbwalu?

16 A. [11:40:13] I used to live in Camp P.M. village in Camp P.M. locality. That

17 was the village for retired persons. It was known as Camp P.M. That was a camp

18 for retired persons on pension. That's the name of the village.

19 Q. [11:41:03] And where was this village located?

20 A. [11:41:24] Camp P.M. is located in the Banyali-Kilo collectivity of the

21 Kama (phon) groupement in the Djugu territory.

22 Q. [11:42:00] And what are the names of other villages that are close to

23 Camp P.M.?

24 A. [11:42:22] Yes, I can -- yes, I can. The villages surrounding Camp P.M. were

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1 Sori, Kobu village, Jeaku. And there is another area further away, which is Wadza,
2 in the Walendu-Djatsi collectivity of the Tchudja groupement.

3 Then there was also another area further down in the Banyali-Kilo collectivity, at the
4 border between Walendu-Djatsi and Banyali-Kilo, and that is known as the Kama
5 groupement.

6 Q. [11:43:38] Did the war that you referred to earlier ever come to Camp P.M.?

7 PRESIDING JUDGE FREMR: [11:43:50] Yes, please.

8 MS GRANDON: [11:43:51] (Interpretation) It might be timely to recall the
9 number of villages that have been mentioned by the witness. Could we have them
10 repeated, Mr President, because there have been a number of villages mentioned by
11 the witness.

12 PRESIDING JUDGE FREMR: [11:44:08] Ms Solano.

13 MS SOLANO: [11:44:09] Your Honour, I don't personally see the need to repeat
14 the villages. They appear to have been captured in the French transcript. So
15 I would prefer to move on, your Honour, and then --

16 PRESIDING JUDGE FREMR: [11:44:28] Ms Grandon.

17 MS GRANDON: [11:44:30] (Interpretation) The request was for the names to be
18 spelt out. I am not sure that they are spelt out correctly. So the request is for the
19 names to be spelt out.

20 MS SOLANO: [11:44:47] Your Honour, as far as we are aware, the spelling has
21 been picked up correctly in the French transcript.

22 PRESIDING JUDGE FREMR: [11:44:54] Yes. At the same time I am just trying to
23 double-check into my view. At least I have before me, in front of me English
24 transcript, but at least in English transcript at the moment I don't see any obvious
25 mistake.

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1 Ms Grandon.

2 MS GRANDON: [11:45:18] (Interpretation) The first village mentioned by the
3 witness is not -- appears not to be spelt out at the very least. On page 29, lines 24.
4 Raou (phon), that's what I see on the transcript.

5 PRESIDING JUDGE FREMR: [11:45:40] All right. It's not easy task, but could you
6 kindly, Ms Solano, to return just to that issue which is, yeah, I think Ms Grandon is
7 right, page 29, line 24, before the Kobu village, you have "Camp P.M." where there is,
8 it seems to be that this at least name we haven't faced so far, so it will be probably not
9 right wording.

10 MS SOLANO: [11:46:15] Your Honour, I will follow your directions. However, I
11 note that the name was picked up in the French transcript. So I will nevertheless ask
12 the witness. It's no problem. It's just that I wanted to avoid --

13 PRESIDING JUDGE FREMR: [11:46:28] But it is the correct wording of the French
14 transcript, just let's refer to French version. Could you confirm that French version is
15 right?

16 MS SOLANO: [11:46:39] Well, as far as I'm aware it's right.

17 PRESIDING JUDGE FREMR: [11:46:42] And what is in the French because I don't
18 have at my disposal French version. So what is in the French version?

19 MS SOLANO: [11:46:46] The spelling in the French version, I don't have it in front
20 of me anymore, but it was S-O-R-I for the village that the witness mentioned after
21 Camp P.M. and before Kobu.

22 PRESIDING JUDGE FREMR: [11:47:00] All right then. So please proceed.

23 MS SOLANO: [11:47:03] Thank you, your Honour.

24 Q. [11:47:08] Sir, did the war ever come to Camp P.M.?

25 A. [11:47:51] Now, the first war, during that time it was the Ugandans who came

1 in. When they came, they were at the centre and did not go to the localities. They
2 remained in the centre, and they said they didn't have any soldiers against whom to
3 fight. They simply stayed at the centre and did not come as far as our location.

4 Q. [11:48:30] And was there a time when the soldiers did come as far as your
5 location in Camp P.M.?

6 A. [11:49:04] Well, that happened during the war by Bosco Ntaganda when he
7 came to fight us. It is at that time that his soldiers left Mongbwalu, came to Kilo and
8 the Nyali pointed out to them where we were, and so they came through the bush
9 and started firing, and then people fled.

10 On that day they killed a woman who was deaf and who had remained in her house
11 while others had fled.

12 Now, when the news reached the youth in our area in Kobu centre, people started to
13 shout and to prepare their bows and arrows and spears, and when they heard all of
14 that noise, they returned to their area.

15 Now, at that time, that is the time when Bosco's soldiers came to the Camp P.M. and
16 killed that deaf woman. After that, they went back to Kilo. They never went
17 through the bush anymore.

18 PRESIDING JUDGE FREMR: [11:50:27] Sorry to interrupt you, Ms Solano.
19 I would like to get qualification from the witness.

20 And, Mr Witness, on what basis you concluded that those soldiers were
21 Bosco Ntaganda's soldiers who came to the Camp P.M.?

22 THE WITNESS: [11:51:01] (Interpretation) This happened when they drove out
23 the Lendu youth. They had engaged in combat in Mongbwalu and the Lendu had
24 fled to Kobu. They went back to their area, leaving Mongbwalu, and that's when the
25 soldiers chased after them as far as Kilo, all the way to Kilo-État. Then the next day

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1 they followed them right to our own area, to the place where we were staying. That
2 is how they came to our area, drove us out into the bush. We fled to the bush.
3 So the youth in our area started shouting and then they went back to Kilo. They no
4 longer went through the bush, but they used the main road instead.

5 PRESIDING JUDGE FREMR: [11:52:05] So may I take it, if I understood correctly,
6 that in fact you were informed in some way that soldiers who were coming were
7 Bosco Ntaganda's soldiers?

8 THE WITNESS: [11:52:33] (Interpretation) They came from Kilo. They were
9 there with Bosco Ntaganda. From Mongbwalu they chased after our young people
10 as far as Kilo and where they rested. But our youth were already in Kobu village.
11 That is how things unfolded.

12 PRESIDING JUDGE FREMR: [11:52:59] Thank you, Mr Witness.

13 Ms Solano, please proceed.

14 MS SOLANO: [11:53:02] Thank you, your Honour.

15 Q. [11:53:05] Sir, I can see that you have a great deal to tell the Court. Can I ask
16 you to focus on my questions and I will try to help you get all your story out, yes?
17 I want to focus on what happened at Camp P.M. Were you there yourself when
18 these soldiers came to Camp P.M.?

19 A. [11:53:43] Yes, I was there. I fled too. When people were fleeing, I too fled
20 as well. Everybody was fleeing. And then they were driven out when people
21 started to shout. That is how they retreated without coming as far as the centre.

22 Q. [11:54:24] Do you remember what time of day it was when the soldiers came
23 to Camp P.M.?

24 A. [11:54:53] It must have been around 8 or 9, after 8.

25 Q. [11:55:04] And where exactly were you when they arrived?

1 A. [11:55:17] I was in the bush.

2 Q. [11:55:26] And what did you hear or see yourself when the soldiers arrived?

3 A. [11:55:50] When they arrived, they started by firing to indicate that they had
4 arrived. Then people started fleeing and I fled too. I fled as well.

5 Q. [11:56:12] Sir, and what were they firing?

6 A. [11:56:36] They used weapons.

7 Q. [11:56:38] Can you describe what kind of weapons you heard or you saw?

8 A. [11:57:03] The arm or weapon they fired, well, I don't know the name of that
9 weapon, but it was strong. I heard a gunshot and then we started to flee.

10 Q. [11:57:33] Did you see the people, did you see these soldiers yourself?

11 A. [11:57:51] With my own eyes, no, I did not see them. But as people were
12 fleeing and there was gunfire, we all fled in different directions to the bush. I fled
13 too. When -- when the young people or youth drove them out, they attempted to
14 torch a number of houses, but it was raining and they did not succeed in doing that.
15 So they went back.

16 Q. [11:58:34] Who attempted to torch a number of houses?

17 A. [11:58:44] The same soldiers when they were returning to Kilo.

18 Q. [11:58:52] Did you see -- did you see that yourself?

19 A. [11:59:02] They tried to burn down some -- or, rather, a house at the place
20 where I was, but it was raining and the house didn't burn down. Then they went to
21 a banana plantation, or there was a banana -- a bunch of banana trees near my
22 neighbour's house, and they cut one bunch down, which they ate and then destroyed
23 the other banana stems and then left.

24 Q. [11:59:56] You said that you fled, so can you explain how you know that they
25 burnt down or tried to burn down a house and cut down some bananas?

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1 A. [12:00:38] It is when they went back to Kilo that we returned to the village and
2 then found out what they had done in the village. It is at that time that I saw that
3 they had tried to burn down a house but, because it had rained heavily on that day,
4 the rain had put out the fire.

5 Now, when I talk about bananas or -- I'm referring to bananas that were already ripe.
6 They had a bunch of bananas in the house and the inhabitants had left that bunch in
7 the house. Now, when they arrived, they collected that bunch, ate them and then
8 they smashed the other bananas that were left in the house and then they left.

9 Q. [12:01:45] Where were you from the moment you fled until the moment you
10 came back to Camp P.M.?

11 A. [12:02:14] When we fled, we returned, and we thought that they would come
12 back again, so we left again towards a hill further away. It was close to Sangi. We
13 fled towards another hill after having left the location where we were.

14 Q. [12:02:58] Sir, let's talk about when you came back to Camp P.M. Apart from
15 the bananas and the house that had been -- that they had tried to burn, did you see
16 any other consequences of the fighting in your village?

17 A. [12:03:51] They killed one person. When everybody had already fled there
18 was a woman who had not heard the gunshots, so -- and that is because she was deaf.
19 They found her and killed her. We buried her after they had left. Everyone left the
20 location and went elsewhere.

21 Q. [12:04:37] Where did you bury this woman?

22 A. [12:04:48] We buried her on the spot of where she had been killed. We found
23 her body there and we buried her right there.

24 Q. [12:05:06] Sir, and were you able to tell how she had been killed?

25 A. [12:05:30] Given that they had come through the bush -- they fired gunshots.

1 This woman was deaf. Those who had been outside fled. She stayed behind.
2 They found her there and they killed her. So when we returned we saw her body
3 and we buried her. Then we fled towards another hill much further away. That is
4 what happened.

5 Q. [12:06:24] Sir, what had they used to kill this woman?

6 A. When we found her, she had been shot with a firearm. After that everybody
7 fled and they were not able to catch anyone else. They shot at other people, but the
8 young people chased them away and they left.

9 Q. [12:07:27] On what part of her body was this woman shot with a firearm?

10 A. [12:07:42] They shot in her chest area. That is where there was an entry
11 wound. No other part of her body.

12 Q. [12:08:03] When you came back to Camp P.M., what condition did you find
13 your own house in?

14 A. [12:08:16] To begin with, I saw fire. The house had not been completely burnt
15 down, but part of the house had been burnt. Then we left and went towards another
16 hill further away.

17 Q. [12:08:57] Were all of your belongings still inside your house when you came
18 back to Camp P.M.?

19 A. [12:09:20] Not all my property was in the house. Some had been thrown
20 about and we took the rest -- I took the rest right up to Gola.

21 Q. [12:09:54] What had been thrown about? What items had been thrown
22 about?

23 A. [12:10:14] I didn't quite understand your question.

24 Q. [12:10:32] You said that inside your house some of your property had been
25 thrown about. My question is: What things had been thrown about?

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1 A. [12:11:02] It was my clothes and my wife's clothes that had been thrown here
2 and there. I found a pair of trousers which had been abandoned by the roadside. I
3 took it and I returned home. And immediately after that I left and we went
4 elsewhere.

5 Q. [12:11:30] And where did you go, sir?

6 A. [12:11:33] We went further into the forest to Gola.

7 Q. [12:11:48] Without giving any names, can you tell me who you were with
8 when you went from Camp P.M. into the forest to Gola?

9 A. [12:12:20] I was with the members of my family. We met other people at
10 Gola, so we were all together.

11 Q. [12:12:36] And who were these other people?

12 A. [12:12:48] The people that we met there were inhabitants of Gola.

13 Q. [12:13:00] Sir, and why did you and your family flee to Gola? As I
14 understand your evidence, the soldiers had already left Camp P.M., so why did you
15 flee?

16 A. [12:13:33] That was before we entered Gola. That is when we decided to go.
17 It was the following morning -- the following day that they came and they went right
18 to Kobu centre. And it is from there that they went to Gola and attacked people in
19 the forest. That is when they abducted that woman. It was the second time they
20 were abducting her.

21 (Redacted)

22 (Redacted)

23 (Redacted) It was the second time that they were in the forest. They went to Kilo
24 and the following day they went to the centre. They no longer went to the forest.
25 They went and set up their position at the centre.

1 They followed us once again into the forest passing through the Sangi road.

2 Q. [12:15:20] Sir, what did -- did you actually reach Gola yourself with your
3 family?

4 A. [12:15:54] We were all together. I was not alone. They captured them.

5 I was able to escape because I hid in the forest. So they took these people and went
6 with them to Jitchu, and just like in Kobu, they set houses on fire. They went to the
7 centre right up until the time that they killed them. That is what happened.

8 MS SOLANO: [12:16:44] Your Honour, may we go into private session, please.

9 PRESIDING JUDGE FREMR: [12:16:49] Certainly.

10 Court officer, let's move into private session.

11 (Private session at 12.16 p.m.)

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20 (Open session at 12.36 p.m.)

21 THE COURT OFFICER: [12:36:59] We're in open session, Mr President.

22 PRESIDING JUDGE FREMR: [12:37:10] Thank you, court officer.

23 Because of technical problem, because we have not proper transcript at the moment,

24 and it seems that to solve this problem it will require some more time, we will have to

25 adjourn, which means that we will take our lunch break now, and we will resume at

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1 2 o'clock. And because half past 4, Judges have some other professional
2 commitment, we have a plenary meeting of Judges today, so we will have to finish
3 court past 4. So my idea is to take, if the witness will be fit enough, to have one
4 longer session from 2 to quarter past 4.

5 So at the moment we adjourn, we will reconvene half past -- at 2. Sorry, it's my
6 wrong counting. So at 2.

7 THE COURT USHER: [12:38:11] All rise.

8 (Recess taken at 12.38 p.m.)

9 (Upon resuming in open session at 2.08 p.m.)

10 THE COURT USHER: [14:08:34] All rise.

11 Please be seated.

12 PRESIDING JUDGE FREMR: [14:08:57] Mr Bourgon, because I would like to say
13 something which also concerns your client. But all right, you can start. Please go
14 ahead.

15 MR BOURGON: [14:09:21] Thank you, Mr President. Very briefly, I just want to
16 inform the Chamber that in preliminary consultations with the director of judicial
17 services this morning, it was brought to our attention that what, the plan we are
18 working on, really, concerning the possibility of a visit of Mr Ntaganda's wife,
19 appears not to be possible without reconsideration of the Trial Chamber's decision.
20 I have a further meeting with Mr Dubuisson at 4.30 this afternoon. And I would just
21 like to place on the record that of course we are here present in the courtroom
22 pursuant to the Trial Chamber's order and contrary to the instructions received from
23 Mr Ntaganda.

24 Thank you, Mr President.

25 PRESIDING JUDGE FREMR: [14:10:09] And I think it will be also fair to inform

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1 you that we, that is and why -- and I am sorry for that, we are a bit late. But we also
2 had a very long meeting with Mr Dubuisson trying to contribute to a solution of those
3 sometimes legal, sometimes practical issues. And we strongly encourage the
4 Registry to find ways how, even with respect to our decision and all provisions from
5 the legal framework of the ICC. We can make some progress. And it seems that we
6 some chance for progress, so we have been promised that we will be approached soon.
7 And I believe that a bit also depends on your negotiations with Mr Dubuisson,
8 because you are person who represent Mr Ntaganda, but I think there is some space
9 for further progress.

10 And the last issue, he also assured on the basis of this discussion, that since we would
11 like to have access to this psychiatrist's report, we need written, really written consent
12 of Mr Ntaganda. So we are asking you, Mr Bourgon, to provide us with this content
13 because I guess it's obviously in the interest of your client.

14 MR BOURGON: [14:11:59] We will abide, Mr President, for sure as soon as
15 possible. Thank you.

16 PRESIDING JUDGE FREMR: [14:12:05] And now we can continue with
17 examination of our witness.

18 Ms Solano, you have the floor. Do you want to continue in open or in private
19 session?

20 MS SOLANO: [14:12:15] Your Honour, in private session, please. And I just want
21 to note for the record that Ms Samson has joined the Prosecution team.

22 PRESIDING JUDGE FREMR: [14:12:22] Very well. Thank you.

23 And just for information of public, because since witness is protected one, he was
24 given guarantee that his identity will not be revealed to public, that is why we have to
25 conduct some parts of examination that may bring risk of his identification in private

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1 sessions.

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

3 (Private session at 2.13 p.m.)

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5 (Open session at 2.33 p.m.)

6 THE COURT OFFICER: [14:33:22] We are back in open session, Mr President.

7 PRESIDING JUDGE FREMR: [14:33:24] Thank you.

8 Ms Solano, please proceed.

9 MS SOLANO: [14:33:28] Thank you, your Honour.

10 Q. [14:33:30] Sir, but how do you know that he was a young man if you did not
11 see him? Did somebody else tell you who he was?

12 A. [14:33:52] Somebody told me. Myself personally, I didn't see him.

13 Q. [14:34:01] Do you know the name of this young man who was killed?

14 A. [14:34:11] No, I don't know his name. This was somebody who had come to
15 the village recently. Myself, I didn't know this young person. I just know this was
16 a young person who was killed.

17 Q. [14:34:38] Do you know what ethnic group he belonged to?

18 A. [14:34:50] Most of the people who were fleeing were Lendu. There weren't
19 members of other ethnic groups there. It was the Lendu, just the Lendu, who were
20 fleeing. There weren't other ethnic groups.

21 Q. [14:35:14] You told us earlier that the soldiers were shouting "Salongo". What
22 does "Salongo" mean?

23 A. [14:35:40] Salongo means the following: At the time of Mobutu there was a
24 song at the time which said Salongo Alinga Mosala. What does that mean? That
25 means that everybody has to return to work, everybody has to work. "Salongo,"

1 I think it's in Lingala. It's a term that was used at Mobutu's time. It was a song
2 asking members of the population to work.

3 Q. [14:36:28] And when you heard the soldiers use this word, what did you
4 understand them to mean? What was the work that had to be done?

5 A. [14:36:51] The work, that was burning houses and abducting civilian
6 population, killing them. The work was killing them. There wasn't anything else.
7 Burn houses, abduct the people, take them to Kobu and kill them. That's what it was.
8 That's what salongo was. That's what salongo means.

9 Q. [14:37:33] The soldiers that you heard while you were in the bush, the soldiers
10 who were shouting "shika na mukono," what language were they speaking?

11 A. [14:37:52] Shika na mukono, that's an expression in Swahili. That's Swahili or
12 Kingwana.

13 Q. [14:38:22] Sir, you said that a commander announced that there would be a
14 peace -- an agreement and that the population went to a peace negotiation. Did you
15 hear this commander yourself, or did somebody tell you about this?

16 A. [14:38:55] When the war was happening it wasn't far from where we were so
17 we were able to hear what was being said from where we were in Sangi.

18 Q. [14:39:19] And what was your reaction when you heard this announcement
19 about a -- about an agreement?

20 A. [14:39:43] Well, we spoke between ourselves, we were with other people, they
21 were speaking about -- speaking about peace. It was a tactic in order to catch
22 members of the population. "Let's stay here because it's going to turn out bad." We
23 knew that this was a way of gathering a lot of people from the population together
24 and killing them afterwards.

25 Q. [14:40:20] Sir, and where exactly were you when -- when you heard this

1 commander speaking?

2 A. [14:41:00] We were there in Gola. I was with my neighbour, my neighbours
3 and my brother-in-law, there were two of them and myself, there were three of us.
4 And my wife fled because the situation was not good. We asked to flee but we
5 stayed to see how the situation would develop.

6 Q. [14:41:39] Where was the commander who spoke about this agreement, where
7 was that commander when you heard him?

8 A. [14:42:00] They were all on the hill where the war was taking place, where
9 they had gathered or where they were clashing with young Lendu.

10 Q. [14:42:20] How do you know that they were clashing with young Lendu?

11 A. [14:42:37] When they started having these clashes, there was gunfire that we
12 could hear. And when they started shouting and speaking about peace negotiations,
13 there was no longer any gunfire.

14 Q. [14:43:06] Did the young Lendu have weapons?

15 A. [14:43:23] They didn't have firearms, they had spears, machetes and arrows.

16 Q. [14:43:40] And how do you know that?

17 A. [14:43:58] What are you referring to?

18 Q. [14:44:09] How do you know that the young Lendu had spears, machetes and
19 arrows but that they did not have firearms?

20 A. [14:44:28] When the battle finished, when the war finished, we saw them with
21 arrows, spears and machetes. Even when they had taken up positions on the
22 different fronts in order to survey the enemy they were armed with arrows and
23 spears and machetes.

24 Q. [14:45:20] Did you attend the pacification meeting yourself?

25 A. [14:45:43] I didn't go there. I found out that they weren't telling the truth

1 when they were trying to gather the population together. We couldn't go there
2 because we knew that if we did, they were going to catch us and they were going to
3 kill us. So I didn't go there. Even the people who I was with also didn't go there.

4 Q. [14:46:15] So where did you go, sir?

5 A. [14:46:26] I was still there. I was in the same place. When the members of
6 the population went for these talks, I didn't go and when they started to abduct
7 people, some of them fled. Myself and my brother-in-law, we left our hiding place
8 and we went to hide somewhere else.

9 Q. [14:47:01] Where did you go to hide next?

10 A. [14:47:12] We -- we went to the hill and we hid in the bush. They didn't see
11 us. We went to a place where we could hide. They tried to follow us, but we were
12 hidden. They caught my wife and other members of the family. Only my daughter
13 was -- managed to save her life as well as her maternal aunt and the wife of my son.
14 But other people were caught. And we heard that from our hiding place because it
15 wasn't very far from where we were hiding.

16 Q. [14:48:13] I have heard the witness say a word just now and also earlier at
17 page 1, line 25 of this afternoon's transcript, so I want to ask the witness to clarify if
18 the word has meaning?

19 PRESIDING JUDGE FREMR: [14:48:31] All right.

20 MS SOLANO: [14:48:32]

21 Q. [14:48:33] Sir, I think I heard you say the word bonde. Is that a word you
22 said?

23 A. [14:48:44] Bonde, that means the place where we were when there were shouts
24 "get them, catch them, shika na mukono." That's when we were hiding and then we
25 took the road towards this valley in the bush. That's where we were hiding. I

1 spoke about the road that goes through this valley. That's the way we went to get to
2 the place where we hid.

3 Q. [14:49:34] Is bonde the name of a specific location like a village or is it just a
4 word that you use to explain that you were hiding?

5 A. [14:49:57] Bonde, that is to say if you have two mountains, one on the left, one
6 on the right, in the middle that's what we call a bonde, a valley. That's to say that if
7 you leave the hill you go down into the valley and then you go up the other hill.
8 That's where we went through in order to hide. There was another valley. Often
9 there are rivers or streams in the valleys.

10 Q. [14:50:41] You said that a woman came to see you while you were in the bonde.
11 What did this woman tell you?

12 A. [14:51:03] No. No. She returned to the village. She went to see if I was still
13 in the village because there was a lot of shouting and wanted to tell me to save myself
14 and then saw that I had already gone, so he went back by the same path with the
15 other members of the family. She didn't find me and when she arrived, we had
16 already left so she didn't know where we had gone through and she started to call me,
17 but I had already left.

18 Q. [14:51:59] Where did you go after hiding in the bonde?

19 A. [14:52:20] When my wife had already been caught, as well as my children and
20 the other members, I stayed in the same place until it was nightfall. Then I left my
21 hiding place. I went up towards the hill where I went to hide.

22 Q. [14:52:55] And where did you go from there?

23 A. [14:53:01] The next day as they had caught the person and taken that person to
24 Kobu in order to kill him, the next day the night of the 27th/28th they killed the
25 people who had been caught. There was a woman whose life was saved. She was

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1 hidden. She arrived to ask me to go and see the members of my family who had
2 been killed, and there was another young man who arrived. He said that we had to
3 go there to the place where these troops had killed the members of the population
4 who had been captured.

5 MS SOLANO: [14:54:02] Your Honour, may we move into private session, please.

6 PRESIDING JUDGE FREMR: [14:54:06] For sure.

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

8 (Private session at 2.54 p.m.)

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- 11 (Open session at 4.00 p.m.)
- 12 THE COURT OFFICER: [16:00:08] We're in open session, Mr President.
- 13 PRESIDING JUDGE FREMR: [16:00:20] Thank you, court officer.
- 14 Mr Suprun, you may proceed.
- 15 MR SUPRUN: [16:00:33] (Interpretation) Thank you, your Honour.
- 16 QUESTIONED BY MR SUPRUN:
- 17 Q. [16:00:41] Good afternoon, Mr Witness.
- 18 A. [16:00:43] Good afternoon.
- 19 Q. [16:00:44] We know each other already, but for the record my name is Dmytro
- 20 Suprun, and I represent the victims of attacks against the civilian populations
- 21 admitted to take part in this trial against Bosco Ntaganda.
- 22 I would like to ask you a few questions to clarify your testimony and so that you
- 23 should elaborate on your experience and the experience of your family.
- 24 MR SUPRUN: [16:01:16] Mr President, can we go back to private session, please.
- 25 PRESIDING JUDGE FREMR: [16:01:20] Sure.

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- 1 Court officer, now let's return into private session.
- 2 (Private session at 4.01 p.m.)
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7 (Open session at 4.10 p.m.)

8 THE COURT OFFICER: [16:10:09] We're in open session, Mr President.

9 PRESIDING JUDGE FREMR: [16:10:21] Thank you, court officer.

10 Mr Suprun, please proceed.

11 MR SUPRUN: [16:10:26] (Interpretation)

12 Q. [16:10:31] Mr Witness, the events of 2002 and 2003 that you experienced, did
13 they have any impact on your life and on the lives of those who are around you, your
14 close ones?

15 A. [16:11:01] Personally, these events hurt me a lot. They distressed me a lot.
16 Even the children, when they think about what happened, they are in the same
17 situation as myself. So we also have our brother who was killed in Bunia. He left
18 from Kobu, that is my younger brother, and he went to Bunia. He fell into their trap
19 and they killed him.

20 The child of my brother also was captured in Mongbwalu. He was beaten heavily.
21 He managed to flee, but he started urinating blood. He fell ill and subsequently he
22 died after the war. So those are the events that hurt me very much, and I am
23 counting on the God Almighty who has kept me alive.

24 Q. [16:12:23] Mr Witness, as a victim of the 2002 and 2003, what are your
25 expectations at the end of this trial against Bosco Ntaganda?

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1 A. [16:12:54] Personally, well, you know, when someone has killed a member of
2 your family, this is something that has to be dealt with by the justice system and then
3 there are reparations. But here I do not know what are the provisions for cases such
4 as mine, but where I come from, when there is a crime and someone has been killed,
5 there is reparation. I do not know what is provided for in the Statute here. In my
6 country the victims' family is compensated.

7 Q. [16:14:07] In your opinion, what should be that reparation? In other words,
8 what do you understand by reparation from the ICC?

9 A. [16:14:55] What I would want is to have a house to live in with my family,
10 those of them who have stayed in the village, and to assist me also with something so
11 that I can continue living the short time that is left for me to live. I'm a very old man
12 and I don't think that I can live beyond ten years. It is difficult to live for a long time.
13 Whatever can be given to me would help me, would help the children, would help to
14 pay for the children's school fees. There is a girl and a boy and they are in school. I
15 could speak to their schoolmasters to see what their needs are. That is what I can
16 think about.

17 MR SUPRUN: [16:16:21] (Interpretation) Mr Witness, thank you for your
18 answers.

19 I have no further questions for the witness, your Honours.

20 PRESIDING JUDGE FREMR: [16:16:28] I appreciate, Mr Suprun, that you have
21 been punctual.

22 Mr Witness, it concludes your testimony for today. So now you will have a chance
23 to take some rest, and we will continue tomorrow 9.30. And it's my duty to remind
24 that you must not discuss your current testimony in the meantime with anybody else.
25 Do you understand that, Mr Witness?

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- 1 Are there any further requests?
- 2 THE WITNESS: [16:17:05] (Interpretation) Yes, I have understood.
- 3 PRESIDING JUDGE FREMR: [16:17:12] Sorry, I will repeat myself. Are there any
- 4 further requests for the floor? I don't see such an indication. So we will adjourn
- 5 now and we will resume tomorrow, 9.30.
- 6 THE COURT USHER: [16:17:28] All rise.
- 7 (The hearing ends in open session at 4.17 p.m.)