

Trial Hearing
WITNESS: DRC-OTP-P-912

(Open Session)

ICC-01/04-02/06

1 International Criminal Court

2 Trial Chamber VI

3 Situation: Democratic Republic of the Congo

4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06

5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung

6 Trial Hearing - Courtroom 3

7 Friday, 7 October 2016

8 (The hearing starts in open session at 9.31 a.m.)

9 THE COURT USHER: [9:31:23] All rise. The International Criminal Court is now
10 in session.

11 Please be seated.

12 PRESIDING JUDGE FREMR: [9:31:48] Good morning, everybody. Court officer,
13 please call the case.

14 THE COURT OFFICER: [9:31:53] Thank you, Mr President.

15 The situation in the Democratic Republic of the Congo, in the case of the Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.

17 And for the record, we are in open session.

18 PRESIDING JUDGE FREMR: [9:32:11] Thank you, court officer. Appearances.

19 Maybe you could just limit yourself if there are any changes compared to yesterday,
20 which I think is not the case, but Ms Luping, any changes compared to yesterday?

21 MS LUPING: [9:32:21] Good morning, Mr President, your Honours. There is one
22 change. Ms Kristy Sim is no longer in the courtroom; otherwise, the Prosecution
23 team remains the same.

24 PRESIDING JUDGE FREMR: [9:32:29] Thank you, Ms Luping.

25 Defence.

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1 MS GRANDON: [9:32:32] (Interpretation) Good morning, your Honours. No
2 change in comparison to yesterday afternoon.

3 PRESIDING JUDGE FREMR: [9:32:40] Thank you, Ms Grandon.

4 And as concerns legal representatives, I see no changes, am I right?

5 Thank you for affirmative.

6 Now, Madam Witness, good morning.

7 WITNESS: DRC-OTP-P-0912 (On former oath)

8 (The witness speaks Swahili)

9 PRESIDING JUDGE FREMR: [9:32:55] Are you feeling okay to conclude your
10 testimony? Because my estimation is and I am also relying on Ms Grandon's
11 estimation, should be finished in one hour. So I believe that you are fine to
12 continue?

13 THE WITNESS: [9:33:15] (Interpretation) Yes, I feel well.

14 PRESIDING JUDGE FREMR: [9:33:21] Very well. So just two habitual reminders.
15 The first one, you are still under oath, which means that you have to speak the truth
16 and nothing but the truth; and second one, please don't forget to keep pauses of at
17 least three seconds between the question put to you and between your answer.

18 Do you understand, Madam Witness?

19 THE WITNESS: [9:33:51] (Interpretation) Yes.

20 PRESIDING JUDGE FREMR: [9:33:54] Thank you very much.

21 Now, Ms Grandon, you have the floor.

22 MS GRANDON: [9:34:02] Thank you, your Honour.

23 QUESTIONED BY MS GRANDON: (Continuing)

24 Q. [9:34:09] (Interpretation) Good morning, Madam Witness.

25 A. [9:34:15] Good morning.

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1 Q. [9:34:26] I still have a few questions for you today. If you could try to listen to
2 my questions very carefully, as you did yesterday, and answer as briefly, as succinctly
3 as possibly, that will allow us to make better progress. Do you understand?

4 A. [9:35:03] Yes, I understand.

5 Q. [9:35:08] How many children do you have, Madam Witness?

6 PRESIDING JUDGE FREMR: [9:35:18] Sorry, we have to move into private session,
7 and I also should ask you, but no problem. So let's move into private session now.

8 (Private session at 9.35 a.m.)

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20 (Open session at 10.36 a.m.)

21 THE COURT OFFICER: [10:36:43] We're in open session, Mr President.

22 PRESIDING JUDGE FREMR: [10:36:48] Thank you, court officer.

23 So, Madam Witness, it concludes your testimony. I would like to thank you very

24 much on behalf of this Chamber that you came and testified on matters that obviously

25 were traumatising to you, but we appreciate because it takes some courage and you

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1 made it. So thank you very much. And I believe that your testimony will assist us
2 in our deliberation and in our effort to find the truth in this case.

3 Thank you, and we wish you safe journey home.

4 Now, court usher, please assist Madam Witness to leave the courtroom.

5 (The witness is excused)

6 PRESIDING JUDGE FREMR: [10:38:00] And before we move -- Ms Grandon.

7 MS GRANDON: [10:38:03] (Interpretation) I beg your pardon, your Honour. In
8 relation to the question that was just put by my learned friend and in light of the
9 questions I put yesterday, it seems to me that it would be useful to have the voter's
10 card placed on the case records in order to support what the witness has told us.

11 PRESIDING JUDGE FREMR: [10:38:28] Ms Luping, any objection?

12 MS LUPING: [10:38:30] No objection. In fact, I forgot to ask that it be admitted as
13 evidence, so certainly no objection.

14 PRESIDING JUDGE FREMR: [10:38:37] So this common proposal is granted and this
15 document we saw a few seconds ago is admitted, the electoral card is admitted into
16 evidence as a further Prosecution exhibit. I think it is no problem for the court
17 officer to find the ERN number. Fine.

18 And before we move at least for the introductory part of the testimony of the next
19 witness, I would like to also make one reflection. I would like to thank both
20 Ms Luping and Ms Grandon for the tactful and considerate approach in the
21 questioning of this witness and I would also like to thank lead counsel for assignment
22 of female members of their teams to that questioning because, in my view, both those
23 factors, approach of the examiners and the fact that they are female, contributed
24 significantly to the efficient way of questioning and also to, I hope, to the fact that the
25 witness made or gave her testimony at ease. So thank you for that, and I would

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1 really strongly encourage you to follow the same approach in case we will face
2 a similar kind of testimony in future.

3 Now we will break. I hope that five minutes should be enough in order to allow you
4 to prepare for the next witness.

5 (Recess taken at 10.40 a.m.)

6 (Upon resuming in open session at 10.51 a.m.)

7 THE COURT USHER: [10:51:38] All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: [10:51:59] Good morning again. Apart of the fact that
10 we have a new witness in the courtroom, I also see some changes in appearances, so I
11 now ask parties for update on that.

12 Mr Iverson.

13 MR IVERSON: [10:52:16] For the Prosecution, Dianne Luping and Marion Rabanit
14 are now absent and I am present, Eric Iverson. And for the rest, the composition
15 remains unchanged.

16 PRESIDING JUDGE FREMR: [10:52:31] Thank you, Mr Iverson.
17 Mr Gosnell.

18 MR GOSNELL: [10:52:34] Thank you, Mr President. I am still here and I am
19 accompanied by Margaux Portier, Dignité Bwiza and Han Catherine Morin. Thank
20 you very much, Mr President.

21 PRESIDING JUDGE FREMR: [10:52:47] Thank you, Legal Representative for
22 Victims.

23 MS GRABOWSKI: Mr President, Mr Suprun has left the courtroom, and the victims
24 of the attacks are represented by myself, Ms Anne Grabowski.

25 PRESIDING JUDGE FREMR: [10:53:06] All right. And Mr Abdou is with us as

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1 well.

2 Now, before we start with testimony, I would like to recall that yesterday
3 the Chamber granted in-court protective measures for our witness in the form of face
4 and voice distortion and the use of a pseudonym.

5 In terms of timing, the Chamber has already indicated that the examination-in-chief
6 for this witness is to be completed within 3 hours. Even if we look at the expected
7 content, we can't imagine -- can image that it should be even made in shorter time.

8 Further, the Chamber has taken note of the Defence notice of objections to the use or
9 admission of certain documents, and it will address any such objections if and when
10 they arise.

11 So now, Mr Witness, good morning. Can you hear me?

12 WITNESS: DRC-OTP-P-0301

13 (The witness speaks Swahili)

14 THE WITNESS: [10:54:13] (Interpretation) Yes, I can hear you.

15 PRESIDING JUDGE FREMR: [10:54:14] Mr Witness, on behalf of this Chamber, I
16 would like to welcome you to the courtroom. You are called to testify in the case
17 against Mr Bosco Ntaganda, and you will be soon asked questions both by the judges
18 and lawyers in the courtroom. In this connection I would like to guide you as
19 follows:

20 Please listen carefully to those questions. If you do not understand, feel free to ask
21 for the question to be repeated.

22 We want you to tell the truth and tell us what you saw, heard or sensed yourself. If
23 you didn't see or hear it yourself, but you found out some other way, then you should
24 explain how.

25 Please testify just on that which you remember, don't guess, don't make things up.

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1 There is nothing wrong in saying "I don't know," or "I don't remember." Do you
2 understand all this, Mr Witness?

3 THE WITNESS: [10:55:29] (Interpretation) Yes.

4 PRESIDING JUDGE FREMR: [10:55:36] Fine. Mr Witness, as I said a few moments
5 ago, protective measures are put in place to ensure that your identity is not revealed
6 to the public, which in practice means that the public cannot see your face and that
7 your voice is being disguised so that the public cannot recognise it. We will refer to
8 you as "Mr Witness" only and ensure that your name and any other information that
9 risks revealing who you are is not broadcast to the public.

10 Therefore, whenever you need to describe anything that might reveal your identity,
11 we will do so in private session so that no one outside the courtroom can hear your
12 answer. Do you understand that, Mr Witness?

13 THE WITNESS: [10:56:37] (Interpretation) Yes.

14 PRESIDING JUDGE FREMR: [10:56:44] Good. Now, Mr Witness, you will be
15 provided with a piece of paper with the solemn undertaking, so please now make
16 your solemn undertaking to tell the truth by reading out the declaration you have in
17 your hands.

18 THE WITNESS: [10:57:04] (Interpretation) Am I supposed to read?
19 I solemnly declare that I shall tell the truth, the whole truth and nothing but the truth.

20 PRESIDING JUDGE FREMR: [10:57:37] So it means, Mr Witness, that you are now
21 under oath.

22 THE WITNESS: [10:57:43] Ndiyo.

23 PRESIDING JUDGE FREMR: [10:57:46] So you need to be aware that it is an offence
24 within the jurisdiction of this Court to give false testimony. Do you understand
25 that?

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1 THE WITNESS: [10:58:04] (Interpretation) Yes.

2 PRESIDING JUDGE FREMR: [10:58:05] And finally, a few practical matters you
3 should have in mind when giving your testimony. It is important to speak into the
4 microphone, to speak clearly and to speak at a slow pace to allow the interpreters to
5 translate everything. Please do not respond to questions put to you immediately,
6 but wait for at least 3 seconds and only then please give your answer, because this
7 pause is essential for us to have a precise transcript and precise interpretation.

8 If you have any questions during your testimony, do not hesitate to let us know by
9 raising your hand. We will then give you the opportunity to speak.

10 Have you understood all that, Mr Witness?

11 THE WITNESS: [10:59:08] (Interpretation) Yes, I understand.

12 PRESIDING JUDGE FREMR: [10:59:14] Very well, Mr Witness.

13 So we can start your testimony.

14 Mr Iverson, you have the floor.

15 And I will just like to continue with this initial part of testimony just taking those
16 personal details from the witness and then in fact the examination itself should be
17 conducted after, after break.

18 MR IVERSON: [10:59:46] Thank you, Mr President.

19 QUESTIONED BY MR IVERSON:

20 Q. Well, first of all, sir, we have met before. But my name is Eric Iverson, and I'm
21 a trial lawyer with the Office of the Prosecutor, and I'll be asking you questions today
22 in court.

23 In a moment I'll ask for a private session and that's in order to protect your identity
24 from the public. Just if during the course of my questions, if we're in open session, I
25 would ask that you, if you feel the need to say something that may reveal your

1 identity, please let the Presiding Judge know and he can then be in a position to
2 determine whether or not to go into private session.

3 I would ask that we briefly go into private session for the initial part of the testimony.

4 PRESIDING JUDGE FREMR: [11:00:42] Certainly, certainly. Court officer, let's
5 move into private session now.

6 (Private session at 11.00 a.m.)

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- 14 (Open session at 11.05 a.m.)
- 15 THE COURT OFFICER: [11:05:44] We're in open session, Mr President.
- 16 PRESIDING JUDGE FREMR: [11:05:46] Thank you, court officer.
- 17 Now our we take our regular 30 minutes morning break, which means that we will
- 18 continue 11.35.
- 19 THE COURT USHER: [11:06:00] All rise.
- 20 (Recess taken at 11.06 a.m.)
- 21 (Upon resuming in open session at 11.36 a.m.)
- 22 THE COURT USHER: [11:36:56] All rise.
- 23 Please be seated.
- 24 PRESIDING JUDGE FREMR: [11:37:24] We will continue with examination-in-chief
- 25 of our witness by Prosecution.

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1 Mr Iverson, do you want to proceed in open or in private session?

2 MR IVERSON: [11:37:40] I would like to start in open session, please, Mr President.

3 PRESIDING JUDGE FREMR: [11:37:45] All right.

4 MR IVERSON: [11:37:46] And I have just one slight change in composition.

5 James Pace is now present in the courtroom for the Prosecution.

6 PRESIDING JUDGE FREMR: [11:37:56] Thank you.

7 MR IVERSON: [11:38:02]

8 Q. [11:38:02] Welcome back, sir. Could you explain to the Chamber where you
9 were living at the beginning of August 2002? And you don't have to give a specific
10 address, I'm asking for the city and province.

11 A. [11:38:36] In August I was in Bunia. From Bunia, when the war began, well, I
12 left Bunia and I went to Kobu, the village called Kobu. Kobu is a trading centre. It
13 is to be found in Djatsi collectivity in the Djugu territory.

14 Q. [11:39:23] And could you explain to the Chamber what caused you to leave
15 Bunia in August 2002 and go to Kobu?

16 A. [11:39:45] I left Kobu because of the war that broke out in Bunia. The UPC
17 soldiers fought the people who were leading Bunia at the time, Commander
18 Lompondo, the UPC soldiers drove him out and then, you see, we left Bunia and we
19 went to Kobu.

20 Q. [11:40:29] And when you say "we left Bunia," did you leave Bunia alone or with
21 others?

22 A. [11:40:38] Well, I would put it this way: Many Lendu people had left Bunia,
23 because the Lendu could no longer get to Bunia or have access, and it was myself and
24 a group of other Lendu people who left that place. Amongst the group there was
25 one of my sisters, who was living with me. So we left with her in the same group.

1 Q. [11:41:33] And how long did you remain in Kobu once you arrived there?

2 A. [11:41:43] I got to Kobu in August 2002 and I stayed there until 2003. I would
3 say late 2003, October or perhaps December. I no longer recall exactly when, but I
4 know that I left Kobu at the end of 2003.

5 Q. [11:42:27] And you mention that there was war which drove you from Bunia.
6 Was there war or fighting when you arrived in Kobu in August 2002?

7 A. [11:42:40] Once we got to Kobu there was a lull, so that was during the time of
8 our flight. The battle that was underway in Kobu was in October. That is when
9 Kobu was attacked.

10 Q. [11:43:28] When Kobu was attacked in October were you present in Kobu?

11 A. [11:43:35] Yes, I was in Kobu during that entire period of time.

12 Q. [11:43:42] And could I ask you to explain to the Chamber what happened in
13 October 2002 when Kobu was attacked while you were there.

14 A. [11:44:08] The attack came from the UPC position, that is to say Kilo. There
15 were other soldiers in Mabanga, and others in Nizi, at times they came from Nizi to
16 attack from the Bambu approach or from Mabanga, also attacking along the Bambu
17 road. And sometimes the attacks would come from Kilo. But within Kobu itself,
18 there were no attacks, but rather in the surrounding areas. And each time the UPC
19 soldiers would attack the locality, young people would organise themselves into
20 self-defence groups to repel the enemy.

21 Q. [11:45:17] And who were these young people who organised themselves into
22 self-defence groups? Can you describe them to the Chamber?

23 A. [11:45:31] At that time there were a number of leaders. That is to say, when we
24 would hear gunfire, the various leaders in the localities would use the horns from
25 oxen to send a signal. They would blow into the horn to warn people, to warn the

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1 young people to take up some sticks or other things and go to the place where the
2 gunfire was, but there was no -- there was not really a structure per se.

3 Q. [11:46:31] And you mention this is in October 2002. Can you tell the Chamber
4 whether this fighting between the UPC and these young people continued into
5 November 2002?

6 A. [11:47:05] Yes, it did continue, I remember quite well. It continued until
7 February. I think that it must have been a Tuesday in February, that is when we left
8 Kobu, because the war had intensified and so we had to leave Kobu.

9 MR IVERSON: [11:47:55] Mr President, I would ask that we move into private
10 session.

11 PRESIDING JUDGE FREMR: [11:48:00] All right. In order to inform public, this
12 witness is a protected one, so he was given a guarantee that his identity will not be
13 revealed to the public. That is why for some part of his testimony we have to move
14 into private session.

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

16 (Private session at 11.48 a.m.)

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9 (Open session at 12.46 p.m.)

10 THE COURT OFFICER: [12:46:30] We are in open session, Mr President.

11 PRESIDING JUDGE FREMR: [12:46:32] Thank you, court officer.

12 Mr Iverson, please proceed.

13 MR IVERSON: [12:46:52]

14 Q. [12:46:52] And just to facilitate understanding for your Honours and the parties

15 and participants, there is a French translation, the ERN is DRC-OTP-0204-0036, and

16 that's at page 38, line 5 to page 40, line 99.

17 And I'm not sure if this is possible, but it might be best if that could be pulled up but

18 then also not displayed to the witness.

19 THE COURT OFFICER: [12:47:28] It will be displayed on the evidence 1 channel.

20 MR IVERSON: Thank you.

21 PRESIDING JUDGE FREMR: [12:47:33] And, Mr Iverson, what excerpt do you

22 intend to play?

23 MR IVERSON: [12:47:38] It is track 2. Would you like the minutes again,

24 Mr President?

25 PRESIDING JUDGE FREMR: [12:47:42] Timestamp, yes.

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1 MR IVERSON: [12:47:43] Track 2, minute 00.23 until 6.8. And I would just ask if
2 we could have --

3 PRESIDING JUDGE FREMR: [12:48:06] Before you start.
4 Mr Gosnell.

5 MR GOSNELL: [12:48:06] Mr President, I am mindful of your decision and I am not
6 in any way asking you to go back on that, but I would note that paragraph 56 does
7 seem to envisage an additional stage before we go to the entire recording.

8 PRESIDING JUDGE FREMR: [12:48:22] Normally it's true, Mr Iverson, you should
9 play just shorter excerpt and then after reaction of Mr Witness we can continue with
10 the whole one.
11 So I guess one minute should be for the beginning enough.

12 MR IVERSON: [12:48:41] Yes, I think that one minute would probably be sufficient.
13 There's some blank space in between communications, so I want to make sure that the
14 segment that we play for initial verification contains some --

15 PRESIDING JUDGE FREMR: [12:48:58] It's up to you. You can even start from the
16 middle, if it would be better for the witness to allow him whether he recognise or not.

17 MR IVERSON: [12:49:08] Since I don't have all the audio signature memorised in my
18 head, I would ask for a little bit of indulgence to stand up then when -- when enough
19 has been played and I'll make sure to keep it short, consistent with the Chamber's
20 wishes.

21 PRESIDING JUDGE FREMR: [12:49:28] Because really playing six minutes would
22 really deny the purpose of this exercise.

23 MR IVERSON: [12:49:35] Yes, absolutely, I will in good faith stay in keeping with
24 your previous ruling. And I would just ask if the Prosecution could have the floor so
25 we could play that audio excerpt. Thank you.

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1 THE COURT OFFICER: [12:49:57] The Prosecution does have the floor.

2 (Playing of the audio excerpt)

3 MR IVERSON: [12:51:15] All right, we've stopped the audio at 1.28.

4 Q. [12:51:23] Sir, were you able to hear the audio through your headset?

5 A. [12:51:29] Yes. As I already told you, there was the recording of some
6 messages from certain, well, certain sequences of conversation between the UPC
7 soldiers -- well, the message reminds me, well, I remember the voice that was coming
8 out of base set of the Motorola in Gutsi. But this is just an extract of -- of part, part of
9 the excerpt, but the message was in the morning, at night, the evening because the set
10 was there and communications were conducted day and night. It does remind me, it
11 was at the Gutsi primary school and the message that we heard was a sad one when
12 we were still there in Gutsi.

13 PRESIDING JUDGE FREMR: [12:53:02] Excuse me, Mr Iverson, one additional
14 question.

15 Mr Witness, the audio or the broadcast you heard originally, not this one, was of the
16 same quality or same audio quality like audio you had a chance to hear now, or was it
17 better or poorer quality?

18 THE WITNESS: [12:53:36] (Interpretation) Yes, it was the first time I heard this
19 message on a cassette. When we were there, well, it wasn't -- we weren't listening to
20 recordings, they were actual messages over the Motorola base set. But what we hear
21 here is a recording, a recording on a cassette and the quality is far worse, it's not good.
22 And you heard noise. This noise was, it was the sound of a weapon going off. That
23 is why you can't hear very well. But I, when I was there, the explosions of the
24 weapons and the -- what the people were saying, it was not easy to hear, so that is
25 what I can tell you now.

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1 PRESIDING JUDGE FREMR: [12:54:41] Thank you.

2 Mr Iverson, please proceed.

3 MR IVERSON: [12:54:46] And I would ask for a private session, but I think -- I don't
4 think it's necessary based on the answers already given. I would propose to play the
5 full excerpt that we had previously named, 23 seconds until 6.8.

6 PRESIDING JUDGE FREMR: [12:55:08] All right.

7 MR IVERSON: [12:55:13]

8 Q. [12:55:13] So, sir, we're going to play the full audio excerpt for you.

9 (Playing of the audio excerpt)

10 MR IVERSON: [13:01:48]

11 Q. [13:01:48] Sir, were you able to hear this audio excerpt?

12 A. [13:01:56] Yes, I tried to follow the excerpt.

13 Q. [13:02:25] If you recall, had you listened to this particular audio back in 2003?

14 A. [13:02:36] The recording in 2003, what I can tell you is that the sound quality is
15 not good. The message in that audio recording cannot be heard clearly. That is
16 what I told you. This is a recording that was made from that Motorola base set.

17 The voice sounds like the one that we heard from that mission, we heard
18 communications like the ones that we -- the one that we have just listened to here.

19 Q. [13:03:55] All right, so what indicates to you that the audio you just heard was
20 made from the Motorola base set, as you just stated?

21 A. [13:04:15] There is that explosion or detonation of a -- of a weapon. I heard
22 a little bit of what was being said. Someone mentioned the name Kilo. I know that
23 in their messages they frequently mentioned the name Kilo. And I have heard that
24 name and they said, "Tie them up and take them to Kilo." That is what I heard in
25 that audio recording.

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1 But the voices of those people speaking sound like the voices that we were listening to.
2 And even the sound of weapons resemble the explosions or the sounds from weapons
3 that we could hear during the war.

4 However, there were many recordings made on audio cassettes. I know that there
5 were many recordings which are different, but so I cannot tell you precisely when this
6 particular recording was monitored because many messages were transmitted during
7 the day and during the night, so many messages, many such messages were
8 exchanged, but I cannot tell you when this particular message was recorded.
9 I cannot give you any precise information about that.

10 MR IVERSON: [13:06:35] Mr President, so based on his answers, I would like to
11 submit the exhibit from seconds 23 until 3 minutes, the portion that is, as of yet, not
12 been admitted.

13 PRESIDING JUDGE FREMR: [13:06:51] Defence.

14 MR GOSNELL: [13:06:53] No objection, Mr President.

15 PRESIDING JUDGE FREMR: [13:06:55] All right. So the part of audio now
16 specified by Mr Iverson is admitted into evidence as a further Prosecution exhibit.

17 MR IVERSON: [13:07:09] And also the corresponding portion of the transcript and
18 translation, with the understanding that there's a standing defence objection to this
19 matter.

20 PRESIDING JUDGE FREMR: [13:07:22] Mr Gosnell, any change or just the standard
21 position of the Defence to MFI those and then you will revise?

22 MR GOSNELL: [13:07:34] Subject to the previous objection --

23 PRESIDING JUDGE FREMR: All right.

24 MR GOSNELL: -- there's no objection.

25 PRESIDING JUDGE FREMR: [13:07:38] So -- sorry, there is no objection?

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1 MR GOSNELL: [13:07:40] Just to clarify, subject to the previous qualification there is
2 no objection. I know I contradicted myself a little bit there.

3 PRESIDING JUDGE FREMR: [13:07:54] All right. So even those portion of
4 transcript and translation are admitted into evidence as a further Prosecution exhibit,
5 corresponding to this excerpt.

6 MR IVERSON: [13:08:06] And just for the record, the ERN number of the transcript
7 is DRC-OTP-0203-0236 and the corresponding portions of the entire audio that we
8 just listened to are found on pages 0237, line 5, to page 0239, line 91. And the
9 translation, DRC-OTP-0204-0036 from page 0038, line 5, to page 0040, line 99.

10 PRESIDING JUDGE FREMR: [13:08:51] Mr Gosnell.

11 MR GOSNELL: [13:08:52] Sorry, Mr President. I just want the record to be clear.
12 We reserve the right to raise issues about transcription or translation which I do not
13 think is inconsistent with admitting this portion, so I just wanted to make that clear,
14 Mr President, that we may indeed come back on that issue (Overlapping speakers) --

15 PRESIDING JUDGE FREMR: For sure.

16 MR GOSNELL: -- it's not inconsistent with admission.

17 PRESIDING JUDGE FREMR: Clear.

18 MR IVERSON: [13:09:14] And that was what I referred to when I referred to the
19 Defence standing objection, that's what I had in mind. And I would ask that we
20 move into private session, Mr President.

21 PRESIDING JUDGE FREMR: [13:09:27] Court officer, let's move into private session
22 now.

23 (Private session at 1.09 p.m.)

24 (Redacted)

25 (Redacted)

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- 25 (Open session at 1.13 p.m.)

1 THE COURT OFFICER: [13:13:32] We are back in open session, Mr President.

2 PRESIDING JUDGE FREMR: [13:13:42] Thank you, court officer.

3 Mr Iverson, please proceed.

4 MR IVERSON: [13:13:45]

5 Q. [13:13:45] So my next line of questions has to do with the planned pacification
6 meeting in Sangi and your knowledge about that. Are you aware did this -- did this
7 pacification meeting in Sangi actually take place?

8 A. [13:14:04] Those of us who were in Gutsi, well, none of us went to that
9 pacification meeting. I do remember that Mateso had sent people to Buli to tell them
10 not to go to the pacification meeting, so I do not know whether those people went and
11 delivered that message in Buli or not, but what I know is that after the fighting my
12 family were -- was amongst the people who had fled to Buli. And at that time we
13 were told that that meeting had not taken place as planned. At the time of the
14 meeting they brutalised people and they captured others. All these people were
15 taken away by those people. I remember that there was a young boy. During that
16 period my family hosted many people. There was a boy - I'm sorry, I no longer
17 remember his name - he had also gone to the Buli pacification meeting. But when he
18 realised that the soldiers were carrying many weapons, and they had also been
19 carrying heavy weapons, they had taken up a position at the location of the
20 pacification meeting, they surrounded the location and this boy tried to flee.
21 He asked a soldier to allow him to go and buy some sugar cane, so he was allowed to
22 leave, and then he never returned.
23 Now, when they started firing at people and capturing the others, he fled, and these
24 are accounts that were given to me by other people, but I do not remember the names
25 of those other two people.

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1 Q. [13:17:57] Where you were on that day, were you able to hear anything or see
2 anything yourself?

3 A. [13:18:21] Are you talking about that particular Friday or which day?

4 Q. [13:18:39] I'll specify. So from where you were physically located on the day of
5 the -- the Sangi pacification meeting that you just described, were you able to see
6 anything or hear anything?

7 A. [13:19:00] No. Apart from the messages we heard over the Motorola set, we
8 could also hear gunshots. That is all what we heard throughout the entire day. It
9 was difficult hearing those gunshots, the gunfire, coming from heavy weapons.

10 Q. [13:20:05] And could you explain to the Chamber what messages you heard on
11 the Motorola set that day?

12 PRESIDING JUDGE FREMR: [13:20:13] Mr Gosnell.

13 MR GOSNELL: [13:20:14] Asked and answered, Mr President. I actually went
14 through it chapter and verse at lines 45 to 46 -- or page 45 to 46 of today's transcript,
15 and I think the transcript was quite clear that the witness described only one day of
16 listening, so I do believe it's asked and answered.

17 PRESIDING JUDGE FREMR: [13:20:33] Mr Iverson.

18 MR IVERSON: [13:20:36] I don't think it is asked and answered. The witness said
19 he heard messages on that day of the pacification meeting. So I am asking him if he
20 can explain to your Honours what messages he heard and the content of these
21 messages.

22 PRESIDING JUDGE FREMR: [13:20:50] Objection overruled.
23 Please proceed.

24 MR IVERSON: [13:20:53]

25 Q. [13:20:53] So you mention that you heard messages on the Motorola set on the

1 day of the Sangi pacification meeting. What I'm asking you is if you are able to
2 explain to the Chamber the messages that you heard.

3 A. [13:21:11] I heard those messages a bit late, at about 3 p.m. The messages were
4 asking the soldiers to fire in the direction of the location where people had
5 sought -- sought refuge in the valleys. I heard that message during the day.
6 I also heard another message mentioning the number of weapons that they had in
7 Sangi, in Camp Yalala. So I heard that message on that day.

8 There was also another message asking people to do salongo in the forest, and that
9 word salongo means community labour or corrective work.

10 There was another message relating to sharpening machetes to carry out the
11 operations. So these are the key messages that I can still remember.

12 Q. [13:23:15] All right, and can you tell the Chamber what happened the very next
13 day, the day after the Sangi pacification meeting, if you remember?

14 A. [13:23:43] The following day, there was an attack at the location at which we
15 were in Gutsi. So -- so this was on Friday and the attack started on Saturday
16 morning. There was heavy gunfire. And the Atute locality also, there was a lot of
17 heavy gunfire. We also heard many gunshots coming from the direction of Bambu,
18 while they were advancing towards Gutsi. So Gutsi was attacked from the direction
19 of Bambu, as well as from Butsi (phon).

20 THE INTERPRETER: [13:25:08] From the Swahili interpreter: This attack was
21 actually from the direction of Tchudja.

22 MR IVERSON: [13:25:26]

23 Q. [13:25:26] And how long did the UPC remain in that area, in the area in and
24 around Kobu and surrounding villages?

25 A. [13:25:42] They came in on a Tuesday and then they left on Wednesday of the

1 following week, so that would be about eight or nine days. From Tuesday to the
2 next Wednesday, if I have counted well, it is about nine days.

3 Q. [13:26:28] And if you recall, who informed you that the UPC had left the area?

4 A. [13:26:39] I have said that there was someone who sent us a message. It had
5 been raining on that day. That person came while it was raining. He arrived in the
6 village to tell us that the UPC soldiers had retreated from the centre of Kobu and they
7 had left dead bodies in Kobu village. This is the person who gave us that
8 information.

9 MR IVERSON: [13:27:53] Mr President, could I ask that we move to private session.

10 PRESIDING JUDGE FREMR: [13:27:57] Court officer, let's move into private session.

11 (Private session at 1.28 p.m.)

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13 (Open session at 1.31 p.m.)

14 THE COURT OFFICER: [13:31:31] We are in open session, Mr President.

15 PRESIDING JUDGE FREMR: [13:31:36] Thank you, court officer.

16 So we will break now for lunch break for 90 minutes. And before doing that, update

17 on timing. So far, according our measuring, Mr Iverson used 1 hour 43 minutes

18 which means from time allotted to him, he still has 1 hour 17 minutes.

19 For the sake of planning, Mr Iverson, do you think that you will need all that time,

20 just to make Mr Gosnell ready for cross-ex.

21 MR IVERSON: [13:32:13] I think I could use all that time, but I think it's going quite

22 well and I think I can finish before that, probably in one hour or maybe even a little

23 bit less.

24 I don't want to make too many promises.

25 PRESIDING JUDGE FREMR: [13:32:26] No, no pressure. No pressure. It is fine.

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1 So we break now and we will reconvene at 3 o'clock.

2 THE COURT USHER: [13:32:36] All rise.

3 (Recess taken at 1.32 p.m.)

4 (Upon resuming in open session at 3.04 p.m.)

5 THE COURT USHER: [15:04:56] All rise.

6 Please be seated.

7 PRESIDING JUDGE FREMR: [15:05:19] Good afternoon, everybody. We will
8 directly continue with examination-in-chief of this witness by Prosecution.

9 Mr Iverson, do you want to proceed in open or in private session?

10 MR IVERSON: [15:05:45] I would ask that we stay in open session, Mr President.

11 PRESIDING JUDGE FREMR: [15:05:48] Very well. Then you may proceed.

12 MR IVERSON: [15:05:50]

13 Q. [15:05:52] Welcome back, sir. Could I ask you to provide to the Chamber a
14 physical description of this person who you called Tilo.

15 A. [15:06:13] Tilo was a gentleman. He was wearing white attire. He's a tall
16 person. He was thin or slender. And his complexion was dark.

17 Q. [15:06:51] You say he was a tall person. Can you approximate how tall he
18 was?

19 A. [15:07:02] When I say he was tall, I mean that he must have been 1 metre 60
20 centimetres or thereabout. But I don't have any details as to his height. What I am
21 providing is a mere estimate. But I cannot tell you anything more than that when it
22 comes to how tall he was. And I don't know if I can compare him to anyone in this
23 courtroom.

24 Q. [15:07:43] And that's fine. All I was asking for was an estimate. And do you
25 know approximately how old this Tilo was?

1 A. [15:08:08] He was a more or less slightly elderly person. Going by his size, he
2 must have been around 50 years old.

3 Q. [15:08:25] All right. And at the end of last session you told the Chamber that,
4 on page 68, lines 22 to page 69, line 2, that the UPC soldiers had retreated from the
5 centre of Kobu and they left dead bodies in Kobu village. Can you explain to the
6 Chamber what you did after hearing this information?

7 A. [15:09:18] Did you say what I learnt? Are you talking about what I learnt?
8 And what information are you relating to, please?

9 Q. [15:09:33] I'll repeat my question, sir. At the end, before we broke for lunch,
10 you told the Chamber that you were told back in February 2003 that UPC soldiers had
11 retreated from the centre of Kobu and they had left dead bodies in Kobu village. So
12 what I'm asking you is what did you do once you heard this information?

13 A. [15:10:07] Okay. Now I understand your question. When I received that
14 information we became curious and wanted to find out what had just happened. It
15 had been a week since we had been to the centre of Kobu and I wanted to go to Kobu
16 myself to see what had happened there. So I wanted to find out what had happened
17 to my shop. And so I went there also to find out who had killed those people. I
18 had been separated from my family members and I wanted to find out whether any
19 of my family members were among those who had been killed.

20 Q. [15:11:20] And when you went to Kobu can you describe to the Chamber what
21 you saw?

22 A. [15:11:48] When I arrived in Kobu, at the entrance to the city, as I already
23 mentioned, even before getting to the trading centre in Wadza, there is a Catholic
24 shop -- a Catholic church, rather, down the slopes. And uphill there was a house
25 belonging to Gobe and then there is a small forest nearby. It is in that little wooded

1 area next to that house that we found the dead bodies.

2 Q. [15:12:39] And can you approximate how many dead bodies you found at that
3 location?

4 A. [15:12:59] Well, I personally did not count the number of dead bodies, but I
5 know that there were many bodies there. And I would say that there were between
6 30 to 50 corpses of women, children and men, a lot of corpses.

7 Q. [15:13:30] Did you recognize anyone you knew among the dead bodies?

8 A. [15:13:54] If memory does not fail me, I think I was able to recognize one girl
9 who went by the name Julie and whom I knew. I also recognized Burombi, who was
10 a teacher in a girls' high school in Lukovi. Then there was Kabuli as well and
11 Dyikpanu. I also remember that yes, Dyikpanu's dead body was there. And by the
12 way, (Redacted)

13 (Redacted) Then there was also another gentleman called Mande. Those are the
14 dead bodies that I was able to identify.

15 Q. [15:15:09] And who was -- I'll just ask a few questions about these people that
16 you were able to recognize. Who was Julie? And do you know where she came
17 from and what her occupation was?

18 (Redacted)

19 (Redacted)

20 PRESIDING JUDGE FREMR: [15:16:25] Sorry, we have to move into private
21 session.

22 Court officer, first, let's move into private session.

23 (Private session at 3.16 p.m.)

24 (Redacted)

25 (Redacted)

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6 (Open session at 3.20 p.m.)

7 THE COURT OFFICER: [15:20:29] We are back in open session, Mr President.

8 PRESIDING JUDGE FREMR: [15:20:42] Thank you.

9 Mr Iverson, please proceed.

10 MR IVERSON: [15:20:46]

11 Q. [15:20:47] Sir, were you able to see any sign of injury or injuries on these 30 to
12 50 corpses of women, children and men?

13 A. [15:21:16] Well, I can mention the example of cases where I saw some signs on
14 the dead bodies. Some of the skulls were shattered. We had women who had been
15 disemboweled and their stomachs were completely torn open. Then there were a
16 number of bodies that were there and some of them appeared to have had some
17 necrosis and burns. Some of the dead bodies were in a state where the head was cut
18 off from the rest of the body, and in the case of some men, their genitals were cut off,
19 and then there was also another woman who had been disemboweled and a child had
20 been put into her stomach. Those are some of the things that I saw.

21 Q. [15:23:07] Could you explain what you mean by the term "necrosis"?

22 A. [15:23:27] This is what I said: Well, necrosis is a state in which the skin
23 appears to have been burnt, and I'm referring here to what I mentioned before when
24 the machetes had to be sharpened in preparation for the attack. So necrosis will be
25 in relation to the use of those machetes following or pursuant to the messages that

1 were broadcast over the radio in Gutsi. I therefore understand that these wounds
2 were the result of burns and that was the state in which the skin was at the time.
3 That's what I just said.

4 Q. [15:24:39] Sir, to your knowledge, did anyone document the scene in any way,
5 take any photographs or anything of that nature?

6 A. [15:25:08] Thank you for that question. When we arrived at that location,
7 there were many of us there. There were also a number of photographers at the site,
8 photographers who came from that area itself, and I do remember that one of them
9 was called Pecos. He was a Lendu from Mongbwalu. He was a businessman. He
10 had also been fleeing and (Redacted) He is the
11 one who told the young people -- he himself was not a photographer, but he told the
12 young people to take photographs of the dead bodies, and they did.

13 I do remember also that at that time there were other photographers at the site such as
14 Tubi, Joro, and that must have been the short form for Georges, Joro, as we used to
15 call him. And then there were other young people as well. However, I did not pay
16 attention to be fully aware of who took which photograph. What I know is that an
17 order was given for the young people around to take some photographs.

18 MR IVERSON: [15:27:12] Could I ask that Prosecution exhibit DRC-OTP-2058-1106
19 be displayed and it can be displayed in public.

20 THE COURT OFFICER: [15:27:39] Mr Iverson, just to be a hundred percent sure,
21 would you like to have the version we received earlier today without annotations?

22 MR IVERSON: [15:27:48] Yes, please, I would like the version without annotations,
23 just the photograph itself. Thank you.

24 Q. [15:29:10] Sir, are you able to see the -- are you able to see a photograph before
25 you on the screen?

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1 A. [15:29:31] Yes, I can see it.

2 Q. [15:29:36] And could you tell the Chamber whether you're familiar with the
3 scene that this photograph depicts?

4 A. [15:29:53] Yes. This photo shows part of the banana plantation.

5 Q. [15:30:16] And does this scene correlate to what you personally observed?

6 A. [15:30:32] I think that this photograph also shows something that I saw, that is
7 to say, a person who was tied up with the arms towards his back.

8 Q. [15:31:04] Are there any other features in this photograph that you recognize
9 that you're able to explain to the Chamber?

10 A. [15:31:24] Yes, I would say the following: What makes me recognize this
11 photograph, if you see in front of this woman, you can see the cut banana trees, that
12 shows the place, but the quality of the photograph isn't good, it's blurred. It's a bit
13 difficult. But otherwise, I would say that this photograph represents this place. But
14 there were other photographs which were clearer because there were lifeless bodies
15 all around.

16 MR IVERSON: [15:32:27] All right. Could I ask the court officer to please display
17 another Prosecution exhibit, which is DRC-OTP-2058-1110, item 7 on the Prosecution
18 list. And again if the version without annotations could be shown, just the photo
19 please, and it can be shown publicly.

20 THE COURT OFFICER: [15:33:44] And could you please confirm that this
21 document can also be shown publicly?

22 MR IVERSON: [15:33:50] Yes, it can be shown publicly. Thank you.

23 Q. [15:33:55] Sir, do you see an image before you on your screen?

24 A. [15:34:06] Yes, I can see a photograph of a man.

25 Q. [15:34:16] Could you tell the Chamber whether this photograph -- whether

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1 you're familiar with the scene that this photograph depicts?

2 A. [15:34:37] Yes, I know this scene. This place is where people were killed. It
3 makes me think -- it reminds me of what we saw at that time.

4 Q. [15:35:03] Do you recall specifically seeing the corpses depicted in this
5 photograph?

6 A. [15:35:28] Here I see a body and there is something -- well, it does remind me
7 of what I saw. There were lots of bodies as I said here, as I said previously. There
8 were bodies where the arms were attached, things like that.

9 MR IVERSON: [15:35:54] All right. And for the next two exhibits I would ask
10 briefly to go into private session, Mr President.

11 PRESIDING JUDGE FREMR: [15:36:08] All right. Court officer, let's move into
12 private session.

13 (Private session at 3.36 p.m.)

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21 (Redacted)

22 (Open session at 3.44 p.m.)

23 THE COURT OFFICER: [15:44:37] We're in open session, Mr President.

24 PRESIDING JUDGE FREMR: [15:44:55] Thank you, court officer.

25 Mr Iverson, please proceed.

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1 MR IVERSON: [15:44:59]

2 Q. [15:44:59] Sir, other than the corpses you saw on that day in the banana field,
3 who, if anyone, did you see killed in or around Kobu during the time that UPC was
4 there in Kobu?

5 A. [15:45:30] Another person that I knew, apart from the names that I just gave, I
6 spoke about Julie. But I didn't find her on this picture. But there were lots of
7 people who were killed. And these are people who came from elsewhere, people
8 who didn't know the geography of the area, and it was these people who went to
9 these -- to these negotiations hurriedly, precipitously, because these people thought
10 that things were going to normalize and they would be able to return to their homes,
11 and that's the reason why their bodies were not identified by members of the
12 population.

13 Q. [15:46:29] And when you returned to Kobu on that day, did you have an
14 opportunity to see what the village looked like?

15 A. [15:46:50] Yes.

16 Q. [15:46:51] Could you describe to the Chamber what changes you saw to Kobu
17 after the UPC had left Kobu?

18 A. [15:47:08] When we arrived in Kobu, the first thing that we saw was, when we
19 saw the bodies, we went to the commercial centre, and when we arrived there, we
20 found that the commercial centre, there were trenches that had been dug all around
21 the commercial centre, that's to say almost all the roads going to the commercial
22 centre, there had been trenches dug there of 2 metres. They'd been dug everywhere.
23 That's the first thing that we saw.

24 And the second thing that we noted was that all the shops, even my shop, they had
25 been smashed, the doors had been broken down, things had been set on fire. The

1 village had been completely pillaged.

2 On addition to that, next to the market, we found other lifeless bodies. There were
3 houses that had been completely destroyed, such as houses with corrugated iron
4 rooves. Another thing that we also noted, you saw that heavy weapons had been
5 fired because when you shoot with such weapons the shell comes out and the
6 cartridge is fired out, and so you could find these empty casings everywhere, these
7 empty shells everywhere. These ammunition cases or shells were everywhere.
8 That's something that we saw.

9 Q. [15:49:56] And when you left Kobu initially, were there shell casings on
10 the -- everywhere, like you say?

11 A. [15:50:14] These are things that we found next to these lifeless bodies along the
12 road. We saw that there were cartridges or casings everywhere. When you shoot,
13 there's a casing that falls everywhere. And they were from large and smaller calibre
14 weapons. Everywhere we went, from Gutsi, along the road, we saw that there were
15 ammunition casings everywhere.

16 MR IVERSON: [15:51:17] Mr President, could I ask briefly to go into private
17 session and then I will be close to finishing.

18 PRESIDING JUDGE FREMR: [15:51:24] Certainly.

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

20 (Private session at 3.51 p.m.)

21 (Redacted)

22 (Redacted)

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- 25 (Open session at 4.09 p.m.)

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1 THE COURT OFFICER: [16:09:15] We are in open session, Mr President.

2 PRESIDING JUDGE FREMR: [16:09:21] Thank you, court officer.

3 Mr Gosnell, please proceed.

4 MR GOSNELL: [16:09:27]

5 Q. [16:09:28] How long after, in days, the meeting, the pacification meeting in

6 Sangi, how long after that in days did you receive word that the UPC had left Kobu?

7 A. [16:10:09] Please repeat your question.

8 Q. [16:10:13] Certainly. You remember that there was a day on which there was

9 a pacification meeting which you have described as having in fact been a trap.

10 Remember that?

11 A. [16:10:34] Yes.

12 Q. [16:10:36] How many days after that were you informed that the UPC had fled

13 Kobu?

14 A. [16:10:59] The pacification meeting was supposed to take place on a Friday,

15 and then there was Friday and then there was Saturday and then there was Sunday

16 and then there was Monday, Tuesday and Wednesday. And it is at that time that we

17 received the message. So it must have been about five days, if I'm not mistaken, four

18 to five days.

19 Q. [16:11:35] You've just done something, Mr Witness, that you did throughout

20 your testimony, which is to be able to recall days of the week. How are you able to

21 recall with such precision after all these years the days of the week on which these

22 events purportedly occurred?

23 A. [16:12:23] The answer I can give you is that this memory is engraved in my

24 memory and this is something that I experienced. The life I experienced at that time

25 was not easy and so that date -- that day is engraved in my mind. It is like indelible

1 ink which doesn't go away and which continues to hurt very deeply.

2 Q. [16:12:57] And that means, doesn't it, that you're quite sure about your
3 memory of the interval of time between the supposed date of the pacification meeting
4 and the date on which you heard that the UPC had left Kobu?

5 A. [16:13:35] This is what I can say: I may be able to forget a date, but I cannot
6 forget the day. The date, maybe I can forget it.

7 Q. [16:13:54] So on this Wednesday when you received word that the UPC had
8 left Kobu, am I correct that it was on that same day that you went to Kobu?

9 A. [16:14:22] Yes. When we received the message on Wednesday that there
10 were dead bodies at the centre. I do remember that day very clearly. It had rained.
11 Because when we got to Kobu, there was rainwater everywhere and rainwater could
12 be even found in the stomachs of some of the dead bodies. It was the first time I was
13 returning to Kobu after I had left Kobu and fled.

14 Q. [16:15:01] And you said that when you returned to Kobu and encountered the
15 scene of 30 to 50 people who had been killed, you said that a certain number had had
16 their heads removed. Can you give us an indication as to what number had been
17 decapitated?

18 A. [16:15:41] Well, I did not go there to conduct a headcount of the dead bodies
19 and to establish which one was beheaded and which one still had its head on. All I
20 do remember is that I saw, for example, the dead body of a child without its head,
21 and then there were other bodies where the throat was simply slit but the head was
22 still attached to the body. So those are the type of things I saw.

23 Q. [16:16:26] Yes, I fully understand, Mr Witness, that you may not be able to
24 recall the exact number, but can you give us any further indication as to how many
25 bodies you saw having been beheaded?

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1 A. [16:16:56] Well, I did not pay special attention to that. I did not count and I
2 did not estimate anything because I really wasn't paying any specific attention to that
3 when I saw those things.

4 Q. [16:17:25] One thing you did pay attention to, according to what you said at
5 page 77 earlier today, and I quote: "Necrosis will be in relation to the use of those
6 machetes following or pursuant to the messages that were broadcast over the radio."
7 End quote.

8 Now, I just want to clarify what you meant when you said that. Are you saying or
9 did you mean to say that the necrosis was a result of machete wounds?

10 A. [16:18:26] No. You see, they had used -- they had put the machetes into fire
11 and then struck the bodies with the heated machetes, and it is those parts of the body
12 that were struck with the hot machetes that had this symptom. That is what I meant
13 to say.

14 MR GOSNELL: [16:19:08] Mr President, with your leave, I would like to distribute
15 hard copies of the witness's statement as I intend to refer quite frequently to the
16 statements.

17 PRESIDING JUDGE FREMR: [16:19:18] All right.

18 MR GOSNELL: [16:19:24] And I believe we have enough copies for any participant
19 or party who may not have a copy.

20 THE COURT OFFICER: [16:19:34] Could we please have an ERN number for the
21 record.

22 MR GOSNELL: [16:19:39] Yes, certainly. Thank you very much for that reminder.
23 The two documents are first the 2005 statement, DRC-OTP-0073-0397, tab 1, and the
24 2015 statement, DRC-OTP-2080-0078, it's tab 2.

25 Q. [16:20:15] Now, Mr Witness, my Swahili is not wonderful, but I understand

1 that there is an expression in Swahili for the word sharpen which refers to placing a
2 blade into fire. And what you stated in your statement from 2005, paragraph 31, is
3 the following, and I'll read it in French:

4 (Interpretation) "I listened to the radio station on that day, but I could not determine
5 its source and orders were given to put the machetes into fire before starting the
6 operations on the persons who had been arrested."

7 (Speaks English) so I just want to clarify, when you used that expression in your 2005
8 statement, (Interpretation) "Put the machetes in the fire," (Speaks English) you did
9 not mean to say that that meant to sharpen, you meant literally to pass the blades
10 over a fire. Do I understand that correctly?

11 A. [16:21:56] I did not want to say "to sharpen." When you talk about sharpen,
12 you use a stone to sharpen the machete. What I meant was the machete should be
13 put into some fire. That was the message we received.

14 Q. [16:22:29] And it was the infliction of wounds with these heated blades that
15 caused this necrosis, according to you; is that correct?

16 A. [16:22:57] Yes, that's correct.

17 Q. [16:22:59] So am I correct that the bodies had received numerous machete
18 strikes with the blades of the machetes as you were able to observe the bodies?

19 A. [16:23:30] Well, what we noticed on Dyikpanu's body, for example, (Redacted)
20 (Redacted), we found those signs on his body.

21 Q. [16:23:48] And either from the person who informed you about the
22 withdrawal of the UPC from Kobu or from anyone else, were you told when this
23 massacre had taken place, how long prior to your arrival in Kobu it had taken place?

24 A. [16:24:15] I did not quite understand your question. Would you please
25 kindly repeat it?

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1 Q. [16:24:35] Certainly. Did anyone at all tell you how long prior to your arrival
2 on the scene in Kobu the massacre had taken place?

3 A. [16:25:08] I did not receive those details and I didn't ask any questions either in
4 that regard.

5 Q. [16:25:21] Quite a bit more than a detail, Mr Witness. You're arriving and
6 seeing --

7 PRESIDING JUDGE FREMR: [16:25:29] Mr Iverson.

8 MR IVERSON: [16:25:30] The comment "Quite a bit more than a detail," I think is
9 unnecessary. It's argumentative.

10 PRESIDING JUDGE FREMR: [16:25:39] Yes, Mr Gosnell, I really find even if it's
11 just beginning, but I think that really, in my view, goes to argumentative question.
12 So maybe you should rephrase.

13 MR GOSNELL: [16:25:52] I understand, Mr President. I'll rephrase the question.

14 Q. [16:25:57] Was -- were none of the people who were accompanying you asking
15 questions, for example, about the circumstances in which this event had occurred?

16 A. [16:26:31] When you talk about circumstances, can you please explain what
17 you mean. Who? Who would have asked me those questions?

18 Q. [16:26:40] Perhaps my question wasn't quite translated accurately. I wasn't
19 suggesting that people would have asked you questions. I was suggesting that
20 others accompanying you who were either burying their loved ones or taking them
21 away from this horrible event would have asked questions to others about the
22 circumstances of the event, in particular, when it had happened.

23 A. [16:27:22] Well, asked questions of who and to who?

24 Q. [16:27:45] Well, that's a fair point, Mr Witness. And let me focus it, and I
25 won't mention the person's name, but do you remember -- and please don't mention

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1 his name either, but you remember you've told us that somebody came and informed
2 you in Gutsi both that the UPC had left Kobu and that there had been a massacre by
3 the UPC. Did he tell you how long before this massacre had occurred?

4 A. [16:28:21] All right. Well, if I have understood your question, you are asking
5 about time, duration, the time between the time of death of these people and the time
6 when we received the information. Now, I have no information to provide by way
7 of answer to that question. I do not know when those people were killed. Well, if
8 that's the question, I think that's what I can say. However, you see, it must be that
9 those dead bodies were not warm. They were -- they were cold already and one
10 couldn't say that they had died on the same day. By the time we got there, the dead
11 bodies were in a state that was different from people who had -- bodies that had just
12 been killed a short while ago. So they must have died sometime before we left Kobu.

13 Q. [16:30:03] Mr Witness, I think the very last bit of your answer may not have
14 been recorded correctly or perhaps there was a confusion. When you say that "They
15 must have died sometime before we left Kobu," what are you referring to?

16 A. [16:30:42] Well, I think it must be a problem with the transcript. That's not
17 what I said.

18 Q. [16:30:58] I think I understood what you mean and so I won't go back to
19 asking that, but I will ask you this question from page 78 of earlier today. When you
20 were listing the names of photographers who were on site taking pictures, and
21 unfortunately the names were not accurately recorded on the transcript, may I ask
22 you please to tell us again the names of all of the photographers who were taking
23 pictures on that day?

24 A. [16:31:36] Among the photographers, Tubi (phon) came with a camera.
25 Another photographer called Georges, he was also there but I don't know if he took

1 photos. There were a lot. But among the ones who took photos, there was Tubi.

2 There were a lot who were there. There were others whose names I didn't know.

3 Because in the centre of Kobu at that time, it was a centre where a lot of people had

4 taken refuge, and as I said before, you couldn't know who took -- who had taken

5 which photograph, and I'm still astonished to see myself on a photograph. I couldn't

6 even know who took that photo in which I am depicted.

7 Q. [16:32:52] Let's have a look at that photo, please. DRC-OTP-0152-0239.

8 I think it may be tab 83 at the moment.

9 PRESIDING JUDGE FREMR: [16:33:09] Mr Iverson.

10 MR IVERSON: [16:33:09] I would ask that the photograph be shown in private.

11 MR GOSNELL: [16:33:18] Well, I won't ask -- well, perhaps for safety we should,
12 yes, Mr President.

13 PRESIDING JUDGE FREMR: [16:33:26] All right then.

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

15 (Private session at 4.33 p.m.)

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Trial Hearing
WITNESS: DRC-OTP-P-301

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-301

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-301

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

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9 (Open session at 4.50 p.m.)

10 THE COURT OFFICER: [16:50:32] We're in open session, Mr President.

11 PRESIDING JUDGE FREMR: [16:50:41] Thank you, court officer.

12 So Mr Witness, it concludes your testimony for today. So I would like to thank you

13 that you clearly and patiently responded all questions put to you. We will continue

14 with your testimony tomorrow morning -- on Monday morning, sorry. Tomorrow

15 morning fortunately not. And I have to remind you that in the meantime, during the

16 weekend, you must not discuss your testimony with anybody else. Do you

17 understand, Mr Witness? Fine.

18 So now I would like to ask --

19 THE WITNESS: [16:51:28] (Interpretation) Yes.

20 PRESIDING JUDGE FREMR: [16:51:29] -- the court usher to escort Mr Witness out

21 of the courtroom.

22 (The witness stands down)

23 PRESIDING JUDGE FREMR: [16:51:54] And now the Chamber will deliver its oral

24 ruling on the Prosecution request number 1555 which seeks that the Chamber adopts

25 in-court protective measures in the form of face and voice distortion during testimony

1 and the use of a pseudonym for the purposes of the trial for Witness P-792.

2 The Defence opposed the request on 6 October 2016, that is filing number 1568.

3 As a preliminary matter, the Chamber notes that this witness was a reserve witness

4 for this evidentiary block and that his testimony during this block was only confirmed

5 last week. Noting these circumstances and the fact that the Defence does not oppose

6 this part of the request, the Chamber grants a variation of time for the filing of this

7 request pursuant to Regulation 35 of the Regulations of the Court.

8 Turning to the merits, the Chamber incorporates by reference the applicable law set

9 out in its first decision on in-court protective measures bearing filing number 824.

10 In assessing whether there exists an objectively justifiable risk with regard to the

11 witness's security, the Chamber recalls the reported instances when other witnesses,

12 including crime-base witnesses, were allegedly threatened as a result of their

13 involvement with the Court.

14 Additionally, as a Chamber has previously held, the general security situation in the

15 region is a relevant consideration in respect of specific witnesses.

16 In rendering its decision with regard to Witness P-792, the Chamber also takes into

17 account the witness profile, which may increase the risks faced by the witness, in

18 terms of his ability to be recognized or located; or to give rise to a perception that he

19 represents particular interests; further, the nature of his anticipated testimony; and,

20 finally, the fact that he lives with his family in the general area of influence of the

21 accused.

22 The Chamber also notes the witness is not in the ICC protection programme.

23 Finally, the Chamber has had regard to the VWU's assessment received earlier today,

24 particularly that public testimony by this witness might trigger retaliation against him

25 and his family and that the protective measures sought will minimise such a risk.

1 Noting the Defence submission in this regard, the Chamber clarifies that it finds it
2 appropriate to take into consideration this independent assessment from the VWU, a
3 neutral organ of the Court, notwithstanding its ex parte nature.

4 In light of the foregoing, the Chamber is satisfied that there exists an objectively
5 justifiable risk with respect to the security of Witness P-792 warranting the protection
6 of his identity from the public.

7 The Chamber further finds that the measures sought do not unduly infringe upon the
8 rights of the accused, having regard to the fact that the Defence and the accused will
9 be able to see him give evidence at trial and to hear his voice without distortion.

10 The Chamber therefore grants the in-court protective measures requested for Witness
11 P-792 pursuant to Rule 87 of the Rules.

12 Finally, the Chamber orders the parties to file by 21 October 2016 public redacted
13 versions of the request and response respectively.

14 This concludes the Chamber's ruling.

15 And at the very end of this session I would like to inform you about our plans for
16 Monday. We decided to sit from -- in fact, in our classical schedule from 9.30 till 11,
17 then from 11.30 till 1 and final session will take two hours, 2.30 till 4.30. We believe
18 that this schedule should allow us to conclude cross-examination of this witness and
19 the second part of the day to cover whole examination-in-chief of the last witness of
20 this block.

21 I see there are no further requests for the floor, so I would like to thank you. I would
22 like to wish you a relaxed weekend because I guess all of us who were involved in
23 this busy week deserve that and see you on Monday, 9.30.

24 THE COURT USHER: [16:57:45] All rise.

25 (The hearing ends in open session at 4.57 p.m.)