

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, 26 September 2016
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: [9:30:54] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:31:19] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:31:23] 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: [9:31:39] Thank you, court officer.
20 Now appearances please in habitual order.
21 MS SAMSON: [9:31:45] Good morning, Mr President, your Honours. For the
22 Prosecution today are Selam Yirgou, case manager; Kristy Sim, assistant trial lawyer; and
23 I'm Nicole Samson, senior trial lawyer.
24 PRESIDING JUDGE FREMR: [9:31:56] Thank you, Ms Samson.
25 Defence, please.

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- 1 MR GOSNELL: [9:32:01] Good morning, Mr President and your Honours.
2 Christopher Gosnell for Mr Ntaganda this morning, assisted by Isabelle Martineau and
3 Maria-Kim Vasconi. Mr Ntaganda is not present but I understand has provided a waiver.
4 Thank you, Mr President.
- 5 PRESIDING JUDGE FREMR: [9:32:16] Exactly. Thank you, Mr Gosnell.
6 And now Legal Representatives of Victims, please.
- 7 MR ABDOU: [9:32:24] Good morning, Mr President. Good morning, your Honours.
8 Mohamed Abdou for the former child soldiers.
- 9 MR SUPRUN: [9:32:33] (Interpretation) Good morning, your Honour, your Honours.
10 The victims of the attacks are represented by the Office of Public Counsel for Victims,
11 Anne Grabowski, associate lawyer, and myself, Dmytro Suprun, counsel.
- 12 PRESIDING JUDGE FREMR: [9:32:46] Thank you, Mr Abdou. Thank you,
13 Mr Suprun.
- 14 Now, Mr Witness, good morning. Are you feeling okay to continue in your testimony?
- 15 WITNESS: DRC-OTP-P-0127 (On former oath)
16 (The witness speaks French)
- 17 THE WITNESS: [9:33:01] (Interpretation) Good morning, your Honour. I am able to
18 do that.
- 19 PRESIDING JUDGE FREMR: [9:33:10] Thank you very much, Mr Witness.
20 Before we continue, two issues: First one it is my duty to remind you that you are still
21 under oath, which means that you have to speak the truth and nothing but the truth,
22 which I guess is clear to you. And the second issue, please don't forget about my
23 practical guidance since your answers has to be -- have to be translated, it is always
24 necessary not to respond immediately, just wait a few seconds in order to allow precise
25 translation, but I think you did it well last time, so please just observe it again.

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1 So now we can move directly to examination-in-chief, or continuation of that.

2 Ms Samson, do you want to proceed in open or in private session?

3 MS SAMSON: [9:34:11] Mr President, I'm going to try public session for as long as I
4 can, and then with your leave move into private session.

5 PRESIDING JUDGE FREMR: [9:34:20] Certainly.

6 So, Ms Samson, you have the floor.

7 QUESTIONED BY MS SAMSON: (Continuing)

8 Q. Good morning, sir.

9 A. [9:34:27] Good morning.

10 Q. [9:34:29] On Friday we began discussing the events of 2003, and I would like for
11 you please to explain to the Court what was happening in and around Lipri at that time
12 from a security perspective?

13 A. [9:34:54] Thank you. Thank you very much for giving me the floor. What
14 happened in 2003 in Lipri, well, it wasn't the first time that attacks were carried out in the
15 locality of Lipri and in its surrounding area. Now here I'd like to, in particular, go back
16 to two attacks which took place in particular.

17 On the 17th and 18th -- on the 17th --

18 Q. [9:35:42] Sorry for the interruption, sir. Would you be able to specify which
19 month you're speaking about? You mentioned the 17th and the 18th.

20 A. [9:36:02] The month, I can't remember exactly, but the 17th I do remember quite
21 easily.

22 Q. [9:36:25] Please continue for now and if the month comes back to you then you can
23 let us know and if you continue to forget then I can assist you in other ways.

24 A. [9:36:40] Thank you. So I was saying it was on the 17th, I don't remember which
25 month it was.

1 Now, the first attack of the 17th on Lipri people from the -- men from the UPC, they
2 entered into the locality of Lipri, and when they entered, it was around 5 o'clock in the
3 morning. They set siege to this locality until approximately 7 o'clock. And Lendu
4 combatants from the locality of Lipri, they launched a counterattack, and happily they
5 managed to drive back the men from the UPC. That happened on the 17th, as I said a
6 moment ago.

7 Now, there was a second attack that was carried out on Lipri, that was also carried out by
8 the UPC. Now, this second attack, this was on a very large scale. It was decisive and it
9 was decided on by the men from the UPC. There were clashes which took place between
10 the UPC, who were heavily armed, and the Lendu combatants. They also had -- some of
11 them had firearms, some of them had bladed weapons. There were clashes which took
12 place around the locality of Ngongo, that is a locality which you get to before coming to
13 Lipri. And fortunately for the Lendu combatants, there were ammunition which -- or,
14 they withdrew before the enemy. And in that place I would say, from Ngongo there, the
15 UPC troops, they divided them into groups. Now, the first group entered straight in on
16 Lipri, and the second group went around via Ngaru. Both groups advanced slowly
17 towards Lipri. Now, the Lendu combatants had already been routed and they
18 progressed slowly.

19 Well, at a particular time, personally, I saw the UPC troops launch a weapon which the
20 Lendu combatants called a rocket launcher. They launched that weapon towards the
21 market, the Lipri market, the market that was in the main village of Lipri. And those
22 were the UPC troops who had gone around via Ngaru who did that. They were the ones
23 who fired that weapon.

24 Now, the civilian population, they were routed, they were running away. The Lendu
25 combatants themselves were also routed, given the very high number of UPC troops that

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1 there were and also the fact that they were heavily armed. They progressed, and those
2 who entered straight to Lipri, they entered Lipri, and those who went around via Ngaru,
3 they also entered via Lipri, but going through the village of Ndr'chukpa.
4 Now, those villages, that can easily be confused because they look like just one village.
5 And that was when they started burning houses. When I speak about setting fire to
6 houses, here I'm on the other side of Lipri. A village that can also be put together
7 with Lipri is Tsili, the village of Tsili. And we saw flames. There were houses that
8 were burning and these fires continued, they also came towards us and we were in
9 the direction of Tsili. And I said a moment ago that the population had already been
10 routed, they were fleeing. They were fleeing. And at a particular time, the
11 population from one village to another, they were emptied. (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [9:43:17] Excuse me, sir.

15 MS SAMSON: [9:43:20] Mr President, may we please move into private session for the
16 rest of the answer.

17 PRESIDING JUDGE FREMR: [9:43:23] For sure.

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

19 (Private session at 9.43 a.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

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16 (Open session at 11.01 a.m.)

17 THE COURT OFFICER: [11:01:26] We are in open session, Mr President.

18 PRESIDING JUDGE FREMR: [11:01:41] Thank you, court officer.

19 And update on timing: Now I got information that you, Ms Samson, so far you used 1
20 hour and 40 minutes. So you still have more than 2 hours. Do you think that you will,
21 because in my view you made a big progress, do you think you will really need all that
22 time more than 2 hours?

23 MS SAMSON: [11:02:04] I don't think so your Honour, no. I expect to finish by lunch.

24 PRESIDING JUDGE FREMR: [11:02:10] It was also my situation. And the Chamber
25 would also appreciate that.

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1 All right, we will break now and we will continue at half past 11.

2 THE COURT USHER: [11:02:20] All rise.

3 (Recess taken at 11.02 a.m.)

4 (Upon resuming in open session at 11.31 a.m.)

5 THE COURT USHER: [11:31:54] All rise.

6 Please be seated.

7 PRESIDING JUDGE FREMR: [11:32:26] Before we continue with testimony, the

8 Chamber will now deliver its brief oral ruling on the Prosecution's request for protective
9 measures for Witness P-668, which is filing number 1475.

10 The Chamber incorporates by reference the applicable law set out in its first decision on
11 in-court protective measures bearing filing number 824.

12 In assessing whether there exists an objectively justifiable risk to this witness, the
13 Chamber has considered a number of relevant factors, notably prior security incidents
14 related to this witness, her place of residence, which is within the geographic area of
15 influence of Mr Ntaganda and where former UPC/FPLC members reportedly reside, the
16 nature of her anticipated testimony, her role during period of the charges and her profile,
17 noting that the Chamber has previously found this to be a relevant consideration. The
18 Chamber has also had particular regard to the VWU's recommendation in respect of the
19 witness's security situation.

20 In light of the above, the Chamber is satisfied that there exists an objectively justifiable
21 risk with respect to the witness security and well-being warranting the protection of her
22 identity from the public.

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

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1 The Chamber also notes the Defence's submission in filing number 1487 that it does not
2 oppose the measures requested.
3 Accordingly, pursuant to Rule 87 of the Rules, the Chamber grants the measures of use of
4 pseudonym for the purposes of trial and voice and face distortion during testimony.
5 This concludes the Chamber's ruling.
6 And now we can continue with examination of our witness by Prosecution.
7 Ms Samson, you have the floor.
8 MS SAMSON: [11:35:26] Thank you, Mr President. And prior to starting, I just
9 wanted to confirm the information that the Prosecution had transmitted by email last
10 week in relation to the order of witnesses to come.
11 Following this witness, we expect that Witness P-245 will be -- is ready to begin and
12 thereafter it would either be P-668 or P-939. Given the tight schedule and somewhat
13 inflexible schedule of expert P-939, who must be heard Thursday and Friday, we will see
14 how far we get with Witness 245 and then the Chamber can decide whether we start with
15 P-668 and break her testimony or divide it up into two parts to slide in P-939, or whether
16 we take a short break after P-245 and start P-668 thereafter. I think we can provide some
17 submissions on that when P-245's testimony is completed.
18 PRESIDING JUDGE FREMR: [11:36:39] Thank you for this information, Ms Samson. I
19 think we have to be flexible. I also in this connection, when we are discussing those
20 matters of organisation, would like to remind you that tomorrow we will sit because of
21 reasons concerning organisation of other trials, we will sit in a bit different hours: First
22 session will be from 9, so be careful, 9 till 11; second one from half past 1 till 3 p.m.; and
23 the last one is planned from 3.30 till 5 p.m.
24 And on Wednesday, generally, as we decided before, we should sit in extended hours
25 because there is still at the moment some delay we would like to compensate, unless we

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1 will make some fundamental progress in the meantime. So, on Wednesday and
2 Thursday, the schedule should be 9 till 11, 11.30 till 1.30 p.m., and then 3 till 5 p.m., but as
3 I already indicated, we will be ready to react immediately on any changes, positive
4 changes in our real situation.

5 Now, Ms Samson, please proceed.

6 MS SAMSON: [11:38:07] Thank you, Mr President. And for my next series of
7 questions, may we please move into private session.

8 PRESIDING JUDGE FREMR: [11:38:14] All right.

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

10 (Private session at 11.38 a.m.)

11 (Redacted)

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18 (Open session at 1.16 p.m.)

19 THE COURT OFFICER: [13:16:14] We are in open session, Mr President.

20 PRESIDING JUDGE FREMR: [13:16:25] We will take now our regular lunch break,

21 which we just shifted a bit. So we will break now and we will resume quarter to 3, if I'm

22 not wrong in my counting.

23 And as concerns timing, Ms Samson observed Chamber's guidance to make examination

24 of the witness a bit shorter compared to original estimation, so she utilised 3 hours 13

25 minutes. So generally, Mr Gosnell, you are expected to take the same time. Do you

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12 (Upon resuming in open session at 2.46 p.m.)

13 THE COURT USHER: [14:46:25] All rise.

14 Please be seated.

15 PRESIDING JUDGE FREMR: [14:46:44] Good afternoon, everybody.

16 Before we continue with cross-examination of our witness, the Chamber will now deliver
17 its ruling on the Prosecution's request for in-court protective measures in the form of face
18 and voice distortion and the use of a pseudonym during testimony for Witness P-245.

19 On 9 September 2016, the Prosecution filed an ex parte request seeking in-court protective
20 measures for two witnesses. That is filing number 1500, a confidential redacted version
21 was filed on 13 September.

22 In the present ruling the Chamber shall address the part of the request related to Witness
23 P-245.

24 The Prosecution submits that the requested measures are necessary on the basis of the
25 existence of an objectively justifiable risk to the security and well-being of the witness and

1 the witness's family.

2 On 21 September the Defence opposed the request in filing number 1527.

3 According to the Defence the expected testimony is too general to sustain the arguments
4 that it would provoke retaliation. It contends that the Prosecution has neither
5 established an objectively justifiable risk nor even adequately substantiated the witness's
6 subjective views.

7 The Defence submits that liberal use of protective measures impacts the accused's right to
8 a public trial and that the latter should prevail over the personal preferences of the
9 witness and over speculative assessment of a risk.

10 On 23 September the Chamber received, by way of email, the VWU's assessment in
11 respect of Witness P-245, which recommends the same protective measures requested by
12 the Prosecution.

13 The Chamber incorporates by reference, the applicable law set out in its first decision,
14 which was filing number 824.

15 In assessing whether there exists an objectively justifiable risk, the Chamber has had
16 regard to the VWU's assessment that public testimony by this witness might trigger
17 retaliation and that the protective measures will minimise such risks.

18 The Chamber further recalls that there are reported instances where other witnesses,
19 including crime-base witnesses were allegedly threatened as a result of their involvement
20 with the Court.

21 In that regard, the Chamber has previously held that the general security situation in the
22 region may be a relevant consideration in respect of specific witnesses.

23 In this connection the Chamber notes that the witness resides with his family in an area
24 where former UPC/FPLC militia members and supporters of the accused are present.

25 The Chamber has also taken into account the position of the witness and the extent to

1 which he is known within the community.

2 As the Chamber held before, this may increase the risk faced by the witness and his family
3 given the fact that a greater number of people may recognize the witness, the relative ease
4 by which he could be subsequently located and the potential that the witness could be
5 viewed as representing a particular community.

6 As to the Defence submission, that the witness's expected testimony is too general to
7 trigger any retaliation, the Chamber considers that retaliation need not only arise as a
8 result of the content of a witness testimony but may also be caused by the mere fact that
9 he testified as a part of the Prosecution's case against the accused.

10 In light of the foregoing, the Chamber is satisfied that there exists an objectively justifiable
11 risk with respect to the security and well-being of Witness P-245 and his family
12 warranting the protection of the witness's identity from the public.

13 The Chamber further finds that the in-court protective measures sought do not unduly
14 infringe upon the rights of the accused, noting that the Defence will be able to see the
15 witness give evidence at trial and to hear his voice without distortion.

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

19 Finally, the Chamber instructs the Defence to file a public redacted version of filing
20 number 1527 by 10 October 2016.

21 This concludes the Chamber's ruling.

22 So now we can move to cross-examination of our witness.

23 Mr Gosnell, you have the floor.

24 MR GOSNELL: [14:53:21] Thank you, Mr President.

25 QUESTIONED BY MR GOSNELL:

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1 Q. [14:53:29] Good afternoon, Mr Witness. My name is Christopher Gosnell, I will
2 be asking you a few questions today on behalf of Mr Ntaganda. If some of my questions
3 do not appear clear from the translation, then do please feel free to ask for a clarification
4 and I'll be happy to do that.

5 MR GOSNELL: [14:53:51] Mr President, we will have to briefly move to private session,
6 but I do hope to come back to public session shortly.

7 PRESIDING JUDGE FREMR: [14:53:58] All right. And maybe I forgot to remind that
8 this session will last till half past 4.

9 Now let's -- am I wrong? No, we -- yes, I'm right, okay.

10 So now let's move into private session.

11 (Private session at 2.54 p.m.)

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10 (Open session at 2.57 p.m.)

11 THE COURT OFFICER: [14:57:06] We are back in open session, Mr President.

12 PRESIDING JUDGE FREMR: [14:57:18] Thank you, court officer.

13 Mr Gosnell, please proceed.

14 MR GOSNELL: [14:57:21]

15 Q. [14:57:22] Mr Witness, I'm going to ask you some questions now and we are in
16 public session so please do not say anything that would identify yourself and I will of
17 course do the same.

18 And you testified, in answering questions from the Prosecution, in respect of the first
19 attack that occurred on Lipri, the first day of the attack. Well, actually I need to take that
20 back because you later corrected yourself as to whether it was the first day or the second
21 day, but regardless of which day, you said and I quote:

22 "... the burning, there's something I saw with my own eyes ..."

23 And then you said a little bit later, again on page 9 of the transcript:

24 "So that's in" Lipri "I saw with my own eyes ... which weren't" also "in Lipri but also they
25 continued to other villages as well, in particular, the village of Tsili, where I was. So with

1 the progression, as they progressed, as they advanced, they were burning all the houses."

2 And then you continue:

3 Now, those villages, that can easily be confused because they look like just one village.

4 And that is when they started burning houses. When I say starting fire to houses, I am

5 saying here in -- I am saying here to Lipri. A village that can also be put together with

6 other -- Lipri is Tsili. And we saw the flames. There were houses that were burning

7 and these fires continued, they also came towards us and we were in the direction of Tsili.

8 Now, can I first of all clarify: Did you see these events on the first day of the attack on

9 Lipri or on the second day of the attack on Lipri?

10 A. [14:59:43] Thank you. Thank you for the question. Your question is whether I
11 saw the flames in Lipri on the first day of the attack. I think that if you followed, allow
12 me to give you my answer, I said on the first day there was the attack and the UPC militia
13 were driven back by the fighters. Now, on that day there was nothing set alight, there
14 weren't fires. The fires came on the second day, from the second day onwards.

15 Q. [15:00:33] Where were you located when you saw these scenes that you describe
16 during your testimony that I just read? Where were you located?

17 A. [15:00:51] I was in Tsili and from Tsili you could easily see the fires in Lipri, just as
18 going down from Lipri in the direction of Tsili in the direction of Dhekpa, these are
19 villages that you could easily be -- put together in the same village. So on the day that
20 these fires occurred, I was in Tsili and the burning was progressive.

21 Q. [15:01:30] Tsili is about 1 kilometre from the centre of Lipri, correct?

22 A. [15:01:40] That's correct.

23 Q. [15:01:43] And how long, and you've described how you fled from Tsili at a certain
24 point in time, so how long were you able to observe these flames burning?

25 A. [15:02:05] As for a time estimate, it can't have been long. Well there are two

1 villages that are very close, one to another. At the same time the started -- the fires
2 started in Lipri, there were militia, they were burning houses at the same time, the others
3 on their vehicles, and the others on a jeep and the others on a foot behind the jeep, they
4 were advancing towards Lipri. I think this isn't something that can be said is less than
5 15 minutes, no. If it's less than 15 --

6 Q. [15:02:57] Mr Witness, let me stop you there because I will be asking you, unlike
7 the Prosecution, some very precise questions to which you can provide very precise
8 answers and if I seek further detail or description I will ask you for that, but in the absence
9 of that it might be helpful for all of us if we could just proceed with the precise answer to
10 my question.

11 And my question to you, which now I even need to remind myself of was: How long
12 were you observing this scene of houses burning in Lipri?

13 A. [15:03:40] Around 10 minutes.

14 Q. [15:03:44] Was it daytime or nighttime?

15 A. [15:03:52] Please could you repeat the question?

16 Q. [15:03:54] Yes. Was it daytime or nighttime when you saw this?

17 A. [15:04:01] It was daytime.

18 Q. [15:04:05] Given that you were approximately 1 kilometre away and that it was
19 daytime, would I be correct to understand that these flames must have been very large
20 that you saw?

21 A. [15:04:28] Indeed, they were high because in most cases they were thatched
22 houses.

23 Q. [15:04:38] When you say "thatched houses", what material specifically do you
24 mean when you refer to "thatch"?

25 A. [15:04:52] Well, you have the walls which are made of sticks and mud, rammed

1 earth, the roof is of straw.

2 Q. [15:05:07] You said in your testimony earlier today quote, "As they progressed, as
3 they advanced they were burning all the houses." How were they actually setting fire to
4 the houses?

5 A. [15:05:32] Well, there we're in a village. Now, these villages are situated along the
6 road and others a bit further away from the road. How you set fire to houses, this is
7 done -- well, it's difficult to identify, say exactly how this is done because I presume that
8 they could use matches, for example, in order to burn the houses. And at that distance,
9 you can imagine how many metres from the fire, you have a hut and how it can be burnt
10 with a match, well it's difficult to identify that.

11 Q. [15:06:25] And many of the houses in Lipri at the time of the attack in
12 February 2003 were located very close to one another; is that correct?

13 A. [15:06:44] Yes.

14 Q. [15:06:46] And in addition to those houses that had thatched roofs, there
15 were -- almost all the houses were built of wood; is that correct?

16 A. [15:06:58] Yes.

17 Q. [15:07:01] And the fact that the houses were built of wood and that they were very
18 close to each other would mean, would it not, that when one house catches on fire there is
19 a likelihood of the fire spreading to the next house, correct?

20 A. [15:07:20] So one fire extends from one house to another. This presumption or
21 conclusion it can happen, but tell me once again, another house which is situated not
22 more than 4 metres from the other house, if it's burning as well. Be a bit clear to say that
23 the fires or the perpetrators of the fires were militia from the UPC.

24 THE INTERPRETER: [15:08:00] Interpreter corrects: 50 metres away from the other
25 house.

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1 MR GOSNELL: [15:08:06]

2 Q. [15:08:06] Well, let me come back to what you actually saw. Did you see rows of
3 houses burning together?

4 A. [15:08:20] The houses were burning. And they were burnt by the men from the
5 UPC and it was at the same time. And I said it was in a progressive way, so as the UPC
6 troops were advancing from one village to another the burning was happening in the
7 same way.

8 Q. [15:08:41] Well, let's just stick with Lipri for a moment and we'll come to some
9 other villages shortly. In Lipri can you estimate how many buildings you saw on fire?

10 A. [15:09:03] The number of buildings on fire. Well, I'll answer you as follows: All
11 the houses, all the huts with thatched roofs in Lipri were burnt. And I wouldn't be able
12 to give you the precise number of these huts that were burnt in Lipri, they were burnt
13 down.

14 Q. [15:09:31] What about the houses made of wood with metal roofs, did they burn
15 too?

16 A. [15:09:45] So houses with wooden walls and metal roofs, it was those houses that
17 were used for the harvest of the population pillaged by the UPC militia because it was in
18 that area that they were making tapioca, and they used these houses as living quarters
19 because they had already burnt down all the huts with thatched roofs.

20 Q. [15:10:31] Yes. And now I'm asking, in addition to the houses with the thatched
21 roofs, were there also houses with metal roofs that were burned?

22 A. The day of the attack we didn't see that, but on returning, so when the UPC militia
23 had left the region and we returned to Tsili where we were living, we could easily come
24 back to Lipri. The point of departure was there. We found that the houses generally
25 with metal roofs were still there, but the goods of the population had been pillaged from

1 them.

2 Q. [15:11:27] And where were the houses with thatched roofs located in Lipri? Were
3 they all in one place? Were they in the fields? Were they in the centre of town?

4 A. [15:11:45] Thank you very much for the question. Please allow me to answer you
5 in the following way here: It's easier when somebody who is not from the area makes a
6 description that they talk about the town of Lipri. Where we are at the moment you can
7 talk about the town to -- but in this village of Lipri, what we're talking about here, if you
8 go into that village, but if you imagine this village of Lipri, how can you talk of the town
9 of Lipri while there -- there are two lines of houses along the market. You have a little
10 road separating these two lines of houses and with metal roofs, that's just in the centre, the
11 centre of business. So they talk about the business centre or the area for commercial
12 activities, but Lipri isn't like a European village.

13 But I'll go back to your question. So the metal roof houses was only in the centre and in
14 the periphery area, but not along the two lines but behind them you had huts with
15 thatched roofs. That's what I'm trying to say.

16 Q. [15:13:27] Now, in Tsili was it essentially the same situation as you've described in
17 Lipri, in other words that the metal roofed houses were spared but that the thatched
18 roofed houses caught fire or were burned?

19 A. [15:13:57] In Tsili the houses with metal roofs, what I saw, because I was living in
20 the village, that was the chef de groupement's house in Tsili that was on fire, that was the
21 only house. If you have a category of houses with metal roofs, you have the primary
22 school of Tsili and the Catholic chapel of Tsili.

23 MR GOSNELL: [15:14:51] May we have DRC-OTP-0065-0003, tab 4.

24 PRESIDING JUDGE FREMR: [15:15:16] Ms Samson.

25 MS SAMSON: [15:15:17] Thank you, Mr President. I would ask for one clarification

1 to the witness's answer. It's, I believe, a difference between the English and the French
2 translation. Page 81 of the realtime transcript, lines 2 to 7. In the response to the
3 Defence's question about the metal roofs, there's a question in the -- the answer suggests
4 that the one -- there was only one house on fire, whereas in the French I understood that
5 there was one house with a metal roof. And since we're here, I could do it in
6 re-examination but since we're here I think it would be beneficial to get that clarification
7 made now.

8 PRESIDING JUDGE FREMR: [15:16:03] Mr Gosnell, I have to confirm that at least
9 current wording of English transcript makes impression mentioned by Ms Samson.
10 Could you clarify that?

11 MR GOSNELL: [15:16:22] The document on the screen is not for broadcast, just to
12 indicate that.

13 Q. [15:16:29] Clarification, Mr Witness. Can you tell us -- well, let's start with this
14 question: How many houses out of the total were burned down in Tsili, according to
15 you?

16 A. [15:16:46] All the houses with thatched roofs in Tsili were destroyed. They were
17 burned down.

18 Q. [15:16:55] And am I correct that none of the houses with the metal roofs were
19 burned down?

20 A. [15:17:05] No. Would you repeat your question, to be certain?

21 Q. [15:17:11] Were any of the houses with metal roofs burned down in Tsili?

22 A. [15:17:24] Well, let me repeat in order to cooperate fully. You asked me if
23 there were houses with metal roofs in Tsili. (Redacted) there was only one, there was
24 only one house with a metal roof, it was the house of the late chef de groupement in
25 Tsili. All the others had straw roofs, had thatched roofs, and they were all burned

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1 down by the UPC soldiers. That's the answer I gave.

2 PRESIDING JUDGE FREMR: [15:18:06] And this house with metal roof had been also
3 burned, or not?

4 THE WITNESS: [15:18:15] (Interpretation) Your Honour, it's the only house that was
5 spared in the village of Tsili.

6 PRESIDING JUDGE FREMR: [15:18:23] Thank you very much, Mr Witness.

7 MR GOSNELL: [15:18:27]

8 Q. There's a school and a chapel, two schools and a chapel in Tsili that also were not
9 burned down, correct?

10 A. [15:18:43] No. No, rather, they were not burned down.

11 Q. [15:18:48] Now, on the document in front of us you say, under point 3 or 4,
12 I believe it is, that on the Tuesday -- well, the Wednesday of 19 February 2003, they,
13 referring to the UPC, burned many villages, Lendu villages, including Lipri, and then
14 there is a list of villages after that. At least in respect of Lipri, would you agree that most
15 of the village in fact was not burned down because most of the village is in fact consisting
16 of buildings with metal roofs that you've said were not burned?

17 A. [15:19:46] No, it's the exact opposite to what you're saying. That's not what I said.
18 Let's try to understand each other. There is a list. I'm talking about number 4. There
19 is a list of villages that were burned down by the UPC soldiers. It starts with Lipri, then
20 Ndr'chukpa, Dhekpa, Tsili, Tchudja, Mbidjo, Ngbachulu, et cetera. In those villages
21 I would say 99 per cent, even 99.9 per cent of the houses, of the huts, were -- had thatched
22 roofs. We're talking about huts. And in Lipri I referred to some houses with metal
23 roofs because it was the trading centre. That's where -- I'm talking about villages where
24 generally roofs are thatched.

25 Q. [15:20:54] Yes, but I'm just focussing now on Lipri, and would you agree that most

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1 of Lipri, the houses in fact have metal roofs and that those houses you have testified were
2 not set on fire; is that correct, or have I misunderstood?

3 A. [15:21:20] Please, would you so kind as to repeat your question in a precise manner
4 as regards Lipri?

5 Q. [15:21:30] My understanding is that you are saying that the houses with metal
6 roofs in Lipri were not burned by the UPC. Is my understanding of what you've said
7 correct?

8 A. [15:21:56] Yes, okay. The houses with metal roofs were not burned down, and I
9 said that those buildings were used by the UPC soldiers to store their cassava and other
10 harvest, and those buildings with metal roofs were used for them to live in. In fact, they
11 had been transformed into a sort of military camp, if you will, those buildings.

12 MR GOSNELL: [15:22:37] May we have DRC-OTP-1033-0221. This is the video
13 mentioned at tab 22, so I will ask please for control to be handed over to the Defence
14 Bench. And I'm done with the document on the screen.

15 THE COURT OFFICER: [15:23:03] The video will be then displayed on the evidence 2
16 channel. Could you please confirm the level of confidentiality?

17 MR GOSNELL: [15:23:13] It's confidential, it should not be broadcast.

18 THE COURT OFFICER: [15:23:20] If you want to play video with the sound, we will
19 need to go into private session then.

20 MR GOSNELL: [15:23:27] Then I'm afraid we will have to do that, Mr President.

21 PRESIDING JUDGE FREMR: [15:23:34] Court officer, let's move into private session
22 now.

23 (Private session at 3.23 p.m.)

24 (Redacted)

25 (Redacted)

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18 (Open session at 4.30 p.m.)

19 THE COURT OFFICER: [16:30:47] We're in open session, Mr President.

20 PRESIDING JUDGE FREMR: [16:30:51] Thank you, court officer.

21 So, Mr Witness, it concludes your testimony for today. We will continue tomorrow
22 morning. And it's my duty to remind you that in the meantime you must not discuss
23 your testimony with anybody else. Do you understand?

24 THE WITNESS: [16:31:16] (Interpretation) Thank you. Yes, your Honour.

25 PRESIDING JUDGE FREMR: [16:31:18] Very well. And regular information update

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1 on timing, Defence so far used 1 hour 35 minutes, so they still have enough time to
2 conclude and, as I said, in order to facilitate the Al Mahdi judgment tomorrow, we will sit
3 from 9 to 11, 1.30 to 3, and then 3.30 till 5 o'clock. But there is still some chance that,
4 subject to time needed for Al Mahdi judgment, maybe we might shorten this lunch break
5 that at the moment should take two and a half hours but it's still possible -- but we will
6 anyway update you on change, if any, tomorrow. And as I said, please don't forget that
7 tomorrow we are going to start at 9 o'clock, and I will also try not to forget either.

8 So tomorrow, 9 o'clock. Mr Gosnell.

9 MR GOSNELL: [16:32:38] One housekeeping matter, Mr President. I did show parts
10 of the video and I would wish to tender those excerpts, but it might be most efficient if we
11 just provided a list to the Prosecution and sought their non-objection, to put it like that,
12 and then perhaps we could just do it in the morning.

13 PRESIDING JUDGE FREMR: [16:32:58] It would be okay with me. Ms Samson.

14 MS SAMSON: [16:33:01] Yes, that's fine. Thank you.

15 PRESIDING JUDGE FREMR: [16:33:02] So agreed.

16 So now we adjourn and we will continue tomorrow, 9 o'clock.

17 THE COURT USHER: [16:33:09] All rise.

18 (The hearing ends in open session at 4.33 p.m.)