

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 2
8 Monday, 16 January 2017
9 (The hearing starts in open session at 9.48 a.m.)
10 THE COURT USHER: [9:48:48] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:49:18] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:49:24] Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The
17 Prosecutor versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 We are in open session, Mr President.
19 PRESIDING JUDGE FREMR: [9:49:37] Thank you, court officer.
20 Now, appearances in the usual order.
21 MS SOLANO: [9:49:42] Good morning, your Honours.
22 The Prosecution is represented by Nicole Samson, Claudine Umurungi,
23 Selam Yirgou, and I am Julieta Solano.
24 PRESIDING JUDGE FREMR: [9:49:53] Thank you, Ms Solano.
25 Defence.
16.01.2017
26

1 MR GOSNELL: [9:49:55] Good morning, Mr President.

2 Christopher Gosnell for Mr Ntaganda this morning, assisted by

3 Isabelle Martineau. Thank you.

4 PRESIDING JUDGE FREMR: [9:50:08] Thank you, Mr Gosnell.

5 Legal Representative for Victims, please.

6 MS PELLET: [9:50:12] (Interpretation) Thank you, your Honour. The former

7 child soldiers are represented by Mohamed Abdou and by myself, Sarah Pellet,

8 counsel with the Office of Public Counsel for Victims.

9 MR SUPRUN: [9:50:23] Good morning, your Honour, your Honours. The victims

10 of the attacks are represented by myself, Dimitri Suprun, counsel with the

11 Office of Public Counsel for Victims.

12 PRESIDING JUDGE FREMR: [9:50:34] Thank you, Ms Pellet.

13 Thank you, Mr Suprun.

14 First of all, I would like to apologise for the delay, which was, as you were

15 reported, caused by technical issues. I would like to express the Chamber's

16 dissatisfaction and I will also devote some further time to discuss this issue with

17 the registry later on.

18 Now I would like to start either by welcoming everybody back to the courtroom

19 and extend the whole Chamber's best wishes for the new year. I hope that we

20 will have another productive evidentiary block during this final phase of

21 the Prosecution case.

22 And before the next witness is called, as usually, I have several procedural matters

23 to address, just briefly.

24 First, I recall that the official dates for this block are today, 16 January 2017 until

25 3 March 2017, although it's not anticipated that all of this period will be required

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1 for the remaining Prosecution witnesses.

2 You have also been notified by way of email of adjusted sitting hours between 19
3 and 27 January resulting from VWU recommendations in respect of specific
4 witnesses.

5 I also note that we will be sitting in Courtroom 2 for the duration of this
6 evidentiary block and I believe that we will not face any further technical issues
7 like today.

8 Next, for the purposes of timing for this witness, as per the Chamber's email of
9 3 November and 21 December 2016, the parties have both been permitted four
10 hours each for examination of the witness.

11 The Chamber also notes that there is a request by the Legal Representative of
12 Victims of the attacks, Mr Suprun, to question the witness bearing filing number
13 1708. This will be addressed after the examination-in-chief, as usually.

14 I also recall the Chamber's decision with filing number 1714 granting in-court
15 protective measures to this witness, being face and voice distortion and the use of
16 a pseudonym.

17 And now we can turn to the scheduled testimony.

18 So, court officer, please have the witness brought into the courtroom.

19 (The witness enters the courtroom)

20 PRESIDING JUDGE FREMR: [9:54:56] Good morning, Mr Witness.

21 Can you hear me?

22 WITNESS: DRC-OTP-P-0863

23 (The witness speaks French)

24 (Redacted)

25 (Redacted)

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- 25 PRESIDING JUDGE FREMR: [9:57:28] All right.
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1 Mr Witness, now you will find a piece of paper in front of you with the text of
2 solemn undertaking. Do you have it?

3 THE WITNESS: [9:57:38] (Interpretation) Yes.

4 PRESIDING JUDGE FREMR: [9:57:45] So please now make your solemn
5 undertaking to tell the truth by reading out the declaration you have in your
6 hands.

7 THE WITNESS: [9:57:56] (Interpretation) I solemnly declare that I will tell the
8 truth, the whole truth and nothing but the truth.

9 PRESIDING JUDGE FREMR: [9:58:06] Thank you, Mr Witness.

10 It means that now you are under oath, so you need to be aware that it is an offence
11 within the jurisdiction of this Court to give false testimony. Do you understand
12 that?

13 THE WITNESS: [9:58:22] (Interpretation) Yes.

14 PRESIDING JUDGE FREMR: [9:58:29] Fine.

15 And finally, there are few practical matters you should have in mind when giving
16 your testimony. It is important to speak into the microphone, to speak clearly
17 and to speak at a slow pace to allow the interpreters to translate everything
18 precisely. You should only start speaking when the person asking you the
19 question has finished. So when a question is asked - and this is very
20 important - please do not respond immediately, rather, count in your head to
21 three and only then give your answer.

22 This pause is essential for us to properly hear and record what you are saying. If
23 you have any questions during your testimony, or if you feel that you need
24 a break, do not hesitate to let us know by raising your hand. We will then give
25 you the opportunity to speak.

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1 Have you understood all that, Mr Witness?

2 THE WITNESS: [9:59:39] (Interpretation) Yes.

3 PRESIDING JUDGE FREMR: [9:59:42] All right. So now we can start your
4 testimony.

5 Prosecution, you have the floor.

6 MS SOLANO: [9:59:49] Thank you, your Honour.

7 And, your Honour, may I ask, since we started with some delay, will we be
8 stopping for the usual break at 11 or are we going to stop sometime after that?

9 PRESIDING JUDGE FREMR: [10:00:02] Yes, we are forced, in fact, to keep normal
10 schedule, so we will finish this session at 11.

11 MS SOLANO: [10:00:10] Thank you.

12 PRESIDING JUDGE FREMR: [10:00:11] If you have any proposal on that?

13 MS SOLANO: [10:00:14] No, I don't. Thank you.

14 PRESIDING JUDGE FREMR: [10:00:16] Fine.

15 QUESTIONED BY MS SOLANO:

16 Q. [10:00:16] Good morning, sir. Can you hear me?

17 A. [10:00:23] Yes.

18 Q. [10:00:24] I am Julieta Solano. I represent the Prosecution. We have met
19 before. And today I will be asking you questions on behalf of the Prosecution.

20 MS SOLANO: [10:00:30] Your Honour, may we move into private session, please.

21 PRESIDING JUDGE FREMR: [10:00:37] For sure.

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

23 (Private session at 10.00 a.m.)

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13 (Open session at 10.12 a.m.)

14 THE COURT OFFICER: [10:12:48] We are in open session, Mr President.

15 Thank you.

16 PRESIDING JUDGE FREMR: [10:12:55] And just to assure myself everything

17 because I was --

18 THE COURT OFFICER: [10:13:05] I'll just double-check everything is still

19 working.

20 PRESIDING JUDGE FREMR: [10:13:09] Fine.

21 Please go ahead.

22 MS SOLANO: [10:13:11] Thank you, your Honour.

23 Q. [10:13:12] Sir, you said that in the year 20002 there was a stream of people

24 from Mongbwalu coming to Bambu. What was the reason for that, if you know?

25 A. [10:13:25] There were clashes in Mongbwalu. And those people, a great

1 many of them, did not have the means to take refuge elsewhere and so they
2 headed towards Bambu. People who had money went to Beni or elsewhere, even
3 in Uganda. Some people went to Uganda at that time to take refuge.

4 Q. [10:14:01] Who was involved in these clashes in Mongbwalu?

5 A. [10:14:05] It was always the people from the UPC who were fighting the
6 Lendu who were based in Mongbwalu.

7 Q. [10:14:24] And what was the UPC?

8 A. [10:14:29] The UPC was a militia force, Hema people who were fighting the
9 Lendu militia.

10 Q. [10:14:55] How do you know about the clashes in Mongbwalu?

11 A. [10:15:02] We had family members in Mongbwalu and they met up with us
12 in Bambu at that time.

13 Q. [10:15:20] Did this fighting ever reach Bambu, sir?

14 A. [10:15:34] At that time it was in Mongbwalu, not in Bambu. Oh, yes, that
15 was -- well, it was sporadic. It wasn't everyone. There were some UPC
16 members who would go there and then go back.

17 Q. [10:15:55] Just to come back to Mongbwalu. Do you remember in what part
18 of the year 2002 these clashes occurred?

19 A. [10:16:04] I really couldn't tell you what month it was. I don't know what
20 month it was. I'll refrain.

21 Q. [10:16:20] Do you recall whether it was in the beginning of the year, the
22 middle of the year, late in the year?

23 A. [10:16:31] If I remember correctly, it was towards the half, the midpoint of
24 the year.

25 Q. [10:16:52] Are you able to describe these forays by UPC members into

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1 Bambu?

2 PRESIDING JUDGE FREMR: [10:17:07] Sorry.

3 Ms Gosnell, please.

4 MR GOSNELL: [10:17:12] Objection. The characterisation of the attacks in that
5 way, forays, that has not come from the witness.

6 PRESIDING JUDGE FREMR: [10:17:20] Ms Solano.

7 MS SOLANO: [10:17:20] Your Honour, if the Defence counsel prefers me to use
8 the word "attack," I will do so. I can just rephrase, your Honour.

9 MR GOSNELL: [10:17:28] It is page 13, line 22, and I think, until the witness goes
10 beyond that, that's the formulation that ought to be used.

11 PRESIDING JUDGE FREMR: [10:17:38] Yes, I think I found this objection
12 reasonable, so please rephrase.

13 MS SOLANO: [10:18:06]

14 Q. [10:18:07] Sir, you have said that the UPC elements would come to Bambu.
15 Can you explain what you mean by that?

16 A. [10:18:22] What I mean is that in Bambu there was --

17 THE INTERPRETER: [10:18:27] Inaudible.

18 A. [10:18:30] -- bridge over the river and then there was -- well, actually, you
19 can see in the annex to my statement. And you see the river is a natural barrier
20 for the people of Bambu. The UPC members would follow the road of that
21 bridge, and there were some Lendu militiamen who had formed a front and had
22 warned the people of Bambu in the event that some UPC members came.

23 MS SOLANO: [10:19:13]

24 Q. [10:19:14] Where did that road lead to?

25 A. [10:19:22] It is the main road that goes from Bunia to Mongbwalu. That is

1 the road that the UPC members would take to launch their attacks.

2 Q. [10:19:54] And you have said that these were attacks. Why do you describe
3 them in that way?

4 A. [10:20:12] I can't be really specific about the words that I used like "attack."
5 But what I meant, what I thought was -- well, they were attacks, because they
6 would come and attack us so that we would flee into the bush.

7 Q. [10:20:37] What means did the UPC use in order to force you to flee into the
8 bush?

9 A. [10:20:56] Bombs, weapons, firearms. And then their fighters used machetes
10 as well. Hoes -- no, not hoes. Well, axes.

11 Q. [10:21:22] You said that the combatants used machetes and axes. Which
12 combatants are you referring to?

13 A. [10:21:33] The UPC combatants.

14 Q. [10:21:53] Did the UPC remain in Bambu after those attacks or did they
15 withdraw?

16 A. [10:22:06] At first, they would come and then they would retreat. If I recall
17 correctly, it was in February 2013 -- no, January 2013 when they set up operations
18 in Kobu. And at that time they did not retreat; they began attacking from that
19 location. And we're talking about 2013, at the beginning of the year.

20 Q. [10:22:51] Sir, so do you mean that the UPC's attacks on Bambu occurred
21 more than 10 years after the attacks on -- after the clashes in Mongbwalu?

22 A. [10:23:11] The clashes in Mongbwalu -- in Mongbwalu, yes, there were
23 repeated attacks. But the last attacks which I mentioned, the people had already
24 scattered here and there. That was in 2001.

25 Q. [10:23:48] Is it correct that the attacks on Bambu that you are talking about

1 occurred in the year 2013?

2 A. [10:23:59] No, not 2013. 2003.

3 Q. [10:24:16] Sir, where did you go when the UPC conducted these attacks on
4 Bambu?

5 A. [10:24:34] When the UPC force set up operations in Bambu and Kobu I fled
6 into the bush, in Guti.

7 (Redacted)

8 (Redacted)

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15 PRESIDING JUDGE FREMR: [10:25:40] Certainly.

16 Let's move into private session now.

17 (Private session at 10.25 a.m.)

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3 (Open session at 10.55 a.m.)

4 THE COURT OFFICER: [10:55:33] We are in open session, Mr President.

5 PRESIDING JUDGE FREMR: [10:55:36] So now we are in open session. You may
6 proceed, Ms Solano.

7 MS SOLANO: [10:55:40] Thank you, your Honour.

8 Q. [10:55:42] Sir, you have explained that in this period of UPC attacks on
9 Bambu you fled to the bush.

10 A. [10:55:55] Yes.

11 Q. [10:55:57] Can you explain to the judges what you mean by "the bush".
12 How far away was it from Bambu that you fled? In what direction did you flee?

13 A. [10:56:27] I fled to Gutsi, approximately 7 kilometres north of Bambu.

14 Q. [10:56:41] Do you know where other inhabitants of Bambu fled to?

15 A. [10:56:52] The other inhabitants went to Buli. Buli, Jitchu, around there.

16 Q. [10:57:02] In what direction are Buli and Jitchu relative to Bambu?

17 A. [10:57:15] Buli, that's west of Bambu.

18 Q. [10:57:28] How about Jitchu?

19 A. [10:57:32] Jitchu and Buli are in the same direction.

20 Q. [10:57:42] And I believe, sir, that these are the names of villages, so --

21 A. [10:57:52] Yes. Yes.

22 Q. [10:57:54] -- did the people who fled the UPC attacks on Bambu, did they flee
23 to these villages, or what do you mean by "the bush"?

24 A. [10:58:12] Next to these villages there is a forest where people hid.

25 Q. [10:58:26] Sir, and you mentioned earlier an individual who had come to

1 Bambu from Lipri. Where was Lipri relative to Bambu?

2 A. [10:58:44] In regard to Bambu, Lipri is south of it. It is between Bambu and
3 Bunia.

4 Q. [10:59:08] Who were the leaders of the UPC in this period, if you know?

5 MR GOSNELL: [10:59:18] Objection.

6 PRESIDING JUDGE FREMR: [10:59:20] On what ground?

7 MR GOSNELL: [10:59:22] I think there ought to be a bit more specificity to "this
8 period". I could infer what it might be, but the witness has talked about a fairly
9 broad range of time. So to avoid confusion, I think it should be clarified.

10 PRESIDING JUDGE FREMR: [10:59:38] But, moreover, Ms Solano, is this witness
11 the proper one to testify about the composition of the UPC? Isn't it the role of the
12 witness in a different area?

13 MS SOLANO: [10:59:52] Your Honour, I can leave that question. It is fine.

14 Thank you.

15 And I am happy to stop here, your Honour, if it suits the Chamber.

16 PRESIDING JUDGE FREMR: [11:00:02] All right. Now we will take our regular
17 break for 30 minutes, which means we will reconvene at 11.30.

18 THE COURT USHER: [11:00:16] All rise.

19 (Recess taken at 11.00 a.m.)

20 (Upon resuming in open session at 11.32 a.m.)

21 THE COURT USHER: [11:32:22] All rise.

22 Please be seated.

23 PRESIDING JUDGE FREMR: [11:32:52] So we will directly continue with
24 examination, direct examination, of our witness by the Prosecution. Before doing
25 that, Mr Witness, allow me to remind you that, please, do speak loudly because

1 sometimes the interpreters have problems to understand you fully. So please
2 have it in mind.

3 Now, Ms Solano, subject to your upcoming questions, could we remain in the
4 regime of open session or is there a need to move into private?

5 MS SOLANO: [11:33:30] I can proceed in open session for now, your Honour.

6 PRESIDING JUDGE FREMR: [11:33:33] All right, then. So please proceed.

7 MS SOLANO: [11:33:36] Thank you.

8 Q. [11:33:38] Sir, you said that during the UPC's attacks in Bambu, the UPC
9 used bombs. How do you know this?

10 A. [11:33:56] Well, the marks that the bombs left were too big, so that is why.
11 And the militia members, the Lendu militiamen spoke of these bombs as well.

12 Q. [11:34:12] And did you yourself see the marks left by the bombs?

13 A. [11:34:22] Yes. The roof of the stadium in Bambu was destroyed by a bomb.

14 Q. [11:34:37] Did you see marks left by bombs in any other place, apart from the
15 stadium?

16 A. [11:34:48] The roof of the court was also destroyed by a bomb on the other
17 side of the --

18 THE INTERPRETER: [11:35:02] Inaudible.

19 PRESIDING JUDGE FREMR: [11:35:11] Mr Witness, could you repeat the last part
20 of your answer because it was inaudible to the interpreters. So your answer was
21 "The roof of the" -- go ahead. Go ahead.

22 THE WITNESS: [11:35:32] (Interpretation) I said the roof was destroyed by a bomb
23 that was fired from the other side of the Shari river.

24 THE INTERPRETER: [11:35:42] Interpreter correction: In the previous reply, the
25 witness made mention of the roof of the tribune, the stands of the stadium being

1 destroyed.

2 THE WITNESS: [11:35:59] (Interpretation) At first I told you that the Shari river
3 constituted a natural barrier between us, between us and the UPC militia; that is
4 to say, they could only enter the area by taking the bridge that goes over the river.
5 And they fired the bomb from the other side, not from the bridge, from the other
6 side, where there is no bridge that would link us to the other side.

7 So, you see, there is a road along that river. There is a road that goes along there,
8 and the militiamen would travel along that road when they were going to
9 Mongbwalu. And I'm talking about the time when the militia members of the
10 UPC were going back and forth. They weren't standing by in Bambu. They
11 would head out to Mongbwalu and they would take that road that goes along the
12 Shari river that leads to Mongbwalu. They wouldn't go by way of Bambu, that is,
13 when they wanted to get fresh supplies from Mongbwalu. So, you see, this road
14 is closer to Bambu and they would launch bombs from there that would go to
15 Bambu, that would hit Bambu.

16 Q. [11:37:53] So this road that the UPC would go back and forth on in this
17 period, can you tell us what places it crossed in between Mongbwalu and Bambu?

18 A. [11:38:19] That road, if you look at the annex to my statement, you will find
19 a sketch and you will see how the road goes along the Shari river and the main
20 road goes by -- goes from the bridge to the road that heads north to go around
21 Dala and to get to Mongbwalu.

22 Q. [11:39:03] Do you know whether these bombs launched by the UPC in
23 Bambu affected any of the inhabitants of Bambu?

24 A. [11:39:20] Yes. I do remember there was a family in a -- well, five people in
25 one family were killed, at Yalala in Bambu, 2 kilometres southwest of Bambu.

1 Q. [11:39:49] Can you spell the name of that place, please, the place that is 2
2 kilometres southwest of Bambu.

3 A. [11:39:57] The village is called Yalala, Camp Yalala, Camp Yalala.
4 Y-A-L-A-L-A, Yalala. Camp Yalala.

5 Q. [11:40:19] And what was the name of this family?

6 A. [11:40:26] The family that was hit by the bomb? Well, in that case the father
7 of the family, he was the registrar of the tribunal in -- or the court in Yalala, and
8 now he is in the Petsi groupement.

9 Q. [11:41:09] Do you know the name of the family?

10 A. [11:41:11] I can't remember the name.

11 Q. [11:41:16] And do you know which members of that family were hit by the
12 bomb?

13 A. [11:41:30] Could you repeat your question, please.

14 Q. [11:41:32] Which members of that family were killed by the bomb?

15 A. [11:41:42] There were his children and the other people were people who had
16 come from another place. They were living with him.

17 Q. [11:42:01] And how is it, sir, that you know that this bomb killed five
18 members of this family?

19 A. [11:42:09] We were in Bambu and the bomb went over us and then hit, and
20 then we went for the burial over there, on their side.

21 Q. [11:42:52] Do you know exactly when this incident occurred, in what month
22 of what year?

23 A. [11:43:03] It was in January. It was in January 2013.

24 Q. [11:43:14] Sir, earlier in your testimony you said that the UPC had been
25 attacking Bambu in the year 2003 but now you have said 2013.

1 A. [11:43:28] Oh, yes, yes. I beg your pardon, it was 2003, not 2013. There was
2 no fighting in 2013. I meant 2003.

3 Q. [11:43:45] What were the ages of the children who were killed by this bomb,
4 if you know?

5 A. [11:43:58] I can't be too specific but they were the family members of
6 that -- that man, that father.

7 Q. [11:44:32] Sir, for my next few questions, I want to remind you that we are in
8 open session so you should not give away any details that identify you. And if
9 any such details are necessary, I can ask them of you when we come back to
10 private session.

11 The people who died in this period when the UPC was attacking Bambu, what
12 happened to their bodies?

13 A. [11:45:03] When the UPC hadn't yet attacked Bambu, when they were going
14 back and forth on that road that I was describing to you a few moments ago, they
15 would launch bombs from the other side of Bambu and it wasn't when they had
16 attacked Bambu.

17 Now, to describe those bodies, the bodies had been torn to pieces by pieces of
18 shrapnel. They looked -- bits of broken bottles, that sort of thing. I can't really
19 explain it or describe it perfectly.

20 Q. [11:45:57] And these bodies that you are referring to, where did you see
21 them?

22 A. [11:46:11] During the burial.

23 Q. [11:46:14] So you are still talking about the family that was hit by the bomb;
24 is that correct?

25 A. [11:46:23] Yes. Yes.

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(Open Session)

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8 Q. [11:47:53] Sir, I will come back to this case later on in my examination, but for
9 now I want to -- what I want to focus on is whether the people who died during
10 the UPC's repeated attacks on Bambu were buried or whether they were left
11 where they were.

12 A. [11:48:20] The bodies were buried, but it wasn't a proper or a real burial.
13 We just filled in the hole because we were working very quickly. We were afraid
14 that there would be other attacks. So it wasn't a burial with a ceremony or
15 prayers.

16 Q. [11:48:51] So where did you bury them? Where were these holes? Was it
17 in Bambu? Was it in the bush? Was it somewhere else?

18 A. [11:49:06] Everywhere. Beside the hospital, that is where we buried them.
19 And also along the road that leads to --

20 THE INTERPRETER: [11:49:16] Inaudible.

21 A. [11:49:18] -- we buried people there, and also in a few spots in the bush
22 because, you see, we didn't have time to take the bodies back home. You see, we
23 weren't home, really. People were scattered here and there.

24 MS SOLANO: [11:49:39]

25 Q. [11:49:39] You said that you were afraid that there would be other attacks.

1 So my question is: How frequent were the UPC's attacks on Bambu in this period
2 that you have been talking about?

3 A. [11:50:06] Initially, they would attack -- well, there were two, three days that
4 would go -- days that would go by without an attack. But towards the time of the
5 last attacks, to stay in Bambu, they stepped up their efforts and there were even
6 attacks twice in one day.

7 PRESIDING JUDGE FREMR: [11:50:34] Mr Witness, again, I got message from the
8 interpreters. Could you kindly speak a bit louder. It will assist them to do their
9 work. Thank you.

10 MS SOLANO: [11:51:00]

11 Q. [11:51:01] These people that you buried, were they known to you? Did you
12 know who they were?

13 A. [11:51:14] Some yes; some no.

14 Q. [11:51:25] And from among those that were known to you, what was their
15 ethnicity?

16 A. [11:51:38] I beg your pardon?

17 Q. [11:51:43] What ethnic group did the dead people that you buried belong to?

18 A. [11:51:57] To my knowledge, most of them were Lendu people. I do
19 remember only two people. Well, one person was a Nande and the other was
20 Bira.

21 Q. [11:52:23] And were these people civilians or were they fighters?

22 A. [11:52:30] They were civilians. They were civilians.

23 Q. [11:52:35] How do you know that?

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 THE INTERPRETER: [11:53:30] Interpreter correction: The last --

3 MS SOLANO: [11:53:36]

4 Q. [11:53:37] Sir, you said that in January 2003 the UPC launched a -- an attack
5 on Bambu from which they did not retreat. How long did the UPC stay in
6 Bambu at that time.

7 A. [11:53:58] I can't be specific, but it was around one or two months like that.
8 I can't be specific.

9 PRESIDING JUDGE FREMR: [11:54:15] Sorry to interrupt you, Ms Solano. I
10 would like to give floor to the interpreter because he would like to make some
11 clarification.

12 So please, go ahead.

13 THE INTERPRETER: [11:54:26] Message from the interpreter: In the two replies
14 earlier, the witness said, "And then the militiamen would bury their bodies
15 themselves."

16 PRESIDING JUDGE FREMR: [11:54:41] It is an important clarification. Thank
17 you.

18 And, Ms Solano, you may proceed.

19 MS SOLANO: [11:54:48] Thank you, your Honour.

20 Q. [11:55:10] Sir, were you present in Bambu in January 2003 when the UPC
21 launched this attack after which they stayed in Bambu for one or two months?

22 A. [11:55:33] No. No one was in Bambu. I hid around Gutsi.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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5 (Redacted)

6 Q. [11:57:15] You say that you were in Bambu when the attack began. Can you
7 describe what you saw and what you heard right before you fled.

8 A. [11:57:30] It was the Lendu militia members who told us each time there was
9 an attack they would come and see us and tell us, well, this time things aren't
10 going well. People who were at the front by the bridge, all those people, they
11 would say -- they would inform us of everything going on at the front.

12 Q. [11:58:26] And was it Gutsi the town or was it Gutsi the bush that you fled
13 to?

14 A. [11:58:36] It was in the bush. There was no one in the village. Everyone
15 had gone into the bush.

16 Q. [11:58:51] A moment ago you indicated the direction in which other people
17 fled Bambu but the transcript didn't capture it. So let me ask you: Apart from
18 you fleeing to Gutsi, did the people of Bambu flee the UPC's January 2003 attack
19 in other directions?

20 A. [11:59:27] Yes. Some people headed towards Buli where there was a large
21 group of people living, people who had already fled.

22 Q. [11:59:45] And again, did these people flee towards Buli the town or the bush
23 near Buli?

24 A. [11:59:59] They fled to the bush.

25 Q. [12:00:04] Apart from you personally, did other people flee from Bambu to

1 the bush near Gutsi? Were you by yourself or were there others?

2 A. [12:00:24] I was not alone. We were with other people.

3 Q. Can you give us sense of how many people you were with?

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5 (Redacted)

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10 (Redacted)

11 Q. [12:01:45] What conditions were you living in while you were -- when you
12 fled to this area, to this bush? Did you have shelter? Did you have food?

13 A. [12:02:04] Well, we fled to an area where there were no farms even. We
14 only went to the bush. There was no food. We spent the night in the open air.
15 No shelter.

16 Q. [12:02:33] How long did you go without food?

17 A. [12:02:49] Throughout the time when we were in hiding, there was some
18 kind of solidarity among the people. We managed and fended for ourselves from
19 friends. We did not have food, as such. One can't say that we even had any
20 meals. We also buried people who had died of malnutrition.

21 Q. [12:03:37] And what were the weather conditions in this period? Was it
22 a dry season? Was it a rainy season?

23 A. [12:03:51] At that time God was with us and it was not raining. We spent
24 the night outside and we didn't have any major rains. Some light rain every now
25 and then but no major rainfall. Furthermore, if it -- when it rained, mothers and

1 children were given privilege to lodge in those small tarpaulin houses that had
2 been set up.

3 Q. [12:04:53] What was the age range of the children who fled with you to the
4 bush in Gutsi?

5 A. [12:05:11] My eldest son was -- was --

6 PRESIDING JUDGE FREMR: [12:05:18] Hold on, Mr Witness.

7 Let's move into private session.

8 (Private session at 12.05 p.m.)

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14 (Open session at 12.09 p.m.)

15 THE COURT OFFICER: [12:09:54] We are in open session, Mr President.

16 PRESIDING JUDGE FREMR: [12:10:03] Thank you, court officer.

17 Ms Solano, you may proceed.

18 MS SOLANO: [12:10:08] Thank you, your Honour.

19 Q. [12:10:10] In this period when you and others were hiding or you had fled to
20 the bush near Gutsi, do you know where the UPC was located? You've said that
21 they had set up operations in Kobu and that they had set up in Bambu. Apart
22 from the towns of Kobu and Bambu, do you know where else the UPC was
23 present in this time?

24 A. [12:10:52] At that time the UPC was in Bambu, Kobu, Kilo and Mongbwalu.

25 Q. [12:11:12] And how do you know that the UPC had installed itself in those

1 places, apart from Bambu?

2 A. [12:11:29] They were in Bambu, and from Bambu they were able to launch
3 bombs into the bush where people were in hiding. Even in Kobu, it was the same
4 story, they would pillage items from Kobu and take them through the Kilo road
5 all the way to Mongbwalu. Furthermore, they would send the rest of looted
6 materials directly to Bambu and then to Nizi and on to Bunia, I believe.

7 Q. [12:12:32] While you were in Gutsi, did you receive any information about
8 what was happening in the other locations at which the UPC was present?

9 A. [12:12:53] Yes. I remember the attack that they launched on Buli. While we
10 were in hiding, a Lendu militia took or seized a radio from a UPC soldier whom
11 he had killed in Bambu. So the UPC militia would go in and out of Bambu, but
12 this militia had seized or taken this radio but did not know how it worked. And
13 so in Gutsi a Lendu soldier, a former combatant, was also there. Although he did
14 not belong to the militia, he's the one who was able to install that radio. And that
15 is how it happened that during the Buli attacks there was some communication
16 that was transmitted directly to the place where it was installed.

17 Q. [12:14:40] How do you know about this radio?

18 A. [12:14:55] When the device was installed I was curious and so we went there.
19 You see, the militia did not want anyone to go to that place, but because we knew
20 them they allowed us to come to see where the radio transmissions were being
21 received. Now, to be more specific, that radio was used exclusively for -- in
22 relation to the attacks on the Buli road.

23 Q. [12:15:50] And now you are referring to a road that connected Buli with what
24 other place or places?

25 A. [12:16:08] Buli. The attack was launched from Kobu.

1 Q. [12:16:19] Sir, what -- who was communicating over this radio?

2 A. [12:16:36] The UPC combatants.

3 Q. [12:16:42] How do you know that?

4 A. [12:16:51] We knew it because the Lendu militia did not have such a device, so
5 they had call names or names that were not Lendu. And in any event, the
6 Lendus were not communicating amongst themselves because at that time there
7 were no telephone systems in place in our area.

8 Q. [12:17:32] What names do you remember the UPC combatants calling
9 themselves on the radio?

10 A. [12:17:47] I can remember some code-names such as Romeo, Tango, Romeo
11 and names of that sort. Let me add further that when fighting became intense,
12 the UPC militia who were at the front did not speak Swahili, they would speak in
13 Kinyarwanda.

14 Q. [12:18:43] And how do you know that they were speaking Kinyarwanda?

15 A. [12:18:49] Well, I spent some of my life in Goma; and even if I don't know how
16 to speak it, I know what Kinyarwanda is and I can recognise it over a number of
17 radio stations which use the Kinyarwanda language.

18 Q. [12:19:13] What did this radio look like?

19 A. [12:19:17] It looks like what is known as the "phonie."

20 Q. [12:19:33] Can you explain what that is?

21 A. [12:19:44] The device had an antenna which could be pulled out; It was
22 installed with some batteries. And when that UPC militia had been killed, he
23 was carrying the device on his back; but for us, we simply installed it on the
24 ground.

25 Q. [12:20:55] Do you remember hearing any specific information transmitted

1 over this radio?

2 A. [12:21:11] Hmm, well, it was information about how to conduct the attack on
3 the population which was in Buli.

4 Q. [12:21:40] And how was the attack supposed to be conducted?

5 A. [12:21:56] Kindly repeat your question, please.

6 Q. [12:21:59] What did you hear about the attack on the population in Buli?

7 A. [12:22:14] Well, the attack on the population in Buli -- I do not know exactly
8 how it unfolded. What I can say is simply in relation to what was said over the
9 radio in relation to the manner in which the attacks would unfold. If there was
10 a strong attack, at that time they will not be communicating; but when they had
11 free time, then they would be able to communicate among themselves as to how
12 to advance or to retreat in the face of a serious attack.

13 MS SOLANO: [12:23:27] Your Honour, can we move to private session, please.

14 PRESIDING JUDGE FREMR: [12:23:31] Certainly.

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

16 (Private session at 12.23 p.m.)

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14 (Recess taken at 12.27 p.m.)
15 (Upon resuming in open session at 12.44 p.m.)
16 THE COURT USHER: [12:44:48] All rise.
17 Please be seated.
18 PRESIDING JUDGE FREMR: [12:45:09] Mr Witness, before we continue, I would
19 like to assure myself that you are okay to continue for last or further 15 minutes of
20 this session. Are you okay to continue?
21 THE WITNESS: [12:45:30] (Interpretation) Yes.
22 PRESIDING JUDGE FREMR: [12:45:36] Yes, the Chamber appreciates that and we
23 will have a break for 90 minutes. And for the next sessions, if you any time feel
24 the need for the break, please let us know. So now we will continue for the next
25 15 minutes.

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- 1 Ms Solano, we are in open session, so do you want to continue in this regime?
- 2 MS SOLANO: [12:45:59] No, your Honour, I would like to move to private, please.
- 3 PRESIDING JUDGE FREMR: [12:46:04] All right.
- 4 Court officer, let's move into private session.
- 5 (Private session at 12.46 p.m.)
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13 (Open session at 1.00 p.m.)

14 THE COURT OFFICER: [13:01:04] We are in open session, Mr President.

15 PRESIDING JUDGE FREMR: [13:01:06] Thank you, court officer.

16 So, Mr Witness, I thank you for the moment. Now we will break for 90 minutes

17 and then we will continue at half past 2, so you can take some rest and hopefully

18 we will have no problem to continue in the afternoon.

19 Now, court usher, please assist Mr Witness to leave the courtroom.

20 (The witness stands down)

21 PRESIDING JUDGE FREMR: [13:01:54] And before we break, update on timing.

22 According my information, Ms Solano, you so far used approximately two hours.

23 So according our decision on allotting of the time, you still should have two hours;

24 but in my view you were doing very well so far and you succeeded to cover a lot

25 of relevant topics. Do you envisage that you will need all that time, I mean two

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1 hours, to finish your examination?

2 MS SOLANO: [13:02:29] I don't, your Honour. I have covered roughly two-thirds
3 of what I have planned to cover. So provided we continue at a similar pace, I
4 should be done in less than four hours.

5 PRESIDING JUDGE FREMR: [13:02:35] Good to know. Even good for Mr Suprun
6 to be ready for prospective examination.

7 All right. So now we break and we will reconvene at half past two.

8 THE COURT OFFICER: [13:02:52] All rise.

9 (Recess taken at 1.02 p.m.)

10 (Upon resuming in open session at 2.31 p.m.)

11 THE COURT USHER: [14:31:03] All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [14:31:29] Good afternoon, everybody.

14 Before we continue with direct examination of our witness by the Prosecution, I
15 would like to assure myself that Mr Witness is feeling okay.

16 Mr Witness, are you fine to continue?

17 THE WITNESS: [14:31:49] (Interpretation) Yes, I feel somewhat good.

18 PRESIDING JUDGE FREMR: [14:32:00] Very well.

19 So now, Ms Solano you have the floor. At the moment we are in the regime of
20 open session. Could we remain?

21 MS SOLANO: [14:32:09] Yes, your Honour, for now it is all right. Thank you.

22 PRESIDING JUDGE FREMR: [14:32:13] Very well. So please, the floor is yours.

23 MS SOLANO: [14:32:15] Thank you.

24 Q. [14:32:16] Good afternoon, sir. Can you hear me?

25 A. [14:32:20] Yes.

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1 Q. [14:32:23] Thank you, sir. And for my coming questions because we are in
2 open session, can I please remind you not to mention any details that could
3 identify you, and in particular not to make any reference to your occupation. Do
4 you understand?

5 A. [14:32:47] Yes.

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15 PRESIDING JUDGE FREMR: [14:33:43] I'm afraid so. For the information of
16 public, since this witness is protected one - he was given guarantee that his
17 identity will not be revealed and since the upcoming questions could bring such
18 a risk - we have to move into private session.

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

20 (Private session at 2.34 p.m.)

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5 (Open session at 3.55 p.m.)

6 THE COURT OFFICER: [15:55:12] We are in open session, Mr President.

7 PRESIDING JUDGE FREMR: [15:55:24] Thank you.

8 Ms Suprun, please proceed.

9 MR SUPRUN: [15:55:28] (Interpretation)

10 Q. [15:55:30] Witness, as a victim of the war in Ituri 2002/2003, what do you
11 expect from the International Criminal Court following this trial against
12 Bosco Ntaganda?

13 A. [15:55:43] I wouldn't be able to answer this question. People have already
14 died, and it's up to the Court to do its work. Me personally, I don't have
15 anything to answer there.

16 Q. [15:56:03] If Bosco Ntaganda is convicted and found guilty, would you wish
17 to obtain reparations for the suffering that you had during the war?

18 A. [15:56:14] It all depends on the Court. I have nothing to say in that regard.

19 Q. [15:56:21] But in your view, what type of reparation should there be for the
20 harm that you have suffered?

21 A. [15:56:30] I don't want to answer. It's up to the Court to decide.

22 Q. [15:56:43] Thank you, Witness.

23 MR SUPRUN: [15:56:48] (Interpretation) I have no further questions to put to the
24 witness.

25 PRESIDING JUDGE FREMR: [15:56:54] Thank you.

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1 Now let's move into open session -- sorry, we are in open session. All right.

2 So may I have information on duration of Prosecution examination?

3 THE COURT OFFICER: [15:57:11] Yes, Mr President. The Prosecution so far used
4 in total three hours and 11 minutes.

5 PRESIDING JUDGE FREMR: [15:57:18] All right.

6 So generally the Defence is expected to use the same time. Now the questions are
7 to continue now, but it seems to me that we can easily continue tomorrow.

8 I think it would be even better. If you prefer, it's up to you, Mr Gosnell.

9 MR GOSNELL: [15:57:32] Well, Mr President, I'm ready to start. I could start if
10 that's your Honour's wish, but I'm also happy to start tomorrow.

11 PRESIDING JUDGE FREMR: [15:57:39] Because if I understood well, the second
12 witness -- anyway, his testimony is fixed for Wednesday. Am I right? So we
13 have just tomorrow for cross-ex. All right. So then I - in the interest of the
14 witness - prefer to make cross-examination one piece and which means that we
15 will break now.

16 So, Mr Witness, before we break we will continue tomorrow 9.30 with
17 cross-examination by Defence. It's my duty to remind you that in the meantime,
18 till tomorrow, you must not discuss your testimony with anybody else. Do you
19 understand that?

20 THE WITNESS: [15:58:26] (Interpretation) Yes.

21 PRESIDING JUDGE FREMR: [15:58:28] Very well.

22 So now please take some rest and we will continue tomorrow, 9.30.

23 Now the Court is adjourned.

24 THE COURT USHER: [15:58:39] All rise.

25 (The hearing ends in open session at 3.58 p.m.)