

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 3
8 Tuesday, 11 April 2017
9 (The hearing starts in open session at 9.34 a.m.)
10 THE COURT USHER: [9:34:08] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:34:34] Good morning, everyone.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:34:39] Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 We are in open session.
19 PRESIDING JUDGE FREMR: [9:34:54] Thank you, court officer.
20 Now appearances. I see the only change on the part of Prosecution, if I am not wrong, so
21 Prosecution first, please.
22 MS LUPING: [9:35:05] Good morning, Mr President, your Honours. Appearing this
23 morning on behalf of the Prosecution are myself, Dianne Luping, Marion Rabanit,
24 Nicole Samson and Charlotte Hubert.
25 PRESIDING JUDGE FREMR: [9:35:17] Thank you, Ms Luping.

1 I guess on the part of the Defence, no changes compared to yesterday.

2 MR BOURGON: [9:35:24] There is a change, Mr President. So representing
3 (Interpretation) representing Bosco Ntaganda, who is present, is Sara Levac and myself,
4 Stéphane Bourgon. Thank you very much, your Honour.

5 PRESIDING JUDGE FREMR: [9:35:37] My apologies to Madam Levac.

6 And Legal Representative of Victims, please.

7 MS PELLET: [9:35:44] (Interpretation) Thank you, your Honour. No change with
8 regard to yesterday for the former child soldiers.

9 MR SUPRUN: [9:35:50] (Interpretation) Good morning, your Honour.

10 Your Honours, for the victims of the attacks there is no change since yesterday.

11 PRESIDING JUDGE FREMR: [9:35:57] I thank both Ms Pellet and Mr Suprun.

12 Today we are going to hear testimony of the second out of the three victims represented
13 by the Legal Representative of the Victims of the attacks who have been authorised to
14 present evidence by virtue of our decision with filing number 1780.

15 Before we start with the testimony, I will address a few procedural matters relevant to this
16 testimony.

17 First I recall that this witness shall be referred to as "Madam Witness" or as "Witness V2".

18 For the purposes of timing for this witness, and as noted in the Chamber's prior email, the

19 Legal Representative of the Victims of the attacks shall have two hours to examine the

20 witness, and the Prosecution will be permitted to question the witness after the Legal

21 Representative on any identified topics not already covered, to a maximum of 30 minutes.

22 The examination time granted to the Defence will in principle not exceed the combined

23 time of the questioning by the LRV and the Prosecution. In this regard, the Defence

24 already indicated that it will require probably less than two hours for the examination of

25 this witness.

1 It seems that if everything goes well, we could even finish this witness a bit earlier, before
2 the end of our normal day. So please be ready, in such a case, we would like to start
3 examination of the third witness this afternoon.

4 The Chamber also recalls that pursuant to its decision with filing number 1853, this
5 witness will testify with protective measures. The Chamber would like to address the
6 need for any special measures with regard to this witness, and I shall do it in private
7 session.

8 Court officer, please let's move into private.

9 (Private session at 9.38 a.m.)

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Trial Hearing
VICTIM: a/30365/15

(Private Session)

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7 (Open session at 9.50 a.m.)

8 THE COURT OFFICER: [9:50:39] We are back in open session, Mr President.

9 PRESIDING JUDGE FREMR: [9:51:00] And in the meantime I can just finish my
10 introductory notes, saying that the Chamber also has taken note of the Defence notice of
11 objections to the use of certain documents and it will address any such objections as
12 usually if and when they arise.

13 (The victim enters the courtroom)

14 PRESIDING JUDGE FREMR: [9:51:49] Good morning, Madam Witness. Can you
15 hear me well?

16 VICTIM: a/30365/15

17 (The victim speaks Swahili)

18 (The victim gives evidence via video link)

19 THE VICTIM: [9:51:56] (Interpretation) Yes, very well.

20 PRESIDING JUDGE FREMR: [9:51:58] Madam, allow me to welcome you in the
21 courtroom. You are going to testify before the International Criminal Court. You will
22 be asked questions both by the Judges and lawyers over here in the courtroom.
23 In this connection I would like to guide you as follows:
24 Please listen carefully to those questions. If you do not understand, feel free to ask for
25 the question to be repeated. We want you to tell the truth and tell us what you saw,

1 heard and sensed yourself. If you didn't see or hear it yourself but you found out some
2 other way, then you should explain how.

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

4 There is nothing wrong in saying, "I don't know" or "I don't remember". Do you
5 understand all this, Madam Witness?

6 THE VICTIM: [9:53:07] (Interpretation) Yes, I understand.

7 PRESIDING JUDGE FREMR: [9:53:10] Very good. Madam Witness, protective
8 measures are put in place to ensure that your identity is not revealed to the public. This
9 means that the public cannot see your face today and that your voice is being disguised so
10 that the public cannot see, recognise it. We will refer to you as "Madam Witness" only
11 and ensure that your name and any other information that risks revealing who you are is
12 not broadcast to the public. Therefore, whenever you need to describe anything that
13 might reveal your identity, we will do so in private session so that no one apart from the
14 court officer sitting -- no one apart those who are in the courtroom can hear your answer.
15 Do you understand, Madam Witness?

16 THE VICTIM: [9:54:15] (Interpretation) Yes, I understand.

17 PRESIDING JUDGE FREMR: [9:54:17] And, Madam Witness, could you please speak
18 at least a bit more loudly because it would be then maybe problematic for the interpreters
19 who have to translate what you are saying to understand you clearly. So please speak
20 up a bit.

21 Now, Madam Witness, I believe you will be provided with a piece of paper containing
22 text of solemn undertaking to tell the truth. Please now read out the text.

23 THE VICTIM: [9:55:09] (Interpretation) I solemnly declare that I will tell the truth, the
24 whole truth and nothing but the truth.

25 PRESIDING JUDGE FREMR: [9:55:30] Very well, madam. So now you are under oath

1 and you also need to be aware that it's an offence within the jurisdiction of this Court to
2 give false testimony.

3 Do you understand that?

4 THE VICTIM: [9:55:52] (Interpretation) Yes.

5 PRESIDING JUDGE FREMR: [9:55:53] Fine. And finally a few practical matters you
6 should have in mind. It's important to speak into the microphone, to speak clearly and
7 to speak at a slow pace to allow the interpreters to translate everything.

8 What is also very important, when a question is asked, please do not respond
9 immediately, but please rather count in your head to three and only then give your
10 answer, because this pause is essential for us to properly hear, translate and record what
11 you are saying.

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

14 Have you understood all that, Madam Witness?

15 THE VICTIM: [9:56:59] (Interpretation) Yes, I understand.

16 PRESIDING JUDGE FREMR: [9:57:00] Very good, Madam Witness. So we can now
17 start with your testimony, and for that purpose I am giving floor to Mr Suprun, Legal
18 Representative of the Victims of the attacks.

19 MR SUPRUN: [9:57:35] (Interpretation) Thank you, your Honour.

20 QUESTIONED BY MR SUPRUN: (Interpretation)

21 Q. Good morning, madam.

22 A. [9:57:43] Good morning.

23 Q. [9:57:46] We know each other already. My name is Dmytro Suprun, and I
24 represent victims of the attacks against the civilian population who participate in these
25 proceedings against Bosco Ntaganda.

1 I have a certain number of questions to put to you concerning your own experience and
2 that of your family in the events end 2002, beginning of 2003, but first of all I have certain
3 questions to put to you concerning your personal details. And for that, your Honour, I
4 would ask that we go into private session.

5 PRESIDING JUDGE FREMR: [9:58:26] Certainly.

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

7 (Private session at 9.58 a.m.)

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Trial Hearing
VICTIM: a/30365/15

(Private Session)

ICC-01/04-02/06

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- 25 (Open session at 10.04 a.m.)

1 THE COURT OFFICER: [10:04:33] We are in open session.

2 PRESIDING JUDGE FREMR: [10:04:35] Thank you, court officer.

3 Mr Suprun, please.

4 MR SUPRUN: [10:04:44] (Interpretation)

5 Q. [10:04:45] Madam, we are now in open session, which means that I request that
6 you do not provide any names during your testimony to avoid anybody outside of this
7 courtroom being in a position to be able to identify you. So I shall repeat my question to
8 you: Could you please provide us with an account of the events that unfolded in
9 Mongbwalu between the end of 2002 and the beginning of 2003.

10 A. [10:05:18] Yes.

11 Q. [10:05:30] Please, go ahead.

12 A. [10:05:32] We were in Mongbwalu in the month of December and war broke out.
13 It was in the morning until midday. We were closed up or holed up inside the house.
14 And for the entire week the situation was not good. We left that area and went to
15 Kodulu quarry, subsequent to which we fled. At that moment in time, the soldiers had
16 started breaking into houses killing people. We went to Kodulu and we spent a week
17 there. After a week we left because the situation in Kodulu had degraded. I went to
18 Pluto with the child who was two months old. And I followed my husband to Pluto.
19 Once arrived -- we arrived in Pluto we remained in the company of my husband for one
20 day. And the next morning we went to Lodjo.

21 Q. [10:06:38] I'm sorry, let's stop at this moment in time. I have a few questions,
22 clarification questions with regard to the events that you have just described to us.
23 So my first question to you is: Do you remember the moment in time specifically when
24 war broke out? How did things happen?

25 A. [10:07:10] War broke out one morning. It was between six -- between 5 and 6 a.m.

1 Q. [10:07:23] Do you remember whether war broke out -- well, you're speaking about
2 the month of December 2002. Do you remember whether war broke out before or after
3 Christmas 2002?

4 A. [10:07:45] It was before Christmas.

5 Q. [10:07:47] And specifically, because you talk of the war breaking out, could you
6 provide us with some details of how things unfolded. Did you see the soldiers who
7 came to Mongbwalu, or how did things happen? Could you provide us with some
8 details, please.

9 A. [10:08:10] We did not see any soldiers when war broke out. It was the
10 morning -- in the morning that we saw them.

11 Q. [10:08:21] And who were those soldiers that you saw?

12 A. [10:08:31] When war broke out, we did not know from which group they hailed,
13 but we came to know this fact later on.

14 Q. [10:08:41] And when you came to know who those soldiers were, can you now
15 answer me as to which group they belong to?

16 A. [10:08:56] These were elements from the UPC.

17 Q. [10:09:01] And how do you know that these were elements from the UPC? Did
18 somebody tell you?

19 A. [10:09:13] We heard this. There were some people who were saying that because
20 of their names.

21 Q. [10:09:26] Madam, do you remember what kind of uniform these soldiers were
22 wearing?

23 A. [10:09:35] Yes, I did see it.

24 Q. [10:09:38] Can you please describe to us the uniform that they were wearing?

25 A. [10:09:49] They were wearing fatigues.

1 Q. [10:09:58] Was that the first time that you'd ever seen that kind of military attire?

2 A. [10:10:07] Yes, that is correct.

3 Q. [10:10:10] And what kind of shoes were the soldiers wearing, if you can recall, of
4 course?

5 A. [10:10:27] They were wearing jambières boots.

6 Q. [10:10:36] Were these soldiers armed?

7 A. [10:10:39] Yes, they were.

8 Q. [10:10:44] Do you know what kind of weapons they were bearing?

9 A. [10:11:00] They were carrying rifles that were partially metallic and partially
10 wooden.

11 Q. [10:11:08] Do you know what kind of rifles these were? Did they have a name?
12 Do you know what they were called?

13 A. [10:11:17] At that moment in time I did not know. Subsequently, I asked the
14 question and I was told that these kind of rifles are called SMGs.

15 Q. [10:11:31] I'd like to come back to the beginning, this beginning of the war. You
16 said that these UPC soldiers came to Mongbwalu. My question to you is as follows:
17 What did they do when they first entered Mongbwalu?

18 A. [10:11:58] When they arrived they waged war between 4 and 5 a.m.

19 Q. [10:12:09] Can you furnish us with some supplementary details when you say that
20 they waged war? What did they do precisely when they entered the village?

21 A. [10:12:28] They started to open fire, and then they started to break into houses.
22 And they arrested people and they killed some people whilst sparing the lives of others,
23 the individuals that they arrested.

24 Q. [10:12:47] So that I can better understand, madam, those soldiers who entered the
25 village, were they fighting any other soldiers, or were they attacking individuals who

1 were not soldiers? Can you provide us with some details in this regard, please?

2 A. [10:13:11] At that moment in time we were not aware, but subsequently we heard
3 that they were fighting against another group.

4 Q. [10:13:23] And the soldiers who entered the village and whom you say started to
5 open fire, who did they start to open fire upon, everyone who was in the village or upon
6 specific individuals?

7 A. [10:13:47] They were fighting against soldiers who were protecting that location.

8 Q. [10:13:54] Who were those soldiers who were protecting said location?

9 A. [10:14:06] At that moment in time it was said that these were government soldiers.

10 Q. [10:14:16] Apart from the fact that they started to open fire upon people, did they
11 do anything else those soldiers? I'm talking about the UPC soldiers.

12 A. [10:14:39] I did not see what happened elsewhere, but I am aware of what
13 happened at my place. In my house or at my place, I saw an individual decapitated.

14 Q. [10:14:52] And where did that incident occur? Was that in Mongbwalu or
15 elsewhere?

16 A. [10:15:05] At that moment in time -- well, that was when we had already fled to
17 Pluto.

18 THE INTERPRETER: [10:15:14] Message from the Swahili booth: Mr President, could
19 the witness please be requested to repeat the second part of her answer as the Swahili
20 booth did not catch it. Thank you.

21 PRESIDING JUDGE FREMR: [10:15:25] Madam Witness, I would like to ask you could
22 you kindly repeat the second part of your last answer because it hasn't been captured by
23 the interpreters.

24 THE VICTIM: [10:15:57] (Interpretation) Which answer are you talking about?

25 PRESIDING JUDGE FREMR: [10:16:00] Because according the transcript you started

1 saying "At that moment in time that was when we had already fled to Pluto." And then
2 you said something else which hasn't been captured by the interpreters so I am interested
3 to get the rest of the answer.

4 THE VICTIM: [10:16:27] (Interpretation) We arrived in Pluto, I found my husband
5 there, he was carrying the four-year-old and I was carrying the two-month-old and we
6 took the road towards Lodjo. We arrived at Beba first. In Beba we found a soldier who
7 decapitated a young man. He said that this was a young Lendu. They took that head
8 and they put it on the end of a knife and they were brandishing this, saying that "This is a
9 Lendu."

10 PRESIDING JUDGE FREMR: [10:17:13] Thank you, Madam Witness.
11 Mr Suprun, you may proceed.

12 MR SUPRUN: [10:17:23] (Interpretation)

13 Q. [10:17:24] Madam, you've just talked about an individual who was decapitated
14 and another individual who was brandishing this head. Do you know the name of the
15 individual who was carrying the head of the Lendu person?

16 A. [10:17:45] I do not know that person, but I heard him being called "Kadogo,
17 Kadogo" and then subsequently his name was uttered.

18 Q. [10:17:57] And you yourself, do you know why this Kadogo was carrying the head
19 of a Lendu person? Why did he do that? What is your impression of this?

20 THE INTERPRETER: [10:18:23] The Swahili booth did not grasp the witness's answer.
21 Could she please be requested to repeat.

22 PRESIDING JUDGE FREMR: [10:18:31] Madam Witness, could you repeat your
23 answer again. It hasn't been captured by the interpreters.

24 THE VICTIM: [10:18:45] (Interpretation) We arrived there in Beba and we found
25 some soldiers there, they said, "You women, you need to come over this side. And you

1 men need to sit down over there." And then we saw somebody who had the head of an
2 individual that they had put on the top of a knife. And somebody was saying "Kadogo,
3 Kadogo, come, bring this head and we're going to burn it." The kadogo took the head
4 and it was put on the fire and after that they said "Women, you need to sit on this side and,
5 men, you need to go to that side." They took us and then three soldiers took me, they
6 took me with my child, they took me into the bush and they asked me to lie down. I
7 refused. And they said that I should give my child to another soldier. I tried to resist.
8 And they gave me -- they hit me with the butt of the rifle in my mouth and I lost some
9 teeth. Subsequent to that they raped me and then they told me to leave.

10 Q. [10:20:09] Thank you, madam, for that information. I would like us to come back
11 to Pluto, that is to say at the moment of time when you were in fact still in Mongbwalu.
12 You say that you saw the soldiers of the UPC arrive in Mongbwalu and that they started
13 to open fire on people and that they started to destroy the houses. Did you yourself see
14 people being killed and houses being destroyed?

15 A. [10:20:46] Yes, I saw how they were destroying the houses. They were killing
16 young people who did not want to go and work side by side with them. They would kill
17 them.

18 Q. [10:21:02] And these soldiers, did they open fire on all villagers in Mongbwalu, or
19 did they not choose to kill some villagers but chose rather to kill others? Do you
20 remember whether that was the case?

21 A. [10:21:30] Whoever refused to join them, whichever man refused to join them they
22 would kill. And if they found a soldier who was not part of the UPC they would also kill
23 them.

24 Q. [10:21:43] Did you know what group, ethnic group the UPC soldiers belong to?

25 A. [10:21:53] I'm not in a position to know that, but some of those soldiers had

1 Hema-sounding names.

2 Q. [10:22:10] And when you were still in Mongbwalu did those soldiers attack you, or
3 did they attack the houses that you had, or the businesses that you had?

4 A. [10:22:29] They attacked my house and they took everything that I was selling at
5 the time.

6 Q. [10:22:40] Do you know from a personal standpoint why the UPC soldiers came to
7 Mongbwalu and why they attacked people and destroyed the houses? Do you know the
8 reason why they came?

9 PRESIDING JUDGE FREMR: [10:22:57] Mr Suprun, is it really a question for this
10 witness? I don't think so.

11 MR SUPRUN: [10:23:08] (Interpretation) Indeed, Mr President, she's not an expert.
12 But in view of the fact that she was living through the experiences of the attack in
13 Mongbwalu, I am asking her with regard to her personal knowledge and impression of
14 what happened and why the UPC soldiers came and why they started to attack the
15 civilians there.

16 PRESIDING JUDGE FREMR: [10:23:30] So it should be just knowledge, not impression.
17 So please rephrase the question whether she does know, but ...

18 MR SUPRUN: [10:23:46] (Interpretation) Thank you, Mr President.

19 Q. [10:23:48] Madam Witness, you yourself, do you know why the UPC soldiers came
20 to attack Mongbwalu?

21 A. [10:24:05] I do not know the reason.

22 Q. [10:24:10] (Microphone not activated)

23 THE INTERPRETER: [10:24:12] Microphone, please, counsel. Microphone please,
24 counsel.

25 MR SUPRUN: [10:24:18] (Interpretation) I shall repeat.

- 1 Q. [10:24:21] How many days did you spend in Mongbwalu before you fled?
- 2 A. [10:24:31] I spent a week.
- 3 Q. [10:24:37] And why did you decide to leave Mongbwalu?
- 4 A. [10:24:50] When they started to break into houses and enlist people forcibly, we
- 5 decided to leave.
- 6 Q. [10:25:04] Who was with you when you left Mongbwalu?
- 7 A. [10:25:14] There were seven women and five young people. That was -- those
- 8 were the members of our group.
- 9 Q. [10:25:23] And amidst that group, were there any members of your family?
- 10 A. [10:25:37] We were all from the Alur ethnic group only.
- 11 Q. [10:25:46] Yes, but my question was amongst those people who left Mongbwalu,
- 12 were there any members of your family?
- 13 A. [10:25:58] There was my husband and my children.
- 14 Q. [10:26:05] How old were the children who were with you?
- 15 A. [10:26:14] One was four years old and the other was two months old.
- 16 Q. [10:26:23] Where did you go to when you left Mongbwalu?
- 17 A. [10:26:32] We arrived in Pluto. After Pluto we went to Beba. We wanted to go
- 18 to Lodjo.
- 19 Q. [10:26:48] If you are aware, madam, what is the distance between Mongbwalu and
- 20 Pluto, approximately?
- 21 A. [10:27:04] The distance between Pluto and Mongbwalu is 10 -- at least, 10
- 22 kilometres.
- 23 Q. [10:27:18] And how long did you spend en route between Mongbwalu and Pluto,
- 24 did it take you a few hours or a few days?
- 25 A. [10:27:39] We spent one day travelling.

1 Q. [10:27:42] When you arrived in Pluto, what did you do there?

2 A. [10:27:56] I arrived in Pluto to meet up with my husband who was already there
3 because war was going on in Pluto but I was in Mongbwalu.

4 Q. [10:28:10] How many days did you spend in Pluto?

5 A. [10:28:13] I arrived there, we spent a night and then my husband told me that we
6 should go on our way in order to go to Lodjo.

7 Q. [10:28:26] And why was it that you decided to leave Pluto?

8 A. [10:28:36] It was because there were disturbances there as well.

9 Q. [10:28:43] What disturbances are you talking about, madam?

10 A. [10:28:54] There were disturbances and they were looking for youngsters in order
11 to forcibly enlist them and if they refused they would kill them, that's why my husband
12 asked me to leave. He said "We should leave."

13 Q. [10:29:08] Who was looking for youngsters in order to enlist them? Who are you
14 talking about?

15 A. [10:29:25] These were UPC elements.

16 Q. [10:29:31] Madam, a little earlier on you told us that after Mongbwalu you went to
17 hide in an open goldmine. Here's my question: You hid there before or arriving at
18 Pluto?

19 A. [10:29:57] Before arriving at Pluto. At Kodulu, that was where the goldmine was.

20 Q. [10:30:09] So you went there -- or, where did you go after you left Pluto?

21 A. [10:30:19] We arrived at Beba, but we were heading for Lodjo. When we arrived
22 at Beba there were upheavals and disturbances there.

23 Q. [10:30:30] What upheavals or disturbances are you referring to?

24 A. [10:30:39] There were soldiers there and when we arrived they told us to stop.
25 We saw a kadogo who had taken his knife and we asked that kadogo to come. And

1 there was the man brandishing the head and that's when they said men one side, women
2 the other. So the men stayed there, we went to one side. And this was around 4 p.m.
3 And then they took hold of me and they said "Come." And they took other women.
4 They took me, and they took me off into the bush, and they asked me to give my child to a
5 soldier there. I refused and they struck me with the butt of their weapon. I lost some
6 teeth. And they raped me one after the other. And then they told us to leave, but I had
7 no strength left and I felt as if my uterus was swollen so I couldn't walk anymore. And
8 there was somebody who asked me, "Where are you going to go?" And I said, "I'm going
9 to go to Lodjo." And so that person with my child helped me and we left.

10 Q. [10:32:38] I'd like to return to some things you've just mentioned. When you
11 arrived at Beba you said that you were arrested. Who arrested you, ma'am?

12 A. [10:32:54] The same soldiers that I mentioned earlier on.

13 Q. [10:33:02] When you say the same soldiers that you mentioned earlier on, what do
14 you mean by that? The same people, or the soldiers from the same group?

15 A. [10:33:20] The soldiers from the same group.

16 Q. [10:33:27] Do you remember what those soldiers were wearing?

17 A. [10:33:37] They were wearing camouflage uniforms, fatigues.

18 Q. [10:33:45] And what colour were they, these uniforms?

19 A. [10:34:01] I saw black and light green on them.

20 Q. [10:34:08] And the soldiers who arrested you, were they carrying weapons?

21 A. [10:34:17] Yes.

22 Q. [10:34:22] And what weapons were they carrying, if you recall?

23 A. [10:34:30] They were in wood and metal.

24 Q. [10:34:56] And on to Pluto and Beba, what's the distance separating these two
25 locations if you know?

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- 1 A. [10:35:06] Yes.
- 2 Q. [10:35:08] Can you tell the Court?
- 3 A. [10:35:20] Two kilometres. Pluto is two kilometres away from Beba.
- 4 Q. [10:35:27] And how long were you on the road between Pluto and Beba?
- 5 A. [10:35:41] Only an hour.
- 6 Q. [10:35:49] You also mentioned at Beba you saw someone. Ma'am, are you seated
- 7 comfortably or do you need some assistance?
- 8 A. [10:36:21] I need a bit of help.
- 9 PRESIDING JUDGE FREMR: [10:36:28] Please assist Madam Witness. I don't know
- 10 what would like to get at the moment.
- 11 Madam Witness, should we break for a while, or?
- 12 Madam Witness, could you be more specific, we would like to make you more
- 13 comfortable but you will have to let us know what you need at the moment.
- 14 MR SUPRUN: [10:37:09] (Interpretation) If I can be of assistance. I can see the
- 15 witness.
- 16 THE INTERPRETER: [10:37:14] Overlapping speakers.
- 17 MR SUPRUN: [10:37:17] (Interpretation) If I'm following, perhaps the chair needs to
- 18 be positioned better for her.
- 19 THE VICTIM: [10:37:26] (Interpretation) Okay, we can continue.
- 20 MR SUPRUN: [10:37:29] (Interpretation) No, no, perhaps ...
- 21 PRESIDING JUDGE FREMR: [10:38:03] So for the record, Madam Witness's chair has
- 22 been changed and is now --
- 23 Madam Witness, is it now better? Can we continue?
- 24 THE VICTIM: [10:38:18] (Interpretation) Yes.
- 25 PRESIDING JUDGE FREMR: [10:38:20] Very well.

1 Mr Suprun, please proceed.

2 MR SUPRUN: [10:38:25] (Interpretation)

3 Q. Ma'am, my question was the following: You said that at Beba you saw an
4 individual, a kadogo who was carrying a Lendu head. Was that person a soldier, if you
5 know?

6 A. [10:38:56] It was indeed a soldier.

7 Q. [10:39:00] And to what armed group did that person belong, if you know?

8 A. [10:39:07] It was a UPC soldier.

9 THE INTERPRETER: [10:39:10] Message from the Swahili booth: Can the witness be
10 requested to speak up a bit.

11 PRESIDING JUDGE FREMR: [10:39:18] Madam Witness, please could you kindly
12 speak up because otherwise the interpreters have a problem to understand and we then,
13 we would have to ask you to repeat it, so it is even in your interest, please, speak up a bit.
14 Thank you.

15 MR SUPRUN: [10:39:44] (Interpretation)

16 Q. [10:39:47] A moment ago, ma'am, you said that upon your arrival at Beba you were
17 arrested. Were you arrested with others or were you alone arrested?

18 A. [10:40:10] Other people were also arrested.

19 Q. [10:40:15] You also said that women were separated from the men. Why, in your
20 view? Why were they separated?

21 A. [10:40:34] I don't know. Possibly for what they had done to us, the bad things
22 that they had done to us. I don't know.

23 Q. [10:40:53] The soldiers who arrested you, did they say anything? Did they tell
24 you why you were being arrested?

25 A. [10:41:05] No, they provided no reasons. They only asked us to stop and then

1 they separated the men from the women. And they took the women to one side to do
2 what they did.

3 Q. [10:41:29] And what did they do, those soldiers, to the women?

4 A. [10:41:44] They broke two of my teeth and they raped me.

5 Q. [10:41:53] And the other women, were they also raped?

6 A. [10:42:02] Yes.

7 Q. [10:42:04] And how many women were there in your group? And how many
8 women, apart from yourself, were raped?

9 A. [10:42:24] There were seven of us. There were three of us at Lodjo, three of us
10 were raped.

11 Q. [10:42:48] How do you know that the other women were also raped?

12 A. [10:43:05] We all met up at Lodjo, that was our common destination.

13 Q. [10:43:14] Before you and the other women were raped, did the soldiers say
14 anything to you, or not?

15 A. [10:43:28] They said nothing, they only said that we should follow them into the
16 bush.

17 Q. [10:43:46] How many soldiers raped you, ma'am?

18 A. [10:43:56] Three; two raped me and the third said that he couldn't do such a thing.
19 In fact, he refused to do so because he saw in what a state I was in.

20 Q. [10:44:19] To follow on from that, I understand that these are very painful
21 memories, but do you recall how you were feeling throughout these acts of rape at the
22 hands of these soldiers?

23 A. [10:44:44] I was very weak. I felt that my uterus or my womb had swollen.

24 Q. [10:44:58] I'd like a brief clarification, and I do apologise for putting this question
25 to you, but it's very important that you provide details about this tragic event that you

1 experienced to enable the Judges, to enable the Court to properly understand what
2 occurred. Here's my question: When you say that you were raped, can you please tell
3 me which part of your body was raped?

4 A. [10:45:42] Through my vagina.

5 Q. [10:45:55] All these acts of rape at the hands of the soldiers do you recall how long
6 it lasted?

7 A. [10:46:17] It didn't even take them an hour.

8 Q. [10:46:22] When you were arrested by these soldiers, were your children with you
9 at that point?

10 A. [10:46:45] The soldier who refused to rape me held my child of four, and the other
11 one he left with the two just nearby.

12 THE INTERPRETER: [10:47:04] Microphone, please.

13 MR SUPRUN: [10:47:06] (Interpretation)

14 Q. [10:47:06] Ma'am, you just said that you were raped and you identified a part of
15 your body. In what part of your body did the soldiers rape you -- with what part of the
16 soldiers' body did they rape you?

17 THE INTERPRETER: Clarifies the interpreter.

18 THE VICTIM: [10:47:42] (Interpretation) A sexual act that is normal between men
19 and women.

20 MR SUPRUN: (Interpretation)

21 Q. [10:47:49] Was one of your children next to you when you were being raped?

22 A. [10:48:06] They were next to me, they had withdrawn ever so slightly.

23 Q. [10:48:12] Were you raped within sight of your children, within the very eyes of
24 your children?

25 A. [10:48:24] No, they didn't see. But afterwards they asked me, they said, "Mum,

1 you're not walking properly. What happened?" And I told them, "No, no. I just fell
2 over."

3 Q. [10:48:40] Ma'am, can you provide a description of your physical state of health
4 immediately after the rape? What were you feeling and what physical ailments were
5 you suffering from?

6 A. [10:49:08] At that point I had intense opinion in the lower regions of my stomach.
7 And even today I have problems during my menstrual cycle.

8 Q. [10:49:27] Where you able to receive medical treatment after the rapes?

9 A. [10:49:51] I went to Rimba hospital. I was told I had problems in my womb, and I
10 asked them to treat me and they did so. But when I see -- when I have my periods I have
11 intense pain. They asked whether they could remove my womb and I told them "No."

12 THE INTERPRETER: [10:50:28] Microphone, please.

13 MR SUPRUN: [10:50:30] (Interpretation)

14 Q. [10:50:31] And why did the doctor ask whether he could remove your womb?

15 A. [10:50:44] They told me that my womb wasn't in the right position, so I asked
16 them -- after receiving medical treatment, I asked them, "Well, is it possible that my womb
17 will regain its initial position?" And they said, "Yes."

18 Q. [10:51:09] How much time after your rape went by before you actually received
19 treatment at the hospital, if you recall?

20 A. [10:51:23] Three months. It took three months.

21 Q. [10:51:32] And immediately after the rape, were your able to receive medical
22 treatment, traditional medical treatment or any other form of treatment?

23 A. [10:52:01] There was a doctor who treated me.

24 Q. [10:52:06] Ma'am, you mentioned that after being raped at Beba you set off for
25 Lodjo. How long, therefore, did you stay at Beba?

1 A. [10:52:35] We didn't stay very long at Beba. We journeyed to Lodjo and arrived at
2 10 p.m.

3 Q. [10:52:56] How far away is Lodjo in relation to Beba, if you know?

4 A. [10:53:06] Twelve kilometres between Beba and Lodjo.

5 Q. [10:53:12] And your husband and the other men that you were separated from in
6 Beba, what happened to them, do you know?

7 A. We spent three days in Lodjo. One of the men who had been with them had
8 managed to escape, and when he arrived at Lodjo we asked him, "Where are our
9 husbands?" And he said that he had just escaped, he, himself. But he said all those who
10 didn't want to join the army were eliminated. He accepted to join the army, but then he
11 escaped. But my husband had been eliminated. Among the men some had accepted to
12 join the army and they were still alive, but those who had refused had been eliminated.

13 MR SUPRUN: [10:54:32] (Interpretation) Your Honour, could we switch very briefly
14 into private session?

15 PRESIDING JUDGE FREMR: [10:54:37] For sure.

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

17 (Private session at 10.54 a.m.)

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21 (Open session at 11.01 a.m.)

22 THE COURT OFFICER: [11:01:13] We're in open session, Mr President.

23 PRESIDING JUDGE FREMR: [11:01:24] Thank you, court officer.

24 Madam Witness, we will break now. I would like to thank you for the moment, you are
25 doing very well. You patiently and clearly responded many questions. So now you can

- 1 take some rest for 30 minutes and then we will then continue after the break.
- 2 So now we break and we will resume at half past 11.
- 3 THE COURT USHER: [11:01:50] All rise.
- 4 (Recess taken at 11.01 a.m.)
- 5 (Upon resuming in open session at 11.32 a.m.)
- 6 THE COURT USHER: [11:32:51] All rise.
- 7 Please be seated.
- 8 PRESIDING JUDGE FREMR: [11:33:20] So we will now continue with examination of
- 9 our witness by Legal Representative of Victims. We are in open session.
- 10 Mr Suprun, you have the floor.
- 11 MR SUPRUN: [11:33:42] (Interpretation) Thank you, your Honour.
- 12 Q. [11:33:44] Madam, I would like to go back to what you said at the start of your
- 13 testimony, in particular you stated that when the UPC soldiers entered Mongbwalu they
- 14 started firing at people and they also started destroying houses. Now, my question is as
- 15 follows: Did you see that with your own eyes? Did you see the bodies of people who
- 16 were killed with your own eyes?
- 17 A. [11:34:16] Yes, I saw that with my own eyes.
- 18 Q. [11:34:23] The people killed that you saw, were they soldiers or were they
- 19 civilians?
- 20 A. [11:34:31] They were civilians.
- 21 Q. [11:34:39] Among these people whose bodies you saw, were there people of
- 22 different sexes, men, women, children?
- 23 A. [11:34:56] I saw three men.
- 24 Q. [11:35:06] Did you know their ethnic origin, madam?
- 25 A. [11:35:11] I don't know.

1 Q. [11:35:19] Another question by way of clarification, madam. Now, you
2 mentioned that in Beba you saw a person, a kadogo, who was carrying a Lendu head.
3 Now, my question is as follows: How did you know that the person who had been killed
4 was a Lendu?

5 A. [11:35:45] I heard the kadogo shouting, "We have decapitated a Lendu."

6 Q. [11:35:59] And you also mentioned somewhat earlier that when you left for Lodjo
7 there were three women with you who had also been raped. Now, my question is as
8 follows: Did these women give you the details, or did they say themselves that they had
9 been raped? Did they give you details regarding that event?

10 A. [11:36:32] They told me that they had slept with them.

11 Q. [11:36:38] Do you know the ethnic origin of these three women?

12 A. [11:36:52] One was from Lugwara, that's an area called Kakwa. Another was
13 Alur. And another was Alur as well. Two of them were Alur, therefore.

14 Q. [11:37:19] And the men who were arrested in Beba and were executed, did you
15 know their ethnic origins?

16 A. [11:37:31] Most who had returned home were Alur.

17 Q. [11:37:40] Just a last question by way of clarification concerning three women who
18 were raped. Do you have an idea as to how old they were, or do you know that?

19 A. [11:38:05] They were above the age of 28. They must have been 30, 32, or slightly
20 more than 32 years old.

21 Q. [11:38:15] Do you remember the names of these three women?

22 A. [11:38:23] Yes, I remember.

23 MR SUPRUN: [11:38:25] (Interpretation) Your Honour, could we go into private
24 session so that I can ask further questions to the witness?

25 PRESIDING JUDGE FREMR: [11:38:37] All right.

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- 1 Court officer, let's move into private session now.
- 2 (Private session at 11.38 a.m.)
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22 (Open session at 11.44 a.m.)

23 THE COURT OFFICER: [11:44:48] We are back in open session, Mr President.

24 PRESIDING JUDGE FREMR: [11:44:58] Thank you, court officer.

25 Mr Suprun, please proceed.

- 1 MR SUPRUN: [11:45:05] (Interpretation) Thank you.
- 2 Q. [11:45:07] Madam, you mentioned that all the men who were in Beba were killed,
3 including your husband. Now, did you ever find -- did you never find your husband's
4 body; is that correct?
- 5 A. [11:45:29] To this day, we have not found it.
- 6 Q. [11:45:40] Do you know if your husband was buried?
- 7 A. [11:45:43] I don't know.
- 8 Q. [11:45:57] After the war of 2002-2003, did you marry again, madam?
- 9 THE INTERPRETER: [11:46:07] Microphone, please.
- 10 MR SUPRUN: [11:46:09] (Interpretation)
- 11 Q. [11:46:10] After the war of 2002-2003, did you remarry?
- 12 A. [11:46:29] I remarried.
- 13 Q. [11:46:31] Were you able to give birth to a child after the war?
- 14 A. [11:46:37] Not yet.
- 15 Q. [11:46:49] In order to understand, you didn't give birth to a child because you
16 didn't want to, or because you had a state of health which would not allow for that?
- 17 A. [11:47:03] I wanted to have other children, but it was not possible any longer.
- 18 Q. [11:47:12] Could you explain to the Court why it was no longer possible?
- 19 A. [11:47:32] I don't know.
- 20 Q. [11:47:33] Is your new husband aware of the fact that you were raped during the
21 war?
- 22 A. [11:47:47] He's not aware of that.
- 23 Q. [11:47:48] Is anyone in your family aware of the fact?
- 24 A. [11:48:03] Yes.
- 25 Q. [11:48:03] Is he aware of the fact that you were raped?

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1 MR SUPRUN: (Interpretation) Your Honour, I think that it's better for us to go into
2 private session at this moment. I'm sorry.

3 PRESIDING JUDGE FREMR: [11:48:17] Understandable.

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

5 (Private session at 11.48 a.m.)

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13 (Open session at 12.04 p.m.)

14 THE COURT OFFICER: [12:04:37] We're in open session, Mr President.

15 PRESIDING JUDGE FREMR: [12:04:48] Thank you, court officer.

16 Mr Suprun, please.

17 MR SUPRUN: [12:04:53] (Interpretation) Thank you.

18 Q. [12:04:59] A little earlier on you mentioned, madam, that -- that you never told
19 your second husband that you'd been raped during the war and you told us that the
20 reason for that was because you were frightened. So why is that the case? And why,
21 therefore, are you frightened of saying such things to your second husband? Are you
22 frightened of anybody in particular?

23 A. [12:05:36] I was frightened because it's a source of shame.

24 Q. [12:05:54] Do you think that you need medical treatment for your physical
25 ailments? In addition to that, do you think you need psychological support?

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1 A. [12:06:25] Yes.

2 PRESIDING JUDGE FREMR: [12:06:31] I'm sorry.

3 Court usher, could you kindly provide Madam Witness with a tissue. I think she will
4 need it.

5 THE INTERPRETER: [12:06:49] Message from the interpreters: Could the LRV speak
6 more directly into his microphone, please.

7 PRESIDING JUDGE FREMR: [12:06:56] Mr Suprun, have you heard this message from
8 the interpreters? Please, could you kindly speak directly to the microphone to improve
9 quality of the sound.

10 Mr Suprun, please try to proceed.

11 MR SUPRUN: [12:07:38] (Interpretation)

12 Q. [12:07:44] I have the last round of questions.

13 As a victim of the Ituri war of 2002-2003, can you tell us what expectations you have in
14 regard to the ICC in terms of justice and reparations?

15 THE INTERPRETER: [12:08:28] Response not captured by the interpreters.

16 MR SUPRUN: [12:08:32] (Interpretation)

17 Q. [12:08:33] And what type of assistance are you seeking?

18 A. [12:08:44] I want to be able to rebuild my house and help me resume my trade, and
19 also that I can receive assistance with medication.

20 Q. [12:09:07] Thank you very much for your answers. I think you're very brave to
21 come all the way to The Hague to provide evidence directly before the Chamber.

22 MR SUPRUN: [12:09:18] (Interpretation) Your Honour, nothing further.

23 PRESIDING JUDGE FREMR: [12:09:22] All right. I can join Mr Suprun in his
24 statement, but there are also the other parties that should have a chance to examine you,
25 Madam Witness.

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1 So first I'm asking Ms Pellet. Ms Pellet, I guess you don't have any additional questions?

2 MS PELLET: [12:09:41] (Interpretation) No, your Honour.

3 PRESIDING JUDGE FREMR: [12:09:45] I also got information about timing.

4 Mr Suprun has used one hour 36 minutes for his examination.

5 Now I'm asking Prosecution, Ms Luping, Ms Luping do you request to examine

6 Madam Witness? If yes, for what amount of time?

7 MS LUPING: [12:10:09] Mr President, I envisage two brief topics slightly less than 10

8 minutes. But if the witness needs a break I'm also happy to question her after a brief

9 pause. It's in your hands.

10 PRESIDING JUDGE FREMR: [12:10:21] Yes, but I even, and I'm just following the

11 report from VWU, I think it would be even better to continue now, so please you have

12 your 10 minutes. Please go ahead, Ms Luping.

13 MS LUPING: [12:10:36] Understood, Mr President.

14 QUESTIONED BY MS LUPING:

15 Q. [12:10:39] So good afternoon, Madam Witness. My name is Dianne Luping.

16 And we did meet briefly before. I just have two brief areas that I want to cover with you.

17 Madam Witness, can you hear me and are you able to answer my questions?

18 A. [12:11:06] Yes.

19 Q. [12:11:09] Okay, first I'm going to refer to an extract, it is from the French transcript,

20 at page 29, lines 15 to 19, and the relevant excerpt from English is at page 31, line 23 to

21 page 32, line 3.

22 The English and French are slightly different so I will read the French:

23 (Interpretation) "How many women belong to your group and how many women were

24 raped apart from you, yourself?"

25 Answer: "There were seven of us. We were three to meet in Lodjo and all those people

1 had been raped."

2 (Speaks English) Now, you've been asked questions about the three that you met at Lodjo.

3 My question is this, Madam Witness: The other four women who had travelled to Beba,
4 do you know what happened to them, if anything?

5 A. [12:12:27] I don't know what happened after because the women I met, there were
6 only the three people I made mention of, the three that I met after the events in question.

7 Q. [12:12:41] I move to my second topic. And this is where you were questioned,
8 Madam Witness, about events in Mongbwalu. It's earlier on today, I'm going to refer to
9 page 19, lines 22 to 25, and this is from the English transcript:

10 "They started to open fire, and then they started to break into houses. And they arrested
11 people and they killed some people whilst sparing the lives of others, the individuals they
12 arrested."

13 My first question is this, Madam Witness: Do you know what the ethnicity is of the
14 people that you say were spared, the ones that were arrested but who were not killed?

15 A. [12:13:52] I couldn't know that. I wasn't in a position to know that.

16 Q. [12:14:02] And when you say that some were spared and some were killed, how
17 did you learn about that, Madam Witness? Was this something that you saw with your
18 own eyes or something somebody told you later?

19 A. [12:14:24] I saw that with my own eyes.

20 Q. [12:14:34] And in terms of the civilians who are living in Mongbwalu, do you
21 know how Lendu civilians were treated by the UPC during this attack in Mongbwalu?

22 A. [12:15:11] They were killed.

23 Q. [12:15:16] And when you say Lendu civilians were killed during this attack, how
24 do you know that?

25 A. [12:15:37] Well, listen, I -- I saw a Lendu that had been killed, and after, his brother

1 said that somebody had died, and his brother actually was killed.

2 Q. [12:15:59] And when you say you saw a Lendu who was killed, is this in
3 Mongbwalu?

4 A. [12:16:19] It was in Mongbwalu that a Lendu was killed. Another person said
5 that it was his brother who had been killed. He took his machete to kill that soldier.
6 The soldier killed him. The second case, I saw it at Beba. The person was killed and
7 then his head was taken and then was pushed onto the point of a knife.

8 Q. [12:16:56] And just focusing on the first case in Mongbwalu. The English and the
9 French are the same when you say that someone told you that his brother was killed, he
10 had taken a machete to kill the soldier. Who had taken that machete to kill the soldier?
11 Was that the brother or the victim who was killed?

12 A. [12:17:32] No, the soldier killed his brother. And later on he saw his brother take
13 a machete to kill the soldier, so the soldier took his weapon and shot at him.

14 Q. [12:17:57] So the Lendu who was killed had a machete; is that what you're saying?

15 A. [12:18:23] Yes, he took hold of a machete because they killed his brother, so he
16 wanted to go off and kill the soldier, so that's how the soldier shot at him.

17 MS LUPING: [12:18:35] Mr President, I just have one question in private session.

18 PRESIDING JUDGE FREMR: [12:18:38] All right.

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

20 (Private session at 12.18 p.m.)

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- 18 (Open session at 12.21 p.m.)
- 19 THE COURT OFFICER: [12:21:25] We're in open session.
- 20 PRESIDING JUDGE FREMR: [12:21:39] Thank you, court officer.
- 21 Before I will give floor to Mr Bourgon, I have one additional question for Madam Witness.
- 22 Madam Witness, I would like to return back to the moment when a group of soldiers,
- 23 according your testimony, had been raping you and other women. At this moment had
- 24 you noticed presence of any commander of this group?
- 25 THE VICTIM: [12:22:24] (Interpretation) I wasn't in a position to know whether there

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1 was a commander.

2 PRESIDING JUDGE FREMR: [12:22:27] All right.

3 So now we will continue with examination by Defence. But before doing that, I'm
4 ordering to install the shield because it is visible that Madam Witness is permanently
5 turning to the left and it would prevent Mr Bourgon from seeing her face during the
6 testimony.

7 So, Madam Witness, we will install the shield so that now it's not possible for the accused
8 to be in eye contact with you. The same is for you, so please, I would ask you to turn a
9 bit and to look straight forward.

10 Madam Witness, can you hear me?

11 THE VICTIM: [12:23:36] (Interpretation) Yes.

12 PRESIDING JUDGE FREMR: [12:23:37] We need you now -- there is -- if you look on
13 right, you will see that Mr Accused can't -- the accused can't see you. Yeah, so please
14 remain like that because -- yeah. Thank you very much, Madam Witness.

15 And now I am giving floor to Mr Bourgon. And, Madam Witness, one guidance from my
16 part, because this Court is governed by principle of fairness, it means that you are
17 expected to respond to questions put to you by the Defence the same way how you did
18 it -- how you responded questions put to you by LRV, Legal Representative, and
19 Madam Prosecutor.

20 Now, Mr Bourgon, you have the floor.

21 MR BOURGON: [12:24:36] Mr President, before I begin the cross-examination, I have a
22 request to make to the Court, and I would like to make that request in the absence of the
23 witness or maybe just to take her earphones off.

24 PRESIDING JUDGE FREMR: [12:24:48] Madam Witness, may I ask you to take -- but
25 please make the submission in English because I -- according to my understanding, she

1 can speak partially French.

2 MR BOURGON: [12:25:02] Thank you, Mr President. The request coming from the
3 Defence at this time is to postpone the cross-examination of the witness due to
4 information that was elicited from the witness that was not communicated to the Defence
5 and that should have been communicated to the Defence.

6 Mr President, this witness provided initial information in her request to participate as a
7 victim in these proceedings, and that was on 10 April 2015. Then a statement was taken
8 from her on 2 November 2016, and at that point in time, there were two legal
9 representatives present to take this statement.

10 Lastly, Mr President, on 6 April 2017, which is last week, a preparation session was
11 conducted with the witness, again with two legal representative present, unless I am
12 mistaken.

13 Mr President, the information that was elicited from the witness today, which is material
14 to investigating and preparing for cross-examination, arose in a minimum of three
15 different instances.

16 First of all, at page 36, line 17 to 13, the witness provided the name of the person who
17 allegedly informed her about the murder or the killing of her husband and the killing of
18 other UPC members.

19 This information, Mr President, can be found in paragraph 23 of the witness' statement.
20 The event is mentioned therein. However, there is no information as to the person who
21 provided the information --

22 PRESIDING JUDGE FREMR: [12:27:05] Mr Bourgon, I found safer to move into private
23 session because you mentioned several details, so maybe you will mention the further
24 ones.

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

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2 (Open session at 12.46 p.m.)

3 THE COURT OFFICER: [12:46:55] We're in open session.

4 PRESIDING JUDGE FREMR: [12:47:02] So after our deliberation, our ruling is that the
5 request to postpone cross-examination is rejected.

6 And I, in reasoning, I'll be relatively brief. In fact, we agree with Mr Bourgon only in one
7 of his argument; the fact that even LRV has in such a case disclosure obligation because
8 those testimonies could be used to prove charges, could be used against the accused. So
9 LRV also has, in those cases, disclosure obligation, but our main conclusion is that he
10 doesn't violate it, this obligation. According our conclusion, he doesn't hide
11 anything -- he didn't hide anything, he did not prevent this witness from providing
12 further details which she did today spontaneously, so that is why we don't see any
13 reasons to postpone cross-examination.

14 I also can refer to other reasons mentioned by Ms Luping and also Mr Suprun. It's true
15 that there are some details mentioned today could be material for the Defence, but there is
16 still good chance to make further investigation and even call witnesses that could clarify
17 facts mentioned by madam witness today.

18 We still have 12 minutes, so we would like to use those 12 minutes for the beginning of
19 cross-examination.

20 So court usher, please bring madam witness into the courtroom.

21 (The victim enters the courtroom)

22 PRESIDING JUDGE FREMR: [12:49:50] Madam Witness, welcome back. We still
23 have just 10 minutes before the lunch break, so please remain patient and we will just start
24 with the opening part of cross-examination by Defence.

25 Mr Bourgon, you have the floor. And I'm just highlighting that we are in open session.

1 QUESTIONED BY MR BOURGON:

2 Q. [12:50:16] Good afternoon, madam.

3 A. [12:50:23] Hello.

4 Q. [12:50:23] I did not have the opportunity of meeting before since you refused to
5 meet with us when the courtesy meeting was called, so allow me to introduce myself, my
6 name is Stéphane Bourgon, I am a lawyer from Canada and, together with my colleague,
7 sitting beside me, we represent Bosco Ntaganda in these proceedings. Do you
8 understand that?

9 A. [12:50:55] Yes.

10 PRESIDING JUDGE FREMR: [12:50:55] Madam witness, sorry to interrupt, Mr
11 Bourgon, we fully understand that you could have some mental problems to look at the
12 accused, but I really don't understand why you should, couldn't see or look
13 straightforward and even to look at Defence counsel. Is there any problem for you?
14 Because it is a lawyer, so it has nothing to do with the situation in your country, it has
15 nothing to do with the harm you have suffered. So could you, as I asked you before, just
16 to look straightforward?

17 THE VICTIM: [12:51:48] (Interpretation) I don't feel very well.

18 THE INTERPRETER: [12:51:59] The Swahili booth did not capture the last part of her
19 utterance.

20 PRESIDING JUDGE FREMR: [12:52:04] All right, we have just seven minutes, let's
21 continue in this way then we will see how it will go on in the afternoon.

22 Please proceed, Mr Bourgon.

23 MR BOURGON: [12:52:19] Well, Mr President, the -- from my screen, I think the
24 witness said, "I don't feel very well."

25 PRESIDING JUDGE FREMR: Yes, yes.

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1 MR BOURGON: Does that change --

2 PRESIDING JUDGE FREMR: [12:52:26] Yes, I understand that as well, but she
3 probably add something which was not audible, but please now try to finish those seven,
4 eight minutes.

5 MR BOURGON: [12:52:37] Thank you, Mr President.

6 Q. [12:52:39] So my question, madam, was simply that you understand that I
7 represent Bosco Ntaganda in these proceedings; is that correct?

8 A. [12:52:59] Yes, I've seen that.

9 Q. [12:53:00] Now, I'd like to refer briefly to your situation today. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 THE INTERPRETER: [12:54:10] The first part was inaudible and then:

17 MR SUPRUN: (Interpretation) Can we go into private session for this type of
18 testimony?

19 PRESIDING JUDGE FREMR: [12:54:16] Exactly. Good point. And if there were any
20 details mentioned at the first part of the response it should be redacted.

21 Now, let's move into private session.

22 (Private session at 12.54 p.m.)

23 (Redacted)

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- 11 (Open session at 1.03 p.m.)
- 12 THE COURT OFFICER: [13:03:43] We are in open session.
- 13 PRESIDING JUDGE FREMR: [13:03:47] First, information about timing. Mr Suprun
- 14 has used one hour 36, madam Luping 11 minutes, which makes in total one hour 47
- 15 minutes for the Defence. And Defence so far has exhausted 10 minutes only. So
- 16 Mr Bourgon you still have one hour 37 if you will need it. And now we break and we
- 17 will reconvene at half past two.
- 18 And as I said, if we finish this testimony in some reasonable time before the normal end of
- 19 the session we will start testimony of the third witness also today.
- 20 THE COURT USHER: [13:04:34] All rise.
- 21 (Recess taken at 1.04 p.m.)
- 22 (Upon resuming in open session at 2.31 p.m.)
- 23 THE COURT USHER: [14:31:58] All rise.
- 24 Please be seated.
- 25 PRESIDING JUDGE FREMR: [14:32:32] Good afternoon, everyone. Good afternoon,

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1 Madam Witness. Madam Witness, we are approaching the last part of your testimony,
2 so please remain patient. If everything goes well, you will be free in slightly more than
3 one hour. Are you feeling a bit better now?

4 THE VICTIM: [14:32:57] (Interpretation) Yes.

5 PRESIDING JUDGE FREMR: [14:33:00] I am very glad to hear it. So now I am giving
6 floor to Defence. Mr Bourgon, you have the floor. And we are in open session at the
7 moment.

8 MR BOURGON: [14:33:15] Thank you, Mr President.

9 Maybe it is better if we go into private session to begin.

10 PRESIDING JUDGE FREMR: [14:33:29] Certainly.

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

12 (Private session at 2.33 p.m.)

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16 (Open session at 2.58 p.m.)
17 THE COURT OFFICER: [14:58:53] We are in open session.
18 PRESIDING JUDGE FREMR: [14:58:55] Thank you, court officer.
19 Mr Bourgon, you may proceed.
20 MR SUPRUN: [14:59:07]
21 PRESIDING JUDGE FREMR: [14:59:08] Sorry, Mr Bourgon. Mr Suprun is on his feet.
22 Mr Suprun.
23 MR SUPRUN: [14:59:13](Interpretation) Yes, Mr President, I believe that the witness
24 raised her hand. Either they need to say something or maybe we should let the witness
25 say what they have to say.

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1 PRESIDING JUDGE FREMR: [14:59:26] Thank you for reminder.

2 Madam Witness, do you want to say anything? If yes, please go ahead.

3 THE VICTIM: [14:59:38] Yes, I was raising my hand because I wanted to request
4 authorisation to go and relieve myself.

5 PRESIDING JUDGE FREMR: [14:59:51] All right. So please assist her to leave the
6 courtroom and we will wait.

7 (The victim stands down)

8 PRESIDING JUDGE FREMR: [15:00:38] And as I was reminded by Judge Chung,
9 the Chamber would like to inform you that we would like to complete this part of
10 proceedings tomorrow, so it depends, but if necessary we would like to sit tomorrow in
11 slightly extended hours. We would anyway start at 9.30, but in case of need we -- and
12 you also should be ready to shorten probably the lunch break a bit. So it is just
13 extraordinary measure, but in order to complete this part of proceedings tomorrow we
14 will probably have to do it. If not, we will sit the normal, normal sitting schedule, but it
15 will depend what progress will be made with this witness and, as I said, we would still
16 like to start third witness testimony, at least just the initial part today. But anyway,
17 please be ready for such a change of the schedule tomorrow.

18 (Pause in proceedings)

19 (The victim enters the courtroom)

20 PRESIDING JUDGE FREMR: [15:03:22] Madam Witness, can you hear me well?

21 THE VICTIM: [15:03:29] Yes.

22 PRESIDING JUDGE FREMR: [15:03:31] All right, let's continue.

23 Mr Bourgon, you have the floor.

24 MR BOURGON: [15:03:34] Thank you, Mr President.

25 Q. [15:03:37] Madam, we are now in open session so any answers you give, please do

1 not say anything that could identify yourself. If so, we will return into private session.

2 My next question is, your last answer you provided is that the ethnic conflict involved

3 Lendus on one side and I guess you said Hema on the other side. Let me get the exact

4 words you mention.

5 "And the Hema on the other". So were there Lendus in Mongbwalu, madam?

6 A. [15:04:37] Yes, there were.

7 Q. [15:04:41] And when did the Lendus arrive in Mongbwalu?

8 A. [15:05:00] I do not know when they arrived. Because when the disturbances began,

9 they started in Bunia, in Largo, and then subsequently there were agreements reached, or

10 peace talks.

11 THE COURT OFFICER: [15:05:25] I would like to remind Defence counsel to switch off

12 his microphone when the witness is providing her answer so that we are not hearing

13 a voice through your -- through your microphone.

14 MR BOURGON: [15:05:52]

15 Q. [15:05:53] Madam, I have your answer here. My next question is, you mention

16 about agreements. What I am interested in is what you saw with your own eyes in

17 Mongbwalu. Now, are you able to confirm that the Lendus were not originally from

18 Mongbwalu and that they started arriving en masse around 2000/2001? Can you confirm

19 this, madam?

20 A. [15:06:37] I do not know because I did not hail from Mongbwalu either.

21 Q. [15:06:46] Now you arrive in Mongbwalu, according to your testimony, four years

22 prior to these events. I'd like to know if you can -- are in a position to say that originally

23 when you arrived there the majority of the people in Mongbwalu were of Hema ethnic

24 background; is that correct?

25 A. [15:07:16] I do not know because there were many ethnic groups in Mongbwalu.

1 There was a mixture.

2 Q. [15:07:24] Are you able to confirm whether around the year 2000/2001 that most of
3 the business people and the merchants, the commercial people in Mongbwalu, were of
4 Hema ethnicity?

5 A. [15:07:54] There were many ethnic groups who were conducting businesses,
6 business. All of the ethnic groups were represented.

7 Q. [15:08:05] Describe for us, madam, how the Lendus behave in Mongbwalu during
8 the two years preceding these events.

9 A. [15:08:28] I didn't quite grasp your question. I didn't understand.

10 PRESIDING JUDGE FREMR: [15:08:33] Mr Bourgon, allow me to remind you that one of
11 the recommendations presented by VWU was that we should all adjust our questions to
12 the capacity of the witness and I'm afraid that especially the last question was over the
13 capacity of this witness.

14 MR BOURGON: [15:08:52] Thank you, Mr President. Well, the question was not
15 complicated. How did the Lendus behave in Mongbwalu when she was there. I think
16 it's a very simple question, Mr President. Much more simpler than things that were
17 asked this morning.

18 Q. Are you able to understand this question, madam, how the Lendus behave in
19 Mongbwalu?

20 A. [15:09:21] I do not know. Everyone lived in their own home. I don't know what
21 their habits were and I do not know how they behaved. I just conducted my own
22 business.

23 Q. [15:09:38] And in which part of Mongbwalu did you live?

24 MR BOURGON: [15:09:44] We have to go into private session, Mr President, I apologise.

25 PRESIDING JUDGE FREMR: [15:09:47] Exactly.

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1 Hold on. Hold on, Madam Witness, hold on. We have to first move into private
2 session.

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

4 (Private session at 3.09 p.m.)

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- 19 (Open session at 3.16 p.m.)
- 20 THE COURT OFFICER: [15:16:15] We are back in open session, Mr President.
- 21 PRESIDING JUDGE FREMR: [15:16:18] Thank you.
- 22 Mr Bourgon, please proceed.
- 23 MR BOURGON: [15:16:24]
- 24 Q. [15:16:25] Madam, are you aware that in -- towards the end of 2001 and in 2002 the
- 25 Hema ethnic group was chased out from Mongbwalu? Did you see that with your

1 own eyes?

2 A. [15:16:49] I do not know.

3 Q. [15:16:51] Are you able to confirm that the houses that were occupied by Hema who
4 left Mongbwalu were then occupied by Lendus?

5 A. [15:17:13] No, I do not know.

6 Q. [15:17:17] Are you able to confirm that by the time the events you describe took
7 place, there were, for all intent and purposes, no more Hemas in Mongbwalu?

8 A. [15:17:41] I know nothing about this. I was in Mongbwalu for business reasons. I
9 am not aware of what happened with the Hema and the Lendu.

10 PRESIDING JUDGE FREMR: [15:17:57] Madam Witness, allow me to remind you that
11 you are under oath and that you swore today that you will say truth and nothing but the
12 truth. And in case that you would say that you don't know but in fact you would know,
13 it would be also a lie. So please have it in mind when you are giving your further
14 answers.

15 MR BOURGON: [15:18:32]

16 Q. [15:18:32] Madam, while you were doing business in Mongbwalu did you do
17 business with Hemas?

18 A. [15:18:50] Yes, the Hema might also come to buy things from me.

19 (Redacted)

20 PRESIDING JUDGE FREMR: [15:19:09] Hold on, Madam Witness.
21 Mr Suprun.

22 MR SUPRUN: [15:19:14](Interpretation) Mr President, I believe that we should go into
23 private session because this type of question might identify the witness.

24 PRESIDING JUDGE FREMR: [15:19:27] Mr Bourgon.

25 MR BOURGON: [15:19:28] I have no problem, Mr President. But I think Cité Shun is

1 big enough not to identify the witness, but if need be I have no problems with that.

2 PRESIDING JUDGE FREMR: [15:19:39] No, I see, I see the need to move into private
3 session. Let's move into private session for that, at least for that question.

4 (Private session at 3.19 p.m.)

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11 (Open session at 4.19 p.m.)

12 THE COURT OFFICER: [16:19:17] We are in open session, Mr President.

13 PRESIDING JUDGE FREMR: [16:19:26] Thank you.

14 Madam Witness, I have good news for you. It concludes your testimony. I would like
15 to thank you because I can understand it was very tough experience for you, but we,
16 the Chamber, we appreciate that you tried to do, hopefully, your best to answer all
17 questions put to you and I hope that your testimony will assist us in our effort to find the
18 truth in this case.

19 So I thank you, Madam Witness, and we wish you safe journey home.

20 Now Madam Witness may be escorted out of the courtroom.

21 (The victim is excused)

22 PRESIDING JUDGE FREMR: [16:20:35] I said that we would proceed with the third
23 witness if we have at our disposal reasonable time, which I'm afraid is not the case,
24 because I was informed that at least five minutes would take to bring another witness.
25 Nevertheless, we will reconvene tomorrow, and please, as I told, be ready for sitting in

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- 1 extended hours, so it depends, if you will be able to make it in a shorter time, then there
- 2 will be no need to sit in extended hours, but please be ready to sit from 9.30 to 11, then
- 3 from 11.30 to 1.30 p.m. and then the third session, if necessary, would be from 2.45 till 4.45.
- 4 And also take into account that we also reserve the last 10, 15 minutes for oral submission
- 5 of the Defence concerning the Prosecution submission targeting some, according them,
- 6 shortcomings on specificity of facts concerning Defence case.
- 7 So now we adjourn and we will reconvene tomorrow 9.30.
- 8 THE COURT USHER: [16:21:59] All rise.
- 9 (The hearing ends in open session at 4.22 p.m.)