

Trial Hearing  
WITNESS: DRC-OTP-P-0121

(Open Session)

ICC-01/04-02/06

1 International Criminal Court  
2 Trial Chamber VI  
3 Situation: Democratic Republic of the Congo  
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06  
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung  
6 Trial Hearing - Courtroom 3  
7 Wednesday, 7 December 2016  
8 (The hearing starts in open session at 9.33 a.m.)  
9 THE COURT USHER: [9:33:24] All rise.  
10 The International Criminal Court is now in session.  
11 Please be seated.  
12 PRESIDING JUDGE FREMR: [9:33:47] Good morning, everybody.  
13 Court officer, please call the case.  
14 THE COURT OFFICER: [9:33:51] Thank you, Mr President.  
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor  
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.  
17 We are in open session.  
18 PRESIDING JUDGE FREMR: [9:34:04] Thank you, court officer.  
19 Now appearances, please. Prosecution first.  
20 MS RABANIT: [9:34:08] (Interpretation) Thank you.  
21 Good morning to everybody. The composition of the Office of the Prosecutor is  
22 unchanged compared to yesterday.  
23 PRESIDING JUDGE FREMR: [9:34:21] Thank you, Ms Rabanit.  
24 Defence please.  
25 MR GOSNELL: [9:34:25] Good morning, Mr President and your Honours. No

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1 changes from yesterday for Mr Ntaganda.

2 PRESIDING JUDGE FREMR: [9:34:32] Thank you, Mr Gosnell.

3 And Legal Representatives of Victims please.

4 MR ABDOU: [9:34:37] Good morning, Mr President. Good morning, your  
5 Honours. No changes for the former child soldiers.

6 MR SUPRUN: [9:34:46] (Interpretation) Good morning, your Honour, your  
7 Honours. For the victims of the attacks, no change since yesterday.

8 PRESIDING JUDGE FREMR: [9:34:54] Thank you, Mr Abdou.

9 Thank you, Mr Suprun. Before we continue with cross-examination of our -- of this  
10 direct examination of our witness, on the point of timing, Ms Rabanit, you still have  
11 1 hour 35 minutes, but the idea of the Chamber is to give you chance to finish the rest  
12 of the examination in one session, so in case of need, we will continue till 11.30  
13 maximum. Because we also would like to allow Defence to organise better during  
14 the break for cross-examination than to start immediately. So just to let you know.  
15 Mr Witness, good morning. Are you okay to continue in giving your testimony?

16 WITNESS: DRC-OTP-P-0121 (On former oath)  
17 (The witness speaks French)

18 THE WITNESS: [9:35:53] (Interpretation) Yes. Thank you. I am ready to  
19 continue, your Honour.

20 PRESIDING JUDGE FREMR: [9:36:00] Mr Witness, two reminders: First one, you  
21 are still under oath, which means that you have to speak the truth and nothing but  
22 the truth. And the second one, as Ms Rabanit yesterday several times highlighted,  
23 she -- and the same will be with Mr Gosnell -- both counsels are strictly limited by the  
24 time that they can utilise for your examination, so that is why they are really  
25 interested to get from you clear and rather brief answers, because sometimes, even if

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1 you are giving very -- or providing very interesting information, they would like to  
2 limit you on those information that are specified in the question and that are relevant  
3 for the charges. So please have it in mind when giving your responses and try to be  
4 really as brief as possible.

5 Do you understand, Mr Witness?

6 THE WITNESS: [9:37:08] (Interpretation) Yes, your Honour. I've understood  
7 very well. Sometimes I went on too long, but it's also in my nature to do that.

8 PRESIDING JUDGE FREMR: [9:37:33] Don't worry. It's also in my nature. No  
9 problem. But as I said, try to follow my guidance.

10 Now, Ms Rabanit, you have the floor. Do you want to proceed in open or in private?

11 MS RABANIT: [9:37:45] In private session, your Honour, please.

12 PRESIDING JUDGE FREMR: [9:37:48] All right then.

13 Court officer, let's move into private session

14 (Private session at 9.37 a.m.) \*(Reclassified partially in public)

15 THE COURT OFFICER: [9:37:59] We're in private session, Mr President.

16 PRESIDING JUDGE FREMR: [9:38:05] Ms Rabanit, please proceed.

17 MS RABANIT: [9:38:08] Thank you, Mr President.

18 QUESTIONED BY MS RABANIT: (Continuing) (Interpretation)

19 Q. [9:38:14] Good morning, Witness.

20 Yesterday you told us, and here I quote page 96 of the transcript in French: "The  
21 meeting, the peace meeting also, that's where we were received." You were speaking  
22 about a radio. Could you explain what was this meeting and what you heard  
23 spoken about.

24 A. [9:38:52] Yes. Thank you. The peace meeting took place in Ngabulo and  
25 this is a detail that we had via radio. Secondly, at the time at the market, among

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1 others. And thirdly, from people who were sent literally. That was the  
2 organisation of young people. So from the mothers at the market as well.

3 Q. [9:39:34] Who called this meeting?

4 A. [9:39:38] This meeting was organised by the UPC.

5 Q. [9:39:52] Who was invited to this meeting?

6 A. [9:39:58] Who was invited to this meeting? Everybody who was ready from  
7 my Walendu community, because it was in our region to opt for peace, for a ceasefire,  
8 so war would finish. And so we could get organised for peace, to put an end to war.  
9 So it was about negotiations.

10 Q. [9:40:34] You spoke to us about Ngabulo. Could you situate that village  
11 compared to other villages, if you would be so kind?

12 A. [9:40:46] Yes, madam. I can situate it. Ngabulo is a village close to Buli. If  
13 you come from below, you come from Ngabulo, you find the church and the primary  
14 school. From there there's a large hill, the village of Sangi and it's only after that you  
15 come to the centre of Kobu. So it's between Kobu and Buli. A lot of people were  
16 hiding.

17 Q. [9:41:27] You said that you received information with regards to this meeting  
18 via the radio. Could you tell us the content of what you heard on the radio  
19 regarding the meeting?

20 A. [9:41:42] The organisation of this meeting was provided for and spoken about  
21 by the \*organisers who were from the UPC. When people who were ready, so  
22 people who weren't ready, they couldn't go. Or those who didn't want peace, they  
23 wanted to continue with war, or they were afraid to go to this meeting, which they  
24 thought was a ruse. Those people didn't go.

25 Secondly, people who did go, once they had entered into the room it had been

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1 decided that they would be divided up into two. \*Those who liked Thomas  
2 Lubanga and his entire organisation, including the general staff, were to step to the  
3 right. And those who didn't want to join that team of the UPC with the allies should  
4 go on the left-hand side. And once they went on the left, they had to \*be taken down  
5 right there inside the room. And the people who stayed, who were ready to join the  
6 president of the UPC, he was in Kilo, Kilo is close to Kobu, \*and those people were to  
7 be taken to Kobu.

8 Q. [9:43:38] This information, did you hear it yourself on the radio or is this  
9 information that was reported to you?

10 A. [9:43:55] This is information that everybody heard among the people who  
11 were present. Once commander (Redacted) called people, the person responsible for  
12 our young people, it was said in the groups. It wasn't just one person who was told.  
13 So the message went out on the radio.

14 Q. [9:44:20] With regard to this information about what was meant to happen in  
15 this meeting, is that something that you disseminated previously or prior to that?

16 A. [9:44:38] Could you repeat your question?

17 Q. [9:44:44] The information that you heard on the radio about what was meant  
18 to happen at the meeting, did you transmit that information to other people or not?

19 A. [9:45:01] To other people in my village or here?

20 Q. [9:45:06] Or in the village or elsewhere.

21 A. [9:45:13] No this information, everybody in Gutsi knew about it, everybody in  
22 Gutsi was informed by (Redacted) and others heard themselves about this  
23 information. It was public, it was really public, madam.

24 Q. [9:45:32] And the people who were displaced elsewhere from your community,  
25 do you know if they had that information?

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1 A. [9:45:45] No, not all of it, madam, because getting a message when you are in a  
2 state of terror, fear, you're in hiding. Only people who had heard from the people  
3 sent by (Redacted) it was those people who were informed. But I am persuaded that  
4 not everybody was informed, as such. If everybody had been informed of it, people  
5 wouldn't have gone. But we were in an area such as Buli. People weren't in just  
6 one area. They were all dispersed. So when the message came, people spread it via  
7 megaphones. They said "Come, come. We don't want war anymore." And indeed  
8 there was a ceasefire. You didn't hear explosions anymore of weapons. Gombili  
9 confirmed it, he had gone to see and he had returned to the large group. Thank you.

10 Q. [9:47:11] You spoke about somebody who was sent by (Redacted). What was  
11 his name and where was he sent?

12 A. [9:47:26] I think \*you did not understand correctly. This was the brave or  
13 courageous person who received the message and passed it on. The boy who was  
14 sent was not sent. He was a volunteer. When there was a question, who would like  
15 to go and see the arsenal that is in Kilo, who wants to join the group in Kobu, that is  
16 how Gombili, a young boy, a very young boy, because he wasn't even adult at that  
17 stage, he was brave and he was tired of war and he left. And he took on what was  
18 said by the enemy.

19 He went back and forth to -- spoke to Thomas Lubanga in Kilo and then he went to  
20 Bunia and he joined the \*group. They travelled with (Redacted) right to Ariwara.

21 Q. [9:48:40] Sir, are there members of your community who went to this peace  
22 meeting?

23 A. [9:48:53] Well, that's what I was saying. When people were called in numbers  
24 to come to this peace meeting, pacification meeting, some people left. I spoke about  
25 (Redacted) He wasn't with us in Gutsi. He was in Buli and he went. There were a

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1 lot of people. There was (Redacted), \*Professor, \*just to mention a few. So if I  
2 could continue, with your leave, it was (Redacted) who understood the position of these  
3 militia, the UPC, which wasn't very favourable. \*They were going by the principal. So  
4 there were armed men who were going left and right and he understood -- well, we're likely  
5 to end up in an ambush and he said, \*"I know," God had given him that knowledge. "I  
6 know where your main army is hidden." And it was \*called Blind Side up in \*Jitchu on the  
7 other side. You have the forest that starts there. And that's how he said, "If you know,  
8 quickly, you can show \*us." And when he left, behind him and in front of him, there were  
9 armed people. And he left quickly and he went to see everyone, and at a given time he  
10 shouted and he ran. And he said, "The enemy have entered. It's not peace. It's a ruse  
11 for killings." And that's how he escaped. And he saved people. And he fled into the forest.

12 Q. [9:51:01] So what you've just told us, sir, how do you know that?

13 A. [9:51:14] (Redacted) is alive, and at that time when he fled, he himself, he told  
14 us that from his own mouth.

15 Q. [9:51:29] Sir, you spoke to us about a weapon, I think you gave a name for it.  
16 Could you repeat the name you gave for that weapon, maybe spell it. Could you  
17 possibly spell it for us as well?

18 A. [9:51:54] Yes, I can give you the name. It's an English word -- I don't know if  
19 it's English or another language: B-L-A-N-D-S-I-D-E, Blandside.

20 Q. [9:52:32] Sir, yesterday you told us that (Redacted) was able to flee. Do you  
21 know what happened to the remaining people who went to the pacification meeting?

22 A. [9:52:56] Yes, indeed. As stated before, when he left, he fled. There were  
23 people shouting who fled and the others who were present in the room, when there  
24 was the UPC ambush, they were all arrested and taken to Kobu. They were killed  
25 there, but some of them managed to escape.

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1 Q. [9:53:45] Sir, do you know -- I'm sorry, I'm going to ask again. You gave us  
2 certain names of people who were in the delegation. Do you know if there were  
3 only men in the delegation or were there also women, if you know?

4 A. [9:54:13] Yes, I know. These men, three, four, five days, when there was  
5 silence, when there was the ceasefire, they were taken to Kobu. When the enemy left  
6 Kobu, everybody was ready to go and see their houses, to go and check really if they  
7 had gone. And that's how they were persuaded in the evening -- or the body of  
8 (Redacted) was transported by the -- some young people and it was buried in the  
9 dark

10 after 1800 hours, and in the morning we went there, we found that lots of bodies were  
11 behind the houses. There were bananas that were cut, and they had also been beaten  
12 with wooden sticks which were used for construction. I don't know if that answered  
13 your question.

14 Q. [9:55:31] Sir, you told us that the enemy left from Kobu or had left Kobu.  
15 Could you estimate how much time there was between the meeting and the moment  
16 when the enemy left Kobu?

17 A. [9:56:03] Well, there was -- the front was three days in Buli, the attack was  
18 three days in Buli. Instead of \*going to Gutsi as the instructions had been respected,  
19 a lot of people had escaped this ruse, deadly ruse. They decreed a ceasefire to  
20 organise the pacification meeting.

21 Three days passed for the ceasefire. For the organisation of the pacification meeting,  
22 there were four to five days, more or less, more or less that. So pretty much one  
23 week.

24 Q. [9:56:52] Between the moment of the meeting and the time you found out that  
25 the enemy had left Kobu, how many days had passed in between that time?

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1 A. [9:57:04] Please, could you repeat the question?

2 Q. [9:57:07] Between the time that the meeting took place and the time when you  
3 found out that the enemy had left from Kobu, how many days was that, if you know,  
4 sir?

5 A. [9:57:24] That is a question which is similar. What do I mean by that? The  
6 meeting didn't take place once they decreed the ceasefire to organise the pacification  
7 meeting, so it was four to five days. And as the meeting didn't take place, they left  
8 with these people to Kobu between the meeting and leaving, as you asked. So the  
9 leaving was before the other aspects. So there was a ceasefire as well. It was mixed  
10 up. And the meeting didn't take place because the secret was revealed by Jean Mbau.  
11 He shouted out. He saved a lot of people who didn't go, who \*were going up to the  
12 meeting but then they were discouraged by what he said. And these people who  
13 didn't go at all, well, they stayed in the bush anyway. And later they went to the  
14 village of Kobu.

15 Q. [9:58:47] When did you find out that the enemy had left Kobu?

16 A. [9:58:52] I found that out the night before I left the bush in Gutsi. The enemy  
17 had left, for example, like today, and the same day, in the evening, (Redacted) body  
18 was brought to us and that confirmed firstly that really people who had left were  
19 struck dead, so we were no longer able to go there at night. We had to wait for the  
20 day. But people were curious to go there. And very early in the morning, some  
21 people had left, but we left around 8 or 9 \*or 10 o'clock. And that's when we saw the  
22 real reality of the situation.

23 Q. [9:59:47] What happened with (Redacted) body once he was taken to Gutsi?

24 A. [9:59:57] His body, madam, was a big surprise for people because he was a  
25 very brave and courageous man. He had gone to Mongbwalu, to Kobu and to Buli,

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1 as I have told you. So this sort of terrified people to begin with, and everybody wept  
2 and then he was given a very solemn burial at night, in the darkness. So that was  
3 the first impact, it terrorized people.

4 Secondly, it provided information and reassured people on two things: Namely,  
5 that those who had gone for peace like (Redacted)  
6 (Redacted) that all those people had been killed. Secondly, it reassured people that  
7 the enemy had left Kobu. That's it.

8 Q. [10:01:04] Mr Witness, were you present at the burial yourself?

9 A. [10:01:09] The burial took place in two stages. There was a team that was out  
10 looking for the dead bodies and then there was another team by Chief \*Kpadyu. Kpadyu  
11 had a team which needed to find the holes in which to bury the dead bodies whose close  
12 relatives had not been identified. Some of the dead bodies were in very bad state, and so  
13 after waiting for a little while, those bodies were then buried \*in the toilets.

14 Q. [10:01:59] Can you repeat and spell out the name of the chief whom you just  
15 mentioned, please.

16 A. [10:02:08] Yes, I can spell out the name. It is spelt \*K-P-A-D-Y-U. May his  
17 soul rest in peace. He's already deceased.

18 Q. [10:02:34] Where -- in which locality was he a chief, of which locality, actually?

19 A. [10:02:44] Chief of locality? No. He was a chief of the Wadza village.

20 \*Kpadyu was the chief of Wadza village. Wadza is actually the village that gave  
21 birth to Kobu. It's a village that was joined to or, rather, included with Kobu, or  
22 Kobu actually used to be Kobu village, but now the centre of Kobu is hedged between  
23 Wadza and Kobu village. And so \*Kpadyu was the chief of Wadza and he was the  
24 chief until his death, and his descendants are still reigning in that village according to  
25 tradition.

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1 Q. [10:03:39] What was the name of the chief of Kobu centre at the time, if you  
2 know?

3 A. [10:03:56] The name of the chief of Kobu centre was actually \*Kpadyu's  
4 deputy. He was actually \*Kpadyu's deputy and the name was Likpa. Likpa used  
5 to work in collaboration with his son Budza when he died, who is also deceased, may  
6 I say.

7 Q. [10:04:26] Mr Witness, you told us that you had been gone for -- from around 8  
8 or 9 a.m. while you were in Gutsi. Where did you go to?

9 A. [10:04:49] Thank you. We left Gutsi around 8, 9 or 10 a.m. There was a zeal  
10 on the part of those who wanted to go to Kobu to find out what was happening in  
11 Kobu. So we left Gutsi to Kobu first, and then from there each person would go  
12 looking for their family members in different areas. (Redacted)

13 Q. [10:05:27] I'm sorry, Mr Witness, but let me hop back to something previous.  
14 Can you spell out for us the name of the chief of Kobu centre which you mentioned.  
15 It would appear that it wasn't properly captured on the transcript.

16 A. [10:05:59] The name of the chief of Kobu centre is Likpa, as I said, L-I-K-P-A.  
17 He was the successor to another chief whose name was Gaby (phon), and before Gaby,  
18 we had Chief Dzaringa Ndalo. That's how the succession took place.

19 Q. [10:06:44] Please spell out the last name which you just mentioned.

20 A. [10:06:48] The last name I mentioned is Ndalo. Ndalo, N-D-A-L-O, Ndalo.  
21 And Dzaringa is D-Z-A-R-I-N-G-A. So the name is Ndalo Dzaringa.

22 Q. [10:07:25] On that day I understand that you went to Kobu. Can you tell us  
23 or describe to the Court the state of Kobu village when you arrived there, please.

24 A. [10:07:49] Yes, I can. When we arrived in Kobu, you see, there are a number  
25 of roads and then you have houses, and behind the houses you have banana and

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1 plantain trees as well as other fruit-bearing trees. Some houses were destroyed.

2 Houses in thatch were burnt. The trees were cut down as well as the banana stems.

3 Q. [10:08:28] Do you know who destroyed and burnt down the houses,

4 Mr Witness?

5 A. [10:08:41] Madam, the answer is clear. It must have been the enemy who had

6 taken over the village, that is the UPC people.

7 Q. [10:09:03] (Redacted)

8 Can you tell us the state in which you found (Redacted) your property?

9 A. [10:09:15] Yes. Thank you for that question. (Redacted)

10 (Redacted) those houses were all burnt down.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. [10:10:58] Madam, I'm using my mother tongue. (Redacted)

24 (Redacted). When you leave Kobu, you get to Wadza, and then after Wadza centre,

25 (Redacted)

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17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. [10:16:49] Do you know who took that property?

22 A. [10:16:57] Apparently, it was the UPC and their allies.

23 Q. [10:17:13] You talked about some bodies (Redacted). Did you see those  
24 bodies yourself?

25 A. [10:17:25] Yes, madam. I saw them myself.

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1 Q. [10:17:29] Can you describe to the Court what you saw on that day when you  
2 arrived (Redacted)

3 A. [10:17:43] Well, some family members came and identified their dead, and  
4 once the dead bodies were identified, the family members would take them away.  
5 But there were some dead bodies which had been decapitated, some did not have  
6 their legs or their arms. And so there was also a number of dead bodies that were  
7 disemboweled.

8 Q. [10:18:23] What was the gender or sex of those people who had been killed?

9 A. [10:18:29] It was a mixture of men and women. You see, women tend to rush  
10 to any peace discussions, but there were also children, there were some \*elderly  
11 \*people, including Papa (Redacted).

12 THE INTERPRETER: Whose name the interpreters didn't get --

13 THE WITNESS: -- who was simply just forgotten, he was simply forgotten and  
14 then ended up being one of the subjects of the messenger. It was an old man who  
15 had come from Mongbwalu.

16 MS RABANIT: (Interpretation)

17 Q. [10:19:13] When you say forgotten in his room, do you know where this room  
18 was located, sir?

19 A. [10:19:29] According to the explanation he provided, (Redacted)  
20 (Redacted), the one what was located close to Paradiso. The first room as one came  
21 out from the side of Paradiso.

22 Q. [10:19:47] Just to make things clear, the room was in which building?

23 A. [10:20:21] (Redacted)

24 Q. [10:20:26] I see in the English transcript that the name of the person who you  
25 mentioned was not captured. Can you repeat the name, please?

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1 A. [10:20:46] That old man's name was (Redacted)

2 Q. [10:20:55] Do you know any other name by which he went?

3 A. [10:21:05] If I recollect properly it must have been (Redacted) I know  
4 him, I know his children and I know the neighbourhood in which he lives in  
5 Mongbwalu today. (Redacted)

6 Q. [10:21:34] What was the age of the dead bodies you saw on that day,  
7 Mr Witness?

8 A. [10:21:57] I don't know if you can repeat the question. I talked about many  
9 dead bodies. I mentioned that there were 49 (Redacted). I did not even tell  
10 you about the dead bodies that I found as I moved further into Kobu village on  
11 Ngabulo road and so on and so forth. So there were many, a lot of dead bodies.  
12 Are you asking about all those people? Well, I have not quite understood your  
13 question. Please, can you repeat the question.

14 Q. [10:22:29] Yes, I am sorry, my question wasn't very specific. I would like us  
15 now to focus on those dead bodies (Redacted) and I would  
16 like you to tell us, going by your assessment, the age of the youngest person whom  
17 you saw and the oldest person whom you saw on that day.

18 A. [10:22:56] Okay. Well, it's clearer now. I mentioned children and the  
19 youngest child was about six months old, I think, so that's about children who were  
20 being transported. Now, apart from that, there were also some young people, 6, 10,  
21 20, 30, 40, 50, 60. Tilo, for example, was an old man who had children like myself.  
22 He was probably as old as myself. (Redacted) And at that time he must have been 60  
23 or 65 years old or thereabouts.

24 Q. [10:24:01] How were those people dressed or what were they wearing?

25 A. [10:24:16] The old man was -- he had nothing on his top. He had only his

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1 underwear and so he was forgotten and that's how he managed to survive and later  
2 on was able to go to Mongbwalu when things had calmed down.

3 Q. [10:24:45] I'm asking you about the dead bodies. What were they wearing?

4 A. [10:24:58] The dead bodies, most of them were naked. Some had a few torn  
5 clothes, then we had women with torn blouses and some people were in the state in  
6 which God had created them, without any underwears, without anything  
7 whatsoever.

8 Q. [10:25:31] Were those bodies placed in any particular order or did you notice  
9 anything that struck you regarding those dead bodies?

10 A. [10:25:57] Madam, well, Mr President, this is a horrible thing. The bodies  
11 were scattered in a disorderly manner. Some were piled on top of others. Some  
12 had heads lying on the bodies of their neighbours, their brother or their comrades.  
13 And so on and so forth. In some instances the legs were intertwined or it happened  
14 that somebody's arm could be elsewhere while the body was in a different spot.  
15 That was horrible. A very sad thing to see.

16 Q. [10:26:47] Mr Witness, what about the arms and the hands of the bodies, did  
17 you notice anything about their arms and hands?

18 A. [10:27:00] Some of the hands and arms were cut off and separated from the  
19 rest of the body. Some were even found further afield in the bush and dogs were  
20 playing with those parts. So these dead bodies were in different states. There were  
21 some that were headless, some whose sex organs had been perforated by sticks and  
22 some didn't even have their sex organs on them. That was it.

23 Q. [10:27:41] You just said that some were headless. What do you mean by that?

24 A. [10:27:48] Well, when I say "headless" it means that the head had been cut off.  
25 Some heads had been struck and the skulls crushed. So one could even see the

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1 various organs that came out of the skull. So you see, you can see all of that blood  
2 and all the mixture between the white and the red. It was a horrible sight.

3 Q. [10:28:35] Were you able to recognize anybody whom you knew among the  
4 corpses?

5 A. [10:28:45] I mentioned (Redacted) and that's what we found in Kobu -- rather,  
6 in Gutsi, sorry. Then there is (Redacted). His body was found and his son  
7 quickly organised a burial. His son's name is (Redacted)

8 Q. [10:29:13] Can you tell us, Mr Witness, what (Redacted) occupation was, if  
9 you know?

10 A. [10:29:23] (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [10:30:11] Do you know, sir, if anybody took any photographs on that day?

17 A. [10:30:19] Yes, I know.

18 Q. [10:30:23] How do you know?

19 A. [10:30:26] The photographs were taken in my presence. The elders of the  
20 village had asked for photographs of the bodies to be taken so that those who came in  
21 might be able to identify the dead bodies of their relatives. That is how it came  
22 about that a young man took some photographs and I think some people  
23 subsequently took other photographs. And one of them whom I knew at the time  
24 was (Redacted)

25 Q. [10:31:23] (Redacted). Could you be a

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1 little bit more precise? Could you estimate the distance between (Redacted) and the  
2 bodies? And the direction; straight ahead, to the left, to the right.

3 A. [10:31:53] Yes, I can situate things. First of all, there was the road, well, you  
4 (Redacted), from there you go 10 metres, 8 to 10 metres, 6, 7, 8, 10, so 10 metres, then  
5 you go to the right and there you have got a plot of land and -- (Redacted) land,  
6 plot of land, and that's where all of the bodies were found, (Redacted)  
7 There were a lot of bodies. You couldn't bring them altogether, it was in a large area,  
8 covered a large area, not in an area such as this room.

9 Q. [10:32:57] I believe you've already given us a figure as regards to the number of  
10 corpses. Could you give the figure again and explain to us how you know the figure?

11 A. [10:33:23] We Africans attach a lot of importance to the bodies and the chief  
12 organised the funeral ceremony and he counted, the others counted as well and  
13 everybody came up with the same figure. Even if the chief were not dead, he would  
14 give the same figure today. \*It was indeed 49. And these were strewn across the  
15 two plots of land. And moving away from the plots of land, there were other bodies  
16 elsewhere so you could increase the figure even further, but certainly there in that  
17 position there were 49 \*bodies, not more, not less. \*So, with (Redacted), you could  
18 say that it was as much as 50.

19 Q. [10:34:38] This figure was given to you when, sir?

20 A. [10:34:47] It's not a figure that was given to us. We all counted the bodies.  
21 We were there. It wasn't something that we heard from somewhere else. We saw.  
22 There were even some who were 5 kilometres away in the forest who didn't have the  
23 fortune that we had. We came first, second, third and we were the ones who saw the  
24 bodies.

25 Q. [10:35:32] What happened to those bodies once they had been found? What

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1 did you do with them? What did people do with them?

2 A. [10:35:44] Your Honours, the bodies were transported by family members who  
3 identified the bodies and those bodies that were not identified were buried by the  
4 local village \*organisation of Wadza, under the leadership of Chief Kpadyu.

5 Q. [10:36:24] Do you know where the bodies were buried, when the burial was  
6 organised by the local Wadza organisation?

7 A. [10:36:48] If I've correctly heard what you said, you asked where the bodies  
8 were buried. First of all, they were buried (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted) was used as a collective grave.

13 Q. [10:38:02] Sir, can you explain to us how come (Redacted) was used as a  
14 common grave?

15 A. [10:38:22] (Redacted)

16 (Redacted), so you can imagine that there's a hole,

17 there's an empty hole and that's where the bodies were taken.

18 Q. [10:38:39] Do you know how many bodies were buried (Redacted)

19 (Redacted)

20 A. [10:38:55] There were several bodies, at least \*two to begin with. But I cannot  
21 tell you precisely how many bodies were found -- were buried there.

22 Q. [10:39:06] Sir, approximately when did the burial occur after the bodies had  
23 been discovered? How much time afterwards?

24 A. [10:39:21] All of the organisation was done within 48 hours. There's no  
25 formol, there's no morgue and bodies were starting to swell, to decompose, all of the

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1 organs within these humans had been destroyed. And when there's blood, that  
2 attracts flies, everything starts to rot and there's a stench so you have 48 hours. And  
3 afterwards that continued, people were being buried elsewhere. So that was  
4 happening with the bodies that were identified, they were \*taken away. But the  
5 bodies that weren't identified were immediately buried.

6 Q. [10:40:22] (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [10:40:51] Thank you, sir.

10 MS RABANIT: [10:40:53] I would like to call a document to show the witness.

11 The document is (Redacted)

12 Q. [10:41:38] (Microphone not activated)

13 A. [10:41:51] Did you ask me a question?

14 PRESIDING JUDGE FREMR: [10:41:58] Ms Rabanit, I guess your mic was not

15 switched on I guess.

16 MS RABANIT: [10:42:05] (Interpretation)

17 Q. [10:42:07] Sir, do you see the document on the screen before you?

18 A. [10:42:09] Yes, yes, I can see it. This is the document I produced. It's a

19 sketch I made. This is a sketch that gives you the location of part of Wadza (Redacted)

20 (Redacted) And

21 then there's the road from Kobu centre to Wadza and it goes on to Tchudja. And

22 then it forks and then there's another part that goes to Bambu and then Bunia. Close

23 to the fork in the road, when it goes off to Wadza, you've got these two roads and

24 there's one that's going to Wadza là. Even the one on the road goes down to Wadza,

25 but it goes further actually.

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- 1 Q. [10:43:28] I'll ask the court officer to -- the usher to assist you, rather, in
- 2 annotating the document and this way we'll be able to follow what you're saying.
- 3 Let me explain to you, sir, with the pencil that's been given to you could you
- 4 underline (Redacted)
- 5 A. [10:44:35] (Redacted)
- 6 Q. [10:44:41] (Redacted)
- 7 A. [10:44:44] Thank you. I've done it.
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 Q. [10:45:33] Could you put a number of crosses in the place where you say that
- 12 you found the bodies?
- 13 A. [10:45:41] Yes, I can do this, madam. This is not writing. It's not working.
- 14 Q. [10:46:40] While we're sorting out the technical difficulties, I'll put a number of
- 15 questions to you, sir.
- 16 Can you tell us when the sketch was produced?
- 17 THE INTERPRETER: [10:47:02] The witness does not have a microphone on.
- 18 PRESIDING JUDGE FREMR: [10:47:06] Mr Witness, do you have your
- 19 microphone switched on? Because I can't see any light.
- 20 So now please give your response.
- 21 THE WITNESS: [10:47:32] (Interpretation) Thank you, your Honour. The
- 22 question was? Could you please repeat your question. I've forgotten.
- 23 MS RABANIT: [10:47:48] (Interpretation)
- 24 Q. [10:47:50] When did you produce this sketch?
- 25 A. [10:47:53] Okay. Thank you. The sketch is signed by my own hand and it

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- 1 was made on (Redacted)
- 2 Q. [10:48:11] Could you put the figure 1 next to (Redacted)
- 3 A. [10:48:18] Did you say "1" or "A"?
- 4 Q. [10:48:22] 1, the figure 1.
- 5 A. [10:48:30] You're talking about the letter A?
- 6 Q. [10:48:36] The figure 1; 1, 2, 3?
- 7 A. [10:48:40] One, okay. (Redacted)
- 8 Q. [10:48:43] (Redacted)
- 9 A. [10:48:45] Next to it, either left or right. Okay.
- 10 Q. [10:48:53] Could you put a "2" next to (Redacted)
- 11 A. [10:48:59] Affirmative. I have done so.
- 12 Q. [10:49:05] Now, on the screen we can see the little crosses, but as there was a
- 13 technical problem, I want to check that that is indeed where the bodies were found?
- 14 A. [10:49:19] Yes, when I was marking the crosses, it wasn't showing up and now
- 15 it's writing, now it's working. So that is where the bodies were. (Redacted)
- 16 (Redacted)
- 17 Q. [10:49:56] Sir, is there any vegetation (Redacted)
- 18 A. [10:50:09] Yes. There was vegetation there. There were banana plants,
- 19 colocas, and even some fruit trees.
- 20 Q. [10:50:27] The sketch that you see before you, does it reflect reality as far as
- 21 you can recall?
- 22 A. [10:50:41] Affirmative. It is indeed reality that is shown here. And if you're
- 23 talking about the sketch, (Redacted)
- 24 And just below that there are the numerous corpses that were spread on the ground.
- 25 You just don't see the banana plantations (Redacted). And

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1 (Redacted), in the field there were banana trees, \*and at Shanga's place  
2 as well, there were banana plantations there as well, but when we arrived they had all  
3 been cut down.

4 Q. [10:51:25] Thank you, sir.

5 MS RABANIT: [10:51:27] Mr President, I will ask that this annotated version of  
6 this document with admitted into evidence for the Prosecution.

7 PRESIDING JUDGE FREMR: [10:51:35] Defence, any objection?

8 MR GOSNELL: [10:51:37] No objection, Mr President.

9 PRESIDING JUDGE FREMR: [10:51:39] So this sketch annotated by the witness is  
10 admitted into evidence as a further Prosecution exhibit.

11 Ms Rabanit, please proceed.

12 MS RABANIT: [10:51:50] (Interpretation)

13 Q. [10:51:59] Sir, you told us that somebody called (Redacted) had taken photos  
14 on that day. Do you know what happened to those photos?

15 A. [10:52:33] Madam, those photos, your Honours, were collected several times  
16 over. The first person who got in touch with us to know about the events was an  
17 organisation called (Redacted)  
18 (Redacted)

19 And then thirdly, there was somebody from the ICC. And that's what happened to  
20 those photos, they were sent off.

21 Q. [10:53:23] Sir, did you know who developed the film of those photos?

22 A. [10:53:32] Those photos that were taken in 2002 \*-- or rather in 2003, what were  
23 you asking? Oh, yes. As regards the notables from my area, I had just come in from  
24 the Kobu bush, \*and was already in Bunia, these people, and they said to find some  
25 means of getting the photos to them. So I went to Kobu and (Redacted) had given

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1 those photos that were developed by (Redacted). When he got the photos, my  
2 mission was over. I was just a middleman, so to speak, to pass on the message from  
3 the notable to the population. As regards the arrival of the photos, (Redacted)  
4 dealt with it because he knew what he was doing, so he developed the photos, he  
5 sorted the photos because the film wasn't just those events, so he did his business and  
6 he sorted through the photos and they were given by (Redacted) in person to  
7 \*Mr (Redacted), our notable in charge of the community.

8 He was in charge of relations with those people, with the authorities, (Redacted)  
9 (Redacted), because he was the one -- he was in touch with those people,  
10 he was given the photos, he gave them some of them, and when the ICC came then  
11 they used the same photos.

12 Q. [10:56:06] Sir, excuse me. When you're talking about the ICC, can you tell us  
13 what you mean?

14 THE INTERPRETER: In French the witness used the term CPI, CPI.

15 Interpreter's correction.

16 THE WITNESS: (Interpretation) It was the (Redacted)  
17 (Redacted), and there's also the International Criminal Court, which they're  
18 both CPI or ICC.

19 MS RABANIT: [10:56:42]

20 Q. [10:56:43] When you were talking about it, what exactly did you mean?

21 A. [10:56:49] I was talking the investigators of the International Criminal Court.

22 Q. [10:56:55] Had you already seen the photos yourself before -- before you saw  
23 the investigators?

24 A. [10:57:13] Before seeing the investigators, had I already seen the photos? I  
25 saw them when that man got them back from the studio and he sort of showed them

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1 to me in passing, but that's all. He is the one who dealt with it and it was nothing to  
2 do with me anymore.

3 MS RABANIT: [10:57:37] I would like to show a document to the witness. The  
4 document is DRC-OTP-0072-0473.

5 Q. [10:58:34] (Interpretation) Sir, while we're waiting for the document to show  
6 up on the screen, can you give us the name of the man who collected the photos once  
7 they had been developed?

8 A. [10:58:50] I was talking about (Redacted)

9 Q. [10:58:54] He's the one who went to get the photos from the development  
10 studio?

11 A. [10:58:59] No, it was someone else. (Redacted)  
12 (Redacted)

13 Q. [10:59:20] Sir, do you see the document on the screen in front of you?

14 A. [10:59:38] Yes, I can see the photo.

15 Q. [10:59:42] Can you tell us what it shows?

16 A. [10:59:50] What you can see is pretty much three corpses, one of them is on a  
17 mat. The other is at the head of the mat -- or maybe four. And there are two other  
18 people, I don't know whether they came, the man and the woman, with the mat  
19 because that's what the corpses were transported on. So, yes, that's what it is.

20 Q. [11:00:34] Do you recognize anything on this photo?

21 A. [11:00:46] Two, \*maybe four bodies, the events of 2003. That was such a long time ago.

22 Q. [11:01:01] Do you know -- please excuse me. Do you know what event this  
23 photograph refers to?

24 A. [11:01:12] Madam, this photograph shows shika na mukono, the killing that  
25 took place (Redacted). The last event of UPC aggression in Kobu.

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1 Q. [11:01:44] Does it accord with what you saw on that day?

2 A. [11:01:50] Yes, it accords with that. You can see the cut banana trees and leaves  
3 behind the bodies. There's the cut banana plantation, banana trees cut \*with machetes.  
4 You can see the colocas or cocoyam. There's uala (phon) plants. It's that countryside.

5 Q. [11:02:18] Do you know where this photograph was taken?

6 A. [11:02:23] This question, I don't really understand. If the map -- or where  
7 were the photos taken?

8 Q. [11:02:38] Where is the content of this photo? Where was that taken? Do  
9 you know the place shown by this photo? Where was it taken?

10 A. [11:02:49] Yes, (Redacted)

11 Q. [11:02:51] How can you recognize it, sir?

12 A. [11:02:56] Well, I spoke about the trees. You can see a tree behind the man  
13 who is there, papaya. And behind the body which is further down, there's a cut  
14 banana tree. And you can see cut banana trees. There's also a banana tree that's  
15 growing that's been cut. We cut it in that period. And that one hadn't been cut  
16 down. And there are colocas leaves, cocoyam leaves, and uala leaves. And you can  
17 make mats with them. These are leaves, like straw.

18 MS RABANIT: [11:03:47] Mr President, I see that the time is running and I am  
19 not -- I will not be able to complete the examination in the allotted time, and I ask for  
20 your indulgence to maybe go until 11.30 to be able to finish.

21 PRESIDING JUDGE FREMR: [11:04:05] Give me a second. So, so far, according  
22 my information, you used 2.48, even 2.50 maybe now. So you still have 10 minutes.  
23 So you would like to get 15 minutes more? Give me a second, I will consult my  
24 colleagues.

25 (Trial Chamber confers)

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1 PRESIDING JUDGE FREMR: [11:05:01] So, Ms Rabanit, your request has been  
2 rejected because according our opinion, the testimony covers mainly issues that have  
3 been already also covered by previous testimonies. So you will have to finish by  
4 next 10 minutes.

5 MS RABANIT: [11:05:19] Thank you, your Honour. I ask for one minute to  
6 consult with my team, please.

7 PRESIDING JUDGE FREMR: [11:05:26] All right.

8 (Counsel confers)

9 MS RABANIT: [11:05:50] Court officer, I will call the next document, which is  
10 DRC-OTP-0077-0292.

11 (Interpretation) Could the photograph be put in the place?

12 Q. [11:06:36] Sir, do you see the photograph on the screen in front of you?

13 A. [11:06:44] Yes, madam.

14 Q. [11:06:51] Do you recognize anything about this photograph?

15 A. [11:06:57] Yes. These are pictures which show what happened (Redacted)  
16 (Redacted) during the event.

17 Q. [11:07:14] This event, what do you mean by that?

18 A. [11:07:18] Shika na mukono, when people were killed (Redacted). And  
19 you can see that the person has been disemboweled further up and the other people is  
20 naked, just wearing underwear. You can see the arms, well, it's -- as it's been cut, it's  
21 bleeding, it's got blood on it. And here --

22 THE INTERPRETER: [11:07:57] And witness indicates the side.

23 THE WITNESS: [11:08:03] (Interpretation) -- on the right -- on the left side there's a  
24 deep wound with blood. There are leaves that -- of plants that I spoke about earlier.

25 MS RABANIT: [11:08:24] I call the next document, DRC-OTP-0077-0293.

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1 Q. [11:08:51] (Interpretation) Sir, do you recognize what is shown on the  
2 photograph in front of you?

3 A. [11:09:01] Yes, madam. There are corpses which are being looked at by the  
4 people who are identifying members of their family.

5 Q. [11:09:19] Do you know when this photograph was taken and where it was  
6 taken?

7 A. [11:09:25] The same day as the preceding photographs that you showed me.

8 Q. [11:09:31] And where?

9 A. [11:09:35] In Wadza, in Kobu, Wadza village (Redacted)  
10 where 49 people were killed.

11 Q. [11:09:52] And what you see on this photograph, does it accord with what you  
12 saw on that day?

13 A. [11:10:00] It -- this photo, that's it because what I spoke about you can see, you  
14 have the bodies there and the plants. There are naked bodies that can be seen.  
15 Each body is in a position somewhat on top of each other and face to the ground.

16 MS RABANIT: [11:10:37] I will call the next document, DRC-OTP-0077-0294.

17 Q. [11:11:00] (Interpretation) Sir, do you know when this photograph was  
18 taken?

19 A. [11:11:14] Yes, madam. Same thing.

20 Q. [11:11:20] Do you know where it was taken exactly?

21 A. [11:11:25] Wadza, (Redacted)  
22 (Redacted)

23 Q. [11:11:43] Do you know what is depicted in this photograph? Which event?

24 A. Shika na mukono is what it shows for the people who came for the meeting of  
25 pacification and who were bludgeoned with wooden construction sticks which

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1 belonged to me.

2 Q. [11:12:05] In this photo does it accord with what you saw on that day?

3 A. [11:12:17] Yes. It depicts what I spoke about and what happened on that day.

4 You can see the leaves, plants. That's it. You can see that the feet aren't there on the  
5 right side, it's separated from the other limbs -- from the body, excuse me.

6 Q. [11:12:50] I have finished with my questions for the time being, sir. I'd like to  
7 thank you for having answered them.

8 MS RABANIT: [11:13:32] Mr President, I will ask that the last document shown  
9 which is not yet in evidence be admitted.

10 PRESIDING JUDGE FREMR: [11:13:43] Mr Gosnell, any objection?

11 MR GOSNELL: [11:13:47] No objection, Mr President.

12 PRESIDING JUDGE FREMR: [11:14:01] The last picture specified by Ms Rabanit is  
13 admitted into evidence as a further Prosecution exhibit.

14 So you even finished before your time limit. You still have two or three minutes.

15 No need for that?

16 Okay. Even better.

17 So let's move into open session now.

18 THE COURT OFFICER: [11:14:31] From the Defence side, can you please turn  
19 your screen toward us, then the gallery cannot see the picture displayed on the screen.  
20 Thank you.

21 (Open session at 11.15 a.m.)

22 THE COURT OFFICER: [11:15:08] We are in open session, Mr President.

23 PRESIDING JUDGE FREMR: [11:15:11] Mr Witness, I saw your hand. I will give you  
24 the floor, but please have in mind that we are in open session. So, please, you have the floor.

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1 THE WITNESS: [11:15:30] (Interpretation) I'd like to thank you first for this first  
2 part, but I would like to ask you for permission to go to the toilet for a couple of  
3 minutes.

4 PRESIDING JUDGE FREMR: [11:15:42] No problem. We will break anyway, but  
5 we can just -- court usher, please assist Mr Witness.

6 And we will anyway break. We will take our -- you may leave, Mr Witness.

7 (The witness stands down)

8 PRESIDING JUDGE FREMR: And we will take our 30 minutes break, which means  
9 that we will reconvene quarter to 12 and the second session will last until 1 o'clock.

10 So now we break.

11 THE COURT OFFICER: [11:16:19] All rise.

12 (Recess taken at 11.16 a.m.)

13 (Upon resuming in open session at 11.46 a.m.)

14 THE COURT USHER: [11:46:41] All rise.

15 Please be seated.

16 PRESIDING JUDGE FREMR: [11:47:07] We are going to continue with  
17 cross-examination of our witness, which will be conducted by Defence.

18 Before doing that, Mr Witness, I would like to remind you that this Court is governed  
19 by the principle of fair proceedings which, among other things, also means that both  
20 parties should be treated equally, which also means that even you should, regardless  
21 that you have been called by Prosecution, but you should and you are expected to  
22 respond to questions put to you by the Defence in the same way how you did it to  
23 questions put to you by Prosecution.

24 Do you understand that, Mr Witness?

25 THE WITNESS: [11:48:10] (Interpretation) Yes, I do.

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1 PRESIDING JUDGE FREMR: [11:48:12] Very well.

2 Now I hand over the floor to Mr Gosnell. And, Mr Gosnell, do you want to proceed  
3 in open or in private session?

4 MR GOSNELL: [11:48:24] I think at the outset, private session, Mr President.

5 PRESIDING JUDGE FREMR: [11:48:28] Understandable.

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

7 (Private session at 11.48 a.m.) \*(Reclassified partially in public)

8 THE COURT OFFICER: [11:48:43] We are in private session, Mr President.

9 PRESIDING JUDGE FREMR: [11:48:45] Thank you, court officer.

10 Mr Gosnell, please proceed.

11 MR GOSNELL: [11:48:50] Thank you, Mr President.

12 QUESTIONED BY MR GOSNELL:

13 Q. [11:48:55] Good morning. Good morning, Mr Witness. My name is  
14 Christopher Gosnell and I will be asking you some questions today. If any question  
15 is not clear, please feel free to ask me to repeat or clarify, and I'll be happy to do that.  
16 Now, can I start by asking you about the day on which you encountered the  
17 gruesome scene that you have just been talking about in Kobu. Am I correct, is my  
18 understanding correct that you spent about five hours there on that day?

19 A. [11:49:49] That is correct. You fully understood. I spent about, well, almost  
20 half an hour when I got to the place of the horrors, and then I went to find my family.

21 Q. [11:50:09] And from Kobu, am I correct that you went to Lipri?

22 A. [11:50:18] No. From Kobu, I went straight to (Redacted)  
23 (Redacted). They were on the road. (Redacted). And

24 it was only three days later, (Redacted), that I went to Lipri.

25 Q. [11:50:46] And then after you had gone to Lipri, am I correct that you went from

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1 there to Bunia?

2 A. [11:50:57] That is correct.

3 Q. [11:50:57] And you were testifying earlier today about the burial of (Redacted) in  
4 Gutsi and you said, and I'll quote: "I found that out the night before I left the bush in  
5 Gutsi. The enemy had left, for example, like today, and the same day, in the evening  
6 (Redacted) body was brought to us ... and very early in the morning, some people  
7 had left, but we left around 8 or 9 o'clock. And that's when we saw the real reality of  
8 the situation."

9 Do I correctly understand that (Redacted) body was brought to Gutsi and buried  
10 there the day before or the evening before you went down to Kobu yourself?

11 A. [11:52:07] Yes. (Redacted) body was buried the day before the day that I went  
12 to the site of the drama, from Kobu to Gutsi.

13 Q. [11:52:23] And you said it was a solemn burial. Is it an event that you  
14 remember well?

15 A. [11:52:38] I remember. I remember that event very well. In my testimony I  
16 said that in Gutsi there was a market and in Buli there was a market as well, so people  
17 had to seek food and they went from one place to the other. So in Gutsi on that day  
18 it was the market and that's how the message got through the evening before the day  
19 that the body arrived and it was buried at dark and it was the first body to have been  
20 buried amongst all of the others that had been slaughtered.  
21 Many other people were killed during those events.

22 Q. [11:53:34] And the morning after this burial, am I correct that you walked to  
23 Kobu with (Redacted)

24 A. [11:53:54] I wasn't just talking about (Redacted). He was a trader in Buli and  
25 he also did photography, even to this day he does. People were very keen, very

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1 zealous, an awful lot of them went there. And at this scene everyone was looking to  
2 see if they found any family members. And if they didn't, they left. So (Redacted)  
3 and myself we were there in that group, in that crowd of people.

4 Q. [11:54:33] This is someone, am I correct, whom you've known since a young age,  
5 (Redacted)

6 A. [11:54:49] Yes. (Redacted), he is a native and we grew up with him and we  
7 grew up together for some time. I knew him very well, even before the events, even  
8 before the year 2000.

9 Q. [11:55:05] And am I correct that his full name is (Redacted)

10 A. [11:55:19] No. There's a mix-up. Let me correct. His name is (Redacted)  
11 whichever way you put it, but (Redacted) is someone else. (Redacted) is another person.  
12 (Redacted) is the courageous commander, a young man who was in charge of --

13 Q. [11:55:43] Mr Witness, I need to stop you there. I did not refer to (Redacted). I  
14 was referring to (Redacted) and whether he has a third name, which is (Redacted)  
15 (Redacted)

16 A. [11:56:06] No, I don't know him by another name. We used to call him (Redacted)  
17 (Redacted) That's it. The (Redacted) whom I know is someone else, another  
18 courageous young boy who single-handedly confronted the enemy in Buli, that is the UPC.

19 Q. [11:56:30] And you saw (Redacted) taking photographs in Kobu on that day  
20 when you were there for five hours observing the scene of the massacre, correct?

21 A. [11:56:56] Yes, I saw him. Not only there. We were mobile. We went to find  
22 other areas after having contemplated what had happened at that spot.

23 Q. [11:57:14] And by that point am I correct (Redacted) had already been buried?

24 A. [11:57:25] Yes. Yesterday evening, sir.

25 Q. [11:57:29] Can you describe the camera that (Redacted) was using to take these

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1 photographs?

2 A. [11:57:45] I think it must be Kochine (phon) because at that time we didn't have  
3 any other cameras. We had Kochine. But they were older cameras because, you  
4 know, at that time we didn't have any electronic cameras which people can use like  
5 we do today.

6 Q. [11:58:12] And did (Redacted) express to you at that time any concerns about  
7 whether his camera was working correctly, whether he had enough film, whether he  
8 needed film? Do you remember any discussion along those lines with (Redacted)

9 A. Well, what we called the film, well, if he had many films, many rolls of films,  
10 well, I think he would have done so, but he put the photographs together and that  
11 was in addition to other photographs that he had for other clients in his camera.

12 MR GOSNELL: [11:59:11] May we have now, please, (Redacted), which is  
13 tab 2. It's the witness's statement from (Redacted) And I have a hard copy,  
14 Mr President, for your Honours and the legal officers, if that would be convenient.  
15 And I suggest it would be because I'll be pulling up documents at the same time  
16 along with the statement.

17 PRESIDING JUDGE FREMR: [11:59:41] All right.

18 MR GOSNELL: [11:59:51] And I'm also, for the record, providing a hard copy of the  
19 preparation log which I'll be referring to later at some length.

20 THE COURT OFFICER: [12:00:05] Mr Gosnell, could you please precise which  
21 versions of the statement you intend to display? Thank you.

22 MR GOSNELL: [12:00:12] The least redacted version, which I believe is R04.

23 Q. [12:00:34] Now, Mr Witness, I know that your English is perhaps not as good as  
24 your excellent French, so what I will do is I will read from a portion of your statement  
25 in (Redacted) to the Prosecution and it will be translated into French. But you will

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1 also see it on the screen in front of you, just so you understand the procedure.

2 And I'll ask, please, that page 0278 of this document be shown. It's paragraph 50.

3 And, Mr Witness, here you are talking about seeking out the photographs after the  
4 events from (Redacted) and here's what you say at paragraph 50, quote:

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. [12:04:03] Thank you for the question. What I said was that during the war in

23 Kobu, I was in Kobu. When Bunia fell, (Redacted)

24 (Redacted)

25 And I was more familiar with what was happening in Kobu than those \*notables.

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1 He is at number 1, and he was the spokesperson for the community. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted). \*We were working in the studio -- in the lab.

9 That's how they came to (Redacted) who was authorised to process the photographs.

10 When he finished developing the photographs, he sorted the photos relating to that

11 event and set them aside from other photos belonging to the owner of the camera.

12 He handed them over to (Redacted), who was then to hand them over to

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. [12:06:53] That is correct. I told -- I said that the notables needed those

19 photographs for issues that they were interested in.

20 Q. [12:07:07] Did you ask him that in person, face to face, or did you ask him to do

21 that by telephone?

22 A. [12:07:26] The people from Kobu came to get supplies from Bunia in the market,

23 different items, clothing and food items and what have you. They come to get those

24 things from Bunia. So --

25 Q. [12:07:43] Mr Witness, Mr Witness, I'm sorry to interrupt you. You'll find that

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1 some of my questions, unlike most of the questions that were asked by the  
2 Prosecution, can be probably answered by a yes or a no. And this question was just  
3 about whether you asked (Redacted) to take the photos down to Bunia in person, face  
4 to face, or whether you did that on the telephone. And if we can start with a yes or  
5 no, then I can ask follow-ups or not, as is deemed appropriate.

6 So, in this particular case, yes or no, did you speak to him face to face or did you  
7 speak to him by telephone in making this request that he take the photographs to  
8 Bunia?

9 A. [12:08:35] No, I did not travel and I did not speak to him on the phone.

10 Q. [12:08:40] How did you communicate the request that he take the photographs  
11 or the film to Bunia?

12 A. [12:08:58] I asked the traders to tell him to send us the photographs. I sent  
13 people, people in -- human people.

14 Q. [12:09:10] And did he, to your knowledge, actually come to Bunia with the film?

15 A. [12:09:28] I don't have any precision to offer, but what happened is that he sent  
16 the film to the person who was in charge of it, (Redacted)

17 Q. [12:09:58] And from whom did you hear that information?

18 A. Well, the photograph, having already arrived, (Redacted) was somebody with  
19 whom we were in contact all the time. And when he arrived, he was supposed to  
20 report to us.

21 Q. [12:10:18] And in all the years since 2003, which is the year when this transmission  
22 of film allegedly occurred, have you spoken to (Redacted) about whether he in fact  
23 sent such film to Bunia and \*did you also speak to (Redacted)

24 A. [12:10:52] Please, Counsel, repeat your question. There are a number of things  
25 which I didn't hear clearly because of some noises in my ear.

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1 Q. [12:11:08] Have you ever spoken to (Redacted) about whether he actually sent  
2 film to (Redacted) or anyone else in Bunia to have it developed, of this  
3 massacre?

4 A. [12:11:36] I think that it was no longer necessary to ask him that question since the  
5 pictures were already in our possession. Immediately we got the pictures, (Redacted)  
6 worked on them and then handed them over to the \*person concerned, (Redacted).

7 Q. [12:11:59] After 2003, you continued to see (Redacted) from time to time in  
8 Kobu, did you not?

9 A. [12:12:17] Yes, but I hardly went to Kobu because (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 MR GOSNELL: [12:14:04] May we have DRC-OTP-2059-0002, it's tab 25.

22 PRESIDING JUDGE FREMR: [12:14:31] Ms Rabanit.

23 MS RABANIT: [12:14:32] Yes, I'm sorry, your Honour. We think that the conduct  
24 of proceedings decision requires the Defence to first ask permission from the  
25 Chamber to show a -- sorry, I think probably the witness should take off his --

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1 PRESIDING JUDGE FREMR: [12:14:55] I see.

2 Court usher, please assist.

3 Mr Witness, we will have to ask you to take out your headphones for a while.

4 Ms Rabanit, please proceed.

5 MS RABANIT: [12:15:13] For the sake of completeness, and I will leave your Honour  
6 to take a decision on this, the witness has told us that he does speak some English.

7 I don't know the extent of it.

8 PRESIDING JUDGE FREMR: [12:15:23] Yes. Then it will be better to take  
9 Mr Witness for a while out of the courtroom.

10 (The witness stands down)

11 PRESIDING JUDGE FREMR: [12:15:49] Now please proceed, Ms Rabanit.

12 MS RABANIT: [12:15:52] Yes, your Honour. We believe that the conduct of  
13 proceedings decision in its paragraph 140 -- no, sorry, it is paragraph 34, requires  
14 Defence to ask from your Honour the permission to show documents that were  
15 obtained from witnesses. This person that Defence counsel is referring to is not a  
16 trial witness; nevertheless, it is a person that has been met by the Prosecution that has  
17 provided a screening -- or that has been screened by the Prosecution, so we believe  
18 that the same security concerns may apply.

19 And secondly, should your Honour permit the Defence to go forward with putting  
20 this document to the witness, we believe that the document should be put for what it  
21 is, which is not from investigators that are not signed by the person or not read back  
22 to the person. We also think that the information arising from those notes could be  
23 put to the witness maybe without the use of the document itself.

24 PRESIDING JUDGE FREMR: [12:17:13] And when you have for, in this concrete  
25 case, do you envisage any objectively justifiable risk for this concrete person, if the

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1 fact that she was contacted or he was contacted by investigators will be revealed?

2 MS RABANIT: [12:17:35] I will be very candid, I don't have any practical  
3 information, but we do believe that best practices are to limit the amount of  
4 information of who spoke to or collaborated with the Court in the volatile  
5 environment that prevails in this area.

6 PRESIDING JUDGE FREMR: [12:17:52] Thank you.

7 Mr Gosnell.

8 MR GOSNELL: [12:17:56] Mr President, I concede the point that I should have first  
9 sought leave before calling the document. I apologise for that. I do see that's  
10 required in paragraph 34 of the conduct of proceedings decision, so I would now seek  
11 your leave to do that.

12 In terms of whether you should, whether it's appropriate for you to permit the  
13 document to be used, I think there are several reasons why it is appropriate: One, it  
14 is directly salient and directly contradictory to the witness's testimony; two, merely  
15 putting the substance of the matter is not really confronting the witness properly,  
16 because of course the identity of the person making this statement is particularly key  
17 in the witness understanding what's being put to him; third, I think we can say from  
18 the context that the chances of any witness protection concerns arising are extremely  
19 low, and I'm fortified in that understanding by my knowledge that the Prosecution  
20 has shown the, an investigation note that identifies at least one other protected  
21 witness to the witness and I don't think there's anything wrong with that because I  
22 think that those two people are friendly with each other and they know each other  
23 and I don't think there's any doubt that they don't know that each other are witnesses.  
24 So I think when we look at it in that perspective this is appropriate to use and there's  
25 no witness protection concern.

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1 PRESIDING JUDGE FREMR: [12:19:32] Ms Rabanit, any response to that?

2 MS RABANIT: [12:19:44] Your Honour, we think it could be possible to put the  
3 information to the witness. We were not suggesting to not put the identity of the  
4 person, but maybe not the fact that he has been -- he has told this information to the  
5 Prosecution.

6 PRESIDING JUDGE FREMR: [12:20:03] Give me a second, I will consult my  
7 colleagues and we will deliberate.

8 (Trial Chamber confers)

9 PRESIDING JUDGE FREMR: [12:20:39] So I think it's in harmony with our previous  
10 decisions on similar issues. We believe that under current circumstances and with  
11 no real objective risk to the person concerned. At the same time we share that, the  
12 fact that this person or the identity of the person that said something that could be a  
13 source of cross-examination should be put to the witness. So the objection is  
14 overruled.

15 Now, court usher, please bring the witness back.

16 MR GOSNELL: [12:21:47] And just for the Registrar, it's DRC-OTP-2059-0002, tab 25.  
17 (The witness enters the courtroom)

18 PRESIDING JUDGE FREMR: [12:22:23] Mr Witness, could you kindly take your  
19 headphones back.

20 THE WITNESS: [12:22:35] Merci.

21 PRESIDING JUDGE FREMR: [12:22:36] Mr Witness, sorry for the inconvenience but  
22 there was some procedural issue that had to be solved in your absence, so that was  
23 why we had to ask you to leave the courtroom for a while. I thank you for your  
24 understanding.

25 Now, Mr Gosnell, please proceed.

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1 MR GOSNELL: [12:22:50] Thank you, Mr President. And we can turn directly to  
2 page 0005 of this document, which is page 4.

3 Q. [12:23:04] And, Mr Witness, I'm going to read to you a note. It's a recording,  
4 it's not a signed recording but it is a note of information obtained from (Redacted)  
5 And what it says at paragraph 13 is the following. And I'll just say before I start  
6 quoting, for the record, that this note is dated (Redacted)

7 And to situate you, Mr Witness, that's in-between the time that you started your  
8 interview with the OTP and the time that you concluded your interview with the OTP.  
9 And here's what this note says, quote:

10 "When he fled into the bush, he fled with his camera but he stopped taking pictures.  
11 On the day he saw the bodies he had left his camera in the bush and he did not take  
12 pictures of the dead bodies that he saw. He did not take any pictures during the  
13 time he was in hiding or when he went to the village during the war. The first time  
14 he started taking pictures was about a year after the war when MONUC came to his  
15 area and it was safe again to do so as peace had returned."

16 Mr Witness, that is information from (Redacted). Do you know why (Redacted)  
17 would deny having taken these photographs of the Kobu massacre that you say you  
18 saw him taking?

19 A. Well, in fact, I don't know where you got this excerpt from, but I also do not  
20 know how you managed to get the photographs here. These things happened a long  
21 time ago and matters may be confused. But I don't think that this is enough  
22 evidence to say that either myself or (Redacted) or all the others are wrong. This  
23 matter concerned all of us. The truth is that we sent a message to Kobu and we  
24 received the negatives or the films. That's it in relation to these events of 2002/2003.  
25 The ICC only came in (Redacted) and we're dealing here with a statement that was

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1 given in (Redacted). I think what really matters is that the photographs are there.

2 MR GOSNELL: [12:26:34] May we have (Redacted)

3 THE COURT OFFICER: [12:26:54] Could you please precise which version, please.

4 Thank you.

5 MR GOSNELL: [12:26:58] The least redacted version. Thank you. It's tab 1, if I  
6 didn't mention that.

7 Q. [12:27:06] And Mr Witness, this is your own statement -- or I correct myself, it is  
8 a note of information that you provided to investigators. According to this, you  
9 provided the information (Redacted)

10 And if we could focus, please, on paragraph 6, the document says the following:

11 "During his screening, (Redacted) confirmed that he was the person who brought the  
12 film from Kobu to be developed in Bunia."

13 Now, you've firmly denied that here today. Did you in fact provide this information  
14 to the investigator in (Redacted), or is it improperly recorded?

15 A. Well, everybody perceives history differently. However, it is through my  
16 efforts that the photographs came from Kobu to Bunia. I did not take the  
17 photographs myself, either the negatives or the film. I am not the one who took  
18 them to (Redacted) \*or to (Redacted) house and handed them over myself. That's not  
19 what happened. I sent people, I sent messages and they did what they could to bring or  
20 to send the photographs and the film. So the film arrived. (Redacted) processed it and,  
21 after that, it was handed over to (Redacted) who was then supposed to hand it (Redacted)  
22 (Redacted)

23 Q. [12:29:18] I fully understand your answer that that's not what happened. What  
24 I'm asking you is whether this information in this note is the information that you  
25 provided to the investigator of the ICC at that time. Can you recall that?

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1 A. [12:29:46] No, I am not the one who brought the photographs, but I made some  
2 efforts. If you asked (Redacted) he would -- he could easily say that I was the one  
3 who brought the photographs, because I was given the order to make photographs to  
4 ensure that they received the photographs. I took some initiatives and the  
5 photographs arrived, and I think that this is really what matters. It could have been  
6 possible for me to travel, but how was I going to do that? The roads were still  
7 blocked at Barrière and there were roadblocks, there were no taxis, how was I going  
8 to travel for that purpose? So what happened was that the traders who often travel  
9 by convoy are the people whom I used to bring the photographs.

10 Q. [12:30:46] You not only did not bring the film from Kobu, you also did not  
11 entrust the film to (Redacted), which is indicated in paragraph 7. Now, is  
12 that what you told the investigator as well during this interview, or is that incorrectly  
13 recorded?

14 A. [12:31:29] You're talking about the seventh paragraph.

15 Q. [12:31:34] And in particular the specific information provided there, which is  
16 that you entrusted the film to (Redacted). Is that information that you  
17 provided in (Redacted), or is this an incorrect reflection of what you said in (Redacted)  
18 I'm not asking you whether it's true or not because we already know that.  
19 And, Mr Witness, if you can't recall, that's also a perfectly acceptable response, if you  
20 can't remember whether that's the information that you provided during the  
21 interview in (Redacted)

22 A. You said that I could answer or not answer because you said you already knew  
23 the answer. That was the suggestion that was made. But what I said, and I said it  
24 several times, is that all of this goes back many years and there are things that I just  
25 cannot remember and I don't want to invent things. I know that the person, the

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1 person who took the photos was (Redacted) and everybody knew that. And the  
2 message was sent that he had to give the photos. That was something that was said  
3 in 2003. It happened in 2003. 2002 in this instance and taking us through till  
4 (Redacted) I think that was the last deposition that was made. But what is true is that  
5 it was a long time ago and I may not remember, but I can't accept any lies being told.

6 MR GOSNELL: [12:34:29] May we have, and for this, Mr President, I would now  
7 seek leave, in accordance with paragraph 34 of the conduct of proceedings decision to  
8 show a note very similar in form to the one that we just looked at. It's of another  
9 person who is not -- well, I shouldn't say more but I'm seeking leave in accordance  
10 with the previous request.

11 PRESIDING JUDGE FREMR: [12:34:57] So as to the relationship and situation or  
12 protection status of this person you see no difference between those two persons?

13 MR GOSNELL: [12:35:07] It's really hard to imagine that there could be a witness  
14 protection concern, but maybe the Prosecution has information I don't have.

15 PRESIDING JUDGE FREMR: [12:35:13] Ms Rabanit.

16 MS RABANIT: [12:35:17] I'm sorry, I think I missed which document.

17 MR GOSNELL: [12:35:21] It's tab 40. And just so the Prosecution knows, we took  
18 care to redact out one reference in the document that did touch upon confidential  
19 information. So that has been redacted out.

20 MS RABANIT: [12:35:41] Your Honour, we don't have information on practical  
21 security matter and we take note of the ruling that you've just given. We just ask  
22 Defence, as it just has done, to present the document for what it actually is.

23 PRESIDING JUDGE FREMR: [12:35:54] All right then. So you may proceed.

24 MR GOSNELL: [12:35:57] Thank you, Mr President. It is tab 40. I understand that  
25 an electronic version with the appropriate redaction -- and I see it's already there,

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
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13 Am I correct, Mr Witness, you're not talking about here in this courtroom where you  
14 know you are under oath and you must tell the truth and be guided only by that  
15 principle?

16 A. [12:44:40] That is correct. I have taken the oath, I must tell the truth. But if I  
17 don't have an idea, I can just say that I don't remember. So, in order to rectify things,  
18 that that is why I say I don't remember.

19 Q. [12:45:05] But are you saying that it might be justifiable and that you in fact do,  
20 on occasion, say things that are not true as a means to shedding light on justice?

21 PRESIDING JUDGE FREMR: [12:45:23] Ms Rabanit.

22 MS RABANIT: [12:45:24] I object, your Honour. I think it's an unfair question.

23 PRESIDING JUDGE FREMR: [12:45:28] And on what ground?

24 MS RABANIT: [12:45:30] It's argumentative, Your Honour.

25 PRESIDING JUDGE FREMR: [12:45:41] Mr Gosnell.

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1 MR GOSNELL: [12:45:43] Mr President, it's a startling, an important statement that  
2 the witness made and I would like to get to the bottom of what it really means.

3 And, Mr President, it's also relevant to some of the other prior statements of the  
4 witness that we're going to be going through.

5 PRESIDING JUDGE FREMR: [12:46:06] Objection overruled. Please proceed.

6 MR GOSNELL: [12:46:11]

7 Q. [12:46:14] Do you remember my question, Mr Witness?

8 A. [12:46:28] Yes, I think you asked about paragraph 9, if I'm not mistaken.

9 Q. [12:46:35] No, no, Mr Witness, let me remind you of my question. Because  
10 what it has to do with is something that you just said here in this courtroom and what  
11 you said here in this courtroom was, and I quote:

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Now, my question is: Were there other occasions -- have there been other occasions,  
16 have there been occasions in any of your conversations with the Prosecution where  
17 you have in fact said things that you know are wrong but that you said in the  
18 interests of justice?

19 A. [12:47:27] No, sir, I don't remember any such cases. I'm saying many things and  
20 have been saying many things since (Redacted) There are things that I have rectified.  
21 On the very first page I think of this -- this statement, I think it was from (Redacted)  
22 there were names that have been corrected. There was confusion about my name as  
23 well. There are numbers that have been corrected. So I didn't say this for any negative  
24 reason. I said everything in good faith and I'm certainly not trying to destroy your  
25 work. So you've misunderstood. But I think that's all. There are things where I

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1 don't remember and to change this, it's problematic. There are problems where I just  
2 don't remember in some of the recent questions you've put.

3 Q. [12:48:48] Did anyone exert pressure on you at any time to obtain the  
4 photographs that you requested from (Redacted)

5 A. Well, things are put differently. I said that there were the notables. This was  
6 the -- these were the senior people in my \*community when you talk of (Redacted)  
7 (Redacted), there were many people in that category. And as I was  
8 familiar with Kobu and I was in the group from Bunia, I was entrusted with the task  
9 of seeking the photos, to make sure that the photos got through. So you might  
10 understand that those people put pressure on me. Were they asked to put pressure  
11 on me? I don't think so, but people express themselves in different ways. I was  
12 asked to do it, I was requested. You could say I was pressurized.

13 Q. [12:50:17] Were you yourself a member of the FNI in 2003?

14 A. [12:50:30] I answered that question yesterday. I said all the \*Mulendu were  
15 members of the FNI and that committee. I was a member in an unofficial capacity,  
16 and officially I was not.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 PRESIDING JUDGE FREMR: [12:55:46] Mr Witness, please hold on. I have to

24 remind you that what I asked you at the beginning, please limit your responses to

25 questions put to you. And you apparently now are going beyond the limits of this

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1 question.

2 Mr Gosnell, please proceed.

3 MR GOSNELL: [12:56:05] Thank you, Mr President.

4 Q. [12:56:07] Mr Witness, I'm going to refer you to two of your prior statements,  
5 and I won't call them up because the people in the courtroom have them and they are  
6 in English. And the first one is from your statement in (Redacted) which you signed.  
7 And what you said in that statement is, quote:

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Now, Mr Witness, that information that you provided to the Prosecution in your  
12 signed statement was not true, was it?

13 A. [12:57:09] I think I've answered that question. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [12:58:24] And during your interview just last week with the Prosecution, it's  
23 not a signed statement, it's a note of what you said to them, this is what you are  
24 recorded as having said in the middle of paragraph 23.

25 For the record, your Honours, that's DRC-OTP-2099-0379, tab 31, page 7 of the

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1 document, page 0385 ERN, quote: (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [12:59:35] I think that's the same thing as I've already said. I said in this -- on

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [13:01:04] Mr Witness, Mr Witness, I just want to ask you one last question

17 before we break for lunch because that's all we have time for. You spoke about

18 pressure being exerted against you to obtain the photographs. Were any of the

19 people on this page that's displayed in front of you, were any of them the ones who

20 put pressure on you or exerted pressure on you to obtain photographs of the Kobu

21 massacre?

22 A. [13:01:47] Hmm, among those people here? Among these people here, I think

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted) So your question then is --

5 Q. [13:02:58] Do you remember my question and perhaps you could just answer it?

6 A. [13:03:12] This is what you said, from among these people here, did any of them  
7 bring any pressure to bear on you? \*But they were part of the team. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 MR GOSNELL: [13:03:45] Thank you, Mr President. I see the time.

12 PRESIDING JUDGE FREMR: [13:03:48] All right.

13 Ms Rabanit.

14 MS RABANIT: [13:03:52] Thank you, Mr President. I would just like to note for the  
15 record that there is a mistake in the English transcript at page 66, line 5, the line before  
16 the witness is asked: "Those are military positions, correct?"

17 And then he responds: "All of those are military functions." But in the French it's  
18 clear and as we heard it, it's clear that it was with an interrogative sense. And in the  
19 French transcript there is the interrogative mark, not as a flat affirmation as the rest of  
20 the answer confirms. So I just wanted to note that for the record.

21 PRESIDING JUDGE FREMR: [13:04:38] Mr Gosnell, could you confirm.

22 MR GOSNELL: [13:04:40] I confirm.

23 PRESIDING JUDGE FREMR: [13:04:41] All right. So take it as a confirmed. Now,  
24 let's move into open session.

25 (Open session at 1.05 p.m.)

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1 THE COURT OFFICER: [13:05:07] Could you please from the Defence turn slightly  
2 more the screen. Thank you. Thank you.

3 We are in open session, Mr President.

4 PRESIDING JUDGE FREMR: [13:05:18] Thank you. So we will take our regular  
5 lunch break until 2.30. May I just ask for the update on timing.

6 THE COURT OFFICER: [13:05:27] Yes, Mr President. The Defence used so far 1  
7 hour 06 minutes.

8 PRESIDING JUDGE FREMR: [13:05:32] One hour 06. You still have two hours, so  
9 it would be fine. We would appreciate if you could finish this testimony by the end  
10 of the day.

11 Do you see it feasible, Mr Gosnell?

12 MR GOSNELL: [13:05:47] I do see it as feasible, with perhaps a bit more control,  
13 which I will attempt to exert now.

14 PRESIDING JUDGE FREMR: [13:05:54] Good news. All right.

15 So now we break and we will reconvene at half past 2.

16 THE COURT USHER: [13:06:05] All rise.

17 (Recess taken at 1.06 p.m.)

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

19 THE COURT USHER: [14:31:53] All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: [14:32:17] Good afternoon, everybody. Mr Witness,  
22 please take your headphones. I see no changes in appearances so we can directly  
23 continue with cross-examination. Mr Gosnell, private or open session?

24 MR GOSNELL: [14:32:41] Private session, Mr President.

25 PRESIDING JUDGE FREMR: [14:32:42] All right.

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

2 (Private session at 2.32 p.m.) \*(Reclassified partially in public)

3 THE COURT OFFICER: [14:32:53] We are in private session, Mr President.

4 PRESIDING JUDGE FREMR: [14:32:57] Thank you, court officer.

5 Mr Gosnell, please proceed.

6 MR GOSNELL: [14:33:02] Thank you, Mr President. May I request now admission

7 of the document we were just looking at, which is (Redacted) It is

8 incorrectly indicated on our list of exhibits that it's already admitted, but I understand

9 that it is not. And I would also limit the tendering to the (Redacted) that was

10 shown to the witness itself and not the rest of the document.

11 PRESIDING JUDGE FREMR: [14:33:34] Prosecution.

12 MS RABANIT: [14:33:34] Your Honour, may we ask Defence counsel if this

13 admission is for impeachment purposes or for the truth of its content.

14 MR GOSNELL: [14:33:43] It is for impeachment.

15 MS RABANIT: [14:33:47] Your Honour, I don't think that the witness disagreed with

16 the content of the document in itself. He provided clarification, I believe.

17 PRESIDING JUDGE FREMR: [14:34:00] Mr Gosnell, your reaction to that?

18 MR GOSNELL: [14:34:03] I think there were clear contradictions between certainly

19 at least the witness's prior statements and this document, and on that basis in itself

20 I think it does have impeachment value.

21 PRESIDING JUDGE FREMR: [14:34:17] I believe if even the views are different, the

22 main issue now is the view of the concrete party which would like to tender the

23 document. According then it should have some aspects that contradict. It also

24 could depend on further evidence. So the objection is overruled and this (Redacted)

25 is admitted as a further -- into evidence, for the purpose of impeachment, as a further

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1 Defence exhibit.

2 MR GOSNELL: [14:34:52] Thank you, Mr President. May I request that the  
3 annotated version of the sketch which is \*DRC-OTP-2062-0285 be shown, and it is tab  
4 6. But it was annotated by the witness earlier today.

5 Q. [14:35:55] Now, Mr Witness, today you drew on this map and you indicated the  
6 area with the red crosses as the location where you encountered the corpses in Kobu.  
7 Do I have that correct?

8 A. [14:36:20] Yes.

9 Q. [14:36:26] So you did not come across the corpses behind Hotel Paradiso, did  
10 you?

11 A. [14:36:37] No, (Redacted)

12 (Redacted)

13 Q. [14:36:53] And you testified at line one of page 19 of today's transcript and line  
14 12, page 22, of today's transcript that some of the bodies were headless or had been  
15 decapitated. How many were headless or had been decapitated?

16 A. [14:37:34] Thank you. I think the 44 -- or, rather, 49 bodies, that photographs  
17 were \*not taken of all 49 bodies. But I don't have any details as to how many were  
18 headless or decapitated. Some of the bodies were complete, while others were  
19 decapitated.

20 Q. [14:38:04] Now, Mr Witness, I will just ask you to please take a look at the sketch  
21 in front of us and just keep it in mind as I call up the next document, please, which is  
22 DRC-OTP-2058-0217, that is tab 24. And on this document, if we could go to 0222.  
23 And if the left-hand side of the page could be enlarged somewhat, that would be very  
24 helpful. Yes.

25 Now, Mr Witness, this is a sketch and we see an indication of some places on this

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1 sketch, including a rectangle that is marked (Redacted) and we see a rectangle  
2 on the far left here with a cross in the middle of it, which I suggest to you is the  
3 Wadza chapel. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [14:40:13] Yes.

8 Q. [14:40:14] And what this document indicates in a small circle which has -- which  
9 is not fully enclosed, there is a notation saying "alleged mass burial." And then on  
10 the right-hand side of the page - and we don't need to turn that up - it says, "Locals  
11 saying they believe mass burial is in field with squash and maize." And then if we  
12 can just zoom out a little bit we see that there is a little bit further to the -- well, a bit  
13 (Redacted)

14 The question I would like to ask you, Mr Witness, is whether it was you that provided  
15 information suggesting that there was a mass grave in the spot that is marked here  
16 "alleged mass burial." Did you indicate that at any time to anyone from the ICC?

17 A. [14:41:47] At what time, please?

18 Q. [14:41:49] At any time, but it may jog your memory if you focus your mind back  
19 to the occasion when there were people from the ICC who came and visited Kobu and  
20 who were in the process of inspecting the soil to see whether they could find mass  
21 graves.

22 A. [14:42:23] Oh, so that was at the time when they were looking for the mass grave,  
23 yeah?

24 Q. [14:42:33] Yes. Well, let's start with that as a focal point for your memory.

25 A. [14:42:54] Well, I don't have a clear recollection. But what is true is that I was

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1 not involved in their organisations or whatever they did and their deliberations.

2 And the exhumations of the bodies, I did not lend them any support. They came  
3 with their own people from here.

4 Well, the maize that you see and the cassava that you see, that that happened several,  
5 several years after, that was much later. It was not at the time of the events. The  
6 events had taken place in 2002/2003. But what you see here is in relation to (Redacted)  
7 thereabouts. I really don't know.

8 It was well after that time, because we know that when you have a garden, you need  
9 to till it and from time to time you can plant cassava or maize, and that's it (Redacted)  
10 (Redacted)

11 Q. [14:44:28] Mr Witness, did you yourself participate in burying the bodies that  
12 you found in Kobu?

13 A. [14:44:41] I participated in one way or another. There were two teams. The  
14 first team was looking for the dead bodies, that was their contribution. They were  
15 looking for dead bodies all over village. Then there was a second team which was in  
16 charge of burying the bodies that were not ultimately identified, and that is how I can  
17 say that I contributed to the process.

18 Now, there were people who were burying the bodies, including the chief and  
19 a group of people, and then there was another group. And it was all voluntary or  
20 volunteer work, it was not remunerated. So if you were able to do this, you did it.  
21 If you were able to do something else, you did it on the basis of African solidarity;  
22 that is, to mourn with those who are mourning, that is how things happened.

23 Q. [14:45:48] And were you part of the searching team or the burying team that you  
24 have just described?

25 A. [14:46:02] First of all, I took part in the identification, trying to find out who was

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1 there, which bodies had been found. And then, later on, we -- in any event, speaking  
2 for myself, I was more involved in the team that was searching for the bodies.  
3 Now, when it comes to the burials proper, I don't know whether I myself used my  
4 own hands to bury anybody in the graves. In any event, we all had to do what  
5 needed to be done.

6 PRESIDING JUDGE FREMR: [14:46:52] Ms Rabanit.

7 MS RABANIT: [14:46:53] Excuse me, I don't mean to object, but maybe to seek the  
8 clarification of the time period that we are talking about right now.

9 PRESIDING JUDGE FREMR: [14:47:03] Mr Gosnell.

10 MR GOSNELL: [14:47:06] I initially had the same concern as my colleague, but  
11 I think from the context it's rather clear since there is only one time when burials  
12 occur.

13 Q. [14:47:16] Mr Witness, am I correct in understanding that what you are  
14 describing here is the day when you were in Kobu for five hours and you discovered  
15 the bodies there and there was a burial process? Is that the day that you were  
16 referring to in your last answer?

17 A. [14:47:45] Well, the photograph was taken at that time and it is indeed in  
18 relation to the events of that tragic day. (Redacted)  
19 a mixture of bananas and colocasia or cocoyams, and squash and what have you.  
20 All of those things that were visible were there, but there were other items that had  
21 already been cut and which could not be seen and there are a number of other items  
22 which I didn't mention, like potatoes, how do you see them, potatoes, everything  
23 happened in a garden where there were several crops.

24 Q. [14:48:44] Could we have please -- well, actually, we do not have an ERN  
25 number, but it was a document that was disclosed recently and an email was sent

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1 from us yesterday at 21.18. I understand the Registry should be able to produce the  
2 document on the screen.

3 The title is "P-0121 - OTP Statement Notes." And if we could move to page 4 of the  
4 document.

5 Mr Witness, this is not a document that you have seen before. It is a record of notes  
6 that were taken during your -- the first day of your interview (Redacted) which  
7 occurred in (Redacted) as opposed to the final three days of the interview which  
8 occurred in (Redacted). And in these notes -- excuse me, the final four days  
9 which occurred in (Redacted) And in these notes it is recorded as you having  
10 said, and I quote: (Interpretation) "I too participated in the burial of the bodies."  
11 (Speaks English) Is that correct that you were actually involved directly in the burial  
12 of the bodies, at least to some degree?

13 A. [14:50:42] Which paragraph are you referring to, please?

14 Q. [14:50:44] The very first line under the heading "Fosse Commune".

15 A. [14:51:05] I think I also said so -- I already said so. I said that I participated in  
16 the burial of the bodies before the events. (Redacted)  
17 (Redacted)

18 (Redacted) I don't see any contradiction here, sir. That's what is in line with what I  
19 have said.

20 Q. [14:51:39] And what you have said also earlier today at page 26, line 8 is that  
21 several bodies, at least two, were buried (Redacted)

22 (Redacted) Were they laid out carefully in an elongated  
23 horizontal position, or were they dropped into the hole, head first?

24 A. [14:52:25] I think I already answered that question yesterday when such  
25 a question was also put to me yesterday. I think I said that I came and I saw the

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1 dead bodies, many dead bodies, but we did not have to immediately proceed to  
2 burial. We had to wait for family members to come, first of all, and identify their  
3 bodies. And at that time we were waiting and I was in the team of those who were  
4 looking for the other dead bodies.

5 Q. [14:53:03] I am focusing purely on my question and it has to do with how the  
6 bodies, and you have said that there were several bodies, at least two, (Redacted)  
7 (Redacted) And my question for you is: Were the bodies placed into  
8 that grave in an elongated position, laid out, or were they dropped into the grave  
9 head first?

10 A. [14:53:41] Well, I don't have any clarification to provide in that connection.  
11 Some bodies were buried when I was no longer there, I was already in Kobu, in Kobu  
12 downtown and such areas, so I cannot provide you a specific answer. If I have  
13 stated anything else elsewhere, I may have forgotten it. I don't -- I don't remember.  
14 These thing happened a long time ago. But what is true is that during the burials,  
15 we did not seek anybody's authorisations. (Redacted)  
16 (Redacted)  
17 (Redacted)  
18 (Redacted) So that happened, that's  
19 what happened.

20 Q. [14:54:51] Were any animals, to your knowledge, placed in this grave for burial?

21 A. [14:55:14] Is that question for me?

22 Q. [14:55:16] Yes, that is a question for you, Mr Witness.

23 A. [14:55:30] I don't know what I talked about dogs or any other animals being  
24 buried in that hole. I don't know whether I ever said any such thing. However,  
25 that would not be true, that is not true. What is true is that the burial took place in

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1 (Redacted) I was on the other side when it happened.

2 Q. [14:56:02] Now, you have just said that there were, if I understand correctly  
3 your testimony at line 9 of page 80, (Redacted)

4 (Redacted) Is that correct, that you observed or you know that there  
5 were multiple graves with multiple bodies, or were the other graves individual  
6 graves with single bodies in them?

7 A. [14:56:51] Yes, they had -- there were the normal burial grounds or cemeteries  
8 that people used ordinarily in the village and that is where people would be buried  
9 one after the other. In that case, or in the case at hand, we did not have much of  
10 a choice. We needed simply to find a place where the bodies could be put away. In  
11 fact, to hide them from wild animals and from domestic animals so that they should  
12 not eat up the corpses and so that people should not see those corpses decomposing  
13 and to avoid any unpleasant smells and any possibility of disease being spread in the  
14 village.

15 Q. [14:57:56] And you have now told us about the multiple bodies (Redacted)

16 (Redacted) and you have also referred to a burial location at the church.

17 Do you know the locations of any other graves of the bodies that were buried on this  
18 day?

19 A. [14:58:31] Yes, there were some. As I have just mentioned, near the church,  
20 there were also some latrines and other holes around the church, but that was in  
21 relation to the organisation of the church. There were also a number of houses near  
22 the church, but apart from that, we had burial grounds or cemeteries which were  
23 there even before the events.

24 Q. [14:59:03] Mr Witness, let me be absolutely clear. I'm not talking about other  
25 graves in relation to people who were deceased and buried at an earlier time. I am

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1 only asking you about whether you know about the locations, and you have  
2 mentioned two already, (Redacted)  
3 the second being a grave near the church, and what I'm asking you is do you know  
4 about any other locations of graves that were dug for those bodies on that day?

5 A. [14:59:46] No. I think I said something to that effect in the statement which  
6 should provide -- in fact, the person who can give us more details is Chief \*Kpadyeu.  
7 And over time, from 2003 to this day, this man happens to have died without being  
8 consulted, and so all I have said is simply at -- in relation to my own level. I was  
9 traumatised during those events. I wanted to find my, my family. I didn't find  
10 them there so I had to go further into the bush \*towards Bunia to look for my family.  
11 That was my concern, my priority at the time. And that is indeed how I ended up  
12 finding myself at the site of that tragedy.

13 MR GOSNELL: [15:00:49] May we have, please, tab 1, DRC-OTP-0150-0259.

14 And if we could turn to page 2 of the document, paragraph 12.

15 Q. [15:01:29] These are, Mr Witness, the notes that were taken by the Prosecution  
16 investigator during her interview with you in (Redacted), the very first interview with  
17 you. And she observes that you told her, quote: (Redacted) did not participate in the  
18 burial process and had no information neither about the possible location of such  
19 a mass grave nor the number of bodies buried."

20 Now, Mr Witness, you have just been telling us about the number -- or at least two  
21 graves that you know the location of, and about the numbers buried in at least one of  
22 those two graves. Why did you tell the investigator in (Redacted) that you didn't  
23 know about the possible location of such a mass grave nor the number of bodies buried?

24 A. [15:02:48] I think that there's always been a difference in interpretation. There  
25 are also misunderstandings, perhaps. I always said, and above all, if I had denied

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1 how the bodies, how could the bodies have been found and excavated, I think it's  
2 with my agreement and that of many other people as well. I think that's all I can say.  
3 There are certain things that I have corrected and I apologise. I didn't say that I did  
4 not know where the mass graves were. I can't know where they all are, but I know  
5 what I know. So I know that there was (Redacted) I  
6 know that for my community it has become a tomb, a grave and it is referred to  
7 legally as a mass grave.

8 MR GOSNELL: [15:04:19] May we have DRC-OTP-0072-0473, tab 7. And the least  
9 redacted version possible would be desirable.

10 PRESIDING JUDGE FREMR: [15:04:36] And in this connection, because we always  
11 used to solve this problem, so I think that normally should be always use the least  
12 redacted version. If not, please let us know, otherwise I will take it as a -- as  
13 self-evident that we will use the less redacted version.

14 MR GOSNELL: [15:04:57] Thank you, Mr President. That is well understood.  
15 Unfortunately, this not the least redacted version.

16 I think the Prosecution in fact used the version without the cut-out squares, so it is  
17 apparently available.

18 Yes, thank you very much.

19 Q. [15:05:39] Now, Mr Witness, you were shown this photograph and several other  
20 photographs today, and you indicated in respect of these photographs, in general,  
21 that they, in fact, depicted the scene that you came across in Kobu on the day in  
22 question that we have been discussing; is that correct? You recognise on this  
23 photograph the scene as you encountered it on that day?

24 A. [15:06:28] Yes, I think I've already answered that question. This is what  
25 happened on the occasion of those events. And I explained that you can see the

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1 bodies, one on a mat, the others on the ground, \*I think it is these men and women  
2 there; they are gazing at those bodies. And you can see the felled banana trees.

3 Q. [15:07:12] My question was more by way of confirmation of what you have  
4 already said, and you have now confirmed it and I thank you for that very much.

5 Now during in your statement, which I am not going to bring up, but those in the  
6 courtroom have a copy of it, at paragraph 54, here is what is recorded as your reaction  
7 when you were shown this photograph during your interview in (Redacted) and I  
8 quote: "I do not know if I have seen this photo before. (Redacted)

9 (Redacted)

10 (Redacted)

11 Your statement does not say that you recognise this picture as depicting what you  
12 encountered in Kobu on that day. Is there any reason why you didn't say that in  
13 respect of this picture when you were being interviewed by the Prosecution in (Redacted)

14 A. [15:08:32] Saying that I hadn't noticed this photograph?

15 Q. [15:08:39] No, what is recorded in your statement which you read over and  
16 which you signed to indicate that it was truthful and accurate, is that you recognised  
17 (Redacted)

18 (Redacted) But

19 you make no reference to this having been the scene as you saw it when you came to  
20 Kobu and encountered the bodies. Is there a reason why your statement does not  
21 record you having said that, or why you did not say that in (Redacted)

22 A. [15:09:31] Counsel, it is not possible for me to say everything. When I came,  
23 there was a crowd, there were a lot of people who were coming and going. These  
24 people here, they were on their way back and I couldn't say to them, "Come with me"  
25 when I left. They came when they came and they did what they did. You can see

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1 the banana tree that I was talking about, the papaya tree, all of the plants that I was  
2 talking about. I think it is pretty clear. The event shows what happened (Redacted)  
3 (Redacted) and the photos were taken from my village by people from my village. It  
4 is not something that I have invented myself or I created myself. This portrays,  
5 depicts what happened, the events that occurred (Redacted).

6 MR GOSNELL: [15:10:36] May we have DRC-OTP-0077-0294.

7 Q. [15:11:07] Mr Witness, you likewise said that this photograph depicted a scene  
8 that you had witnessed, that you remember having witnessed. When I say you  
9 likewise said that, you said that during your testimony today. In your statement, at  
10 paragraph 54, when you were shown this photograph, you said, quote: "I have not  
11 seen this photograph before. The vegetation is similar to the vegetation growing in  
12 (Redacted) Kobu."

13 Mr Witness, I suggest to you that if this indeed is a photograph that you can say from  
14 your recollection is a scene that you actually saw, as striking as it is, that you actually  
15 saw in February of 2003, then you would have said during your interview in  
16 (Redacted) that that was the case, wouldn't you?

17 A. [15:12:31] Yes, I would have said that. If I had to say any such thing about the  
18 photo, then I would have said that. But there wasn't just three or four photos, there  
19 were many bodies, some bodies that were not photographed and others that were. I  
20 said that I couldn't say everything. I wasn't the only person to have seen all of this.  
21 People see things in their own way, the bodies, the corpses, and when we sorted  
22 through the photos, I wasn't given my own copies. There are some things that I can  
23 say readily, that gives an idea, but I can't remember absolutely everything like that.  
24 There were so many bodies, there were many people. There's nobody next to this  
25 corpse. Can you see anybody, someone on the left-hand side of the screen? Is that

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1 a man?

2 So I'm sure you can understand my emotion.

3 Q. [15:14:06] Yes, certainly, Mr Witness. But what is noteworthy from your  
4 statement in (Redacted) and what I'm asking you about, is the basis for your  
5 recognition of this photo as expressed in that statement is the fact that the vegetation  
6 is similar to the vegetation (Redacted) in Kobu. Is that the  
7 basis on which you conclude that this photograph is indeed of the location where you  
8 came across the bodies in Kobu in February 2003?

9 A. [15:14:58] There are two things, three in fact. First of all, it's the plant just  
10 above the body, towards the top; I am trying to see this. There is a cut banana tree  
11 a couple of centimetres from the body, the middle of the screen. You can see the  
12 leaves, and the plantain that looks like maize, sugarcane and other plants that I have  
13 referred to recently. So that's the first thing, the things that I have already spoken  
14 about.  
15 Secondly, people who came with the photos, they said these are the photos that we  
16 took on that day. And I think that's all. Those two things were enough to convince  
17 me that these photos came from my community and questions were asked concerning  
18 the photo. So that's what I can say by way of an answer. So those two things  
19 reassure me on this score.

20 Q. [15:16:50] Who are you referring to when you say that people came with the  
21 photos? Who was it who provided you that information that these were indeed the  
22 photographs of the Kobu victims? Can you recall that?

23 A. [15:17:08] Yes. The film came from Kobu. When we asked for the film, when  
24 they were talking about this event, and from the film we extracted a number of  
25 photos. I think there were a lot of photos in the roll of film, 36 photos must have

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1 been included, and we took from them a few and others went \*elsewhere with  
2 Ntumba Luaba or (Redacted) and so on and the team from here.

3 Q. [15:17:51] Mr Witness, I am focusing specifically on the issue of the identity of  
4 the people who came with the photos that you have referred to at line 2 of page 88.  
5 And they are the ones who you say said "These are the photos that we took on that  
6 day."

7 Now, can you tell us the name of the person whom you had in mind when you made  
8 that statement?

9 A. [15:18:23] I no longer remember. I no longer remember, Counsel. It's not  
10 something that has occurred recently. It was a long time ago. These are things that  
11 one forgets.

12 MR GOSNELL: [15:18:50] I am done with this document for the moment,  
13 Mr President.

14 Q. Mr Witness, I would like to move on to ask you about the pacification meeting  
15 and I would like to quote from your statement in (Redacted) paragraph 35.

16 And for the record that is DRC-OTP-2062-0265, at page 0274.

17 And, Mr Witness, this is what you are recorded as having said and what you signed  
18 as being true and correct in 2003, and I quote:

19 "Before the meeting, the people of Gutsi heard, on the Motorola, that the pacification  
20 meeting was a trap. They tried to warn the people of Buli not to go. I would  
21 sometimes listen to that radio myself, but I heard this particular piece of information  
22 from (Redacted), who was based in  
23 Buli, to warn the people of Buli not to attend the meeting."

24 Now, I'll just stop there for a moment, because throughout your testimony you have  
25 referred to a person called (Redacted) as being the person who was listening to the

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1 Motorola radio set. For example, at page 6, line 23. Was it (Redacted)

2 who was the person listening to the radio set?

3 A. [15:20:53] There are corrections. I think in the statement, I think I was talking  
4 about (Redacted), and I spoke about many things.

5 His name was (Redacted). There are a lot of names.

6 Q. [15:21:29] In any event, the name doesn't matter very much, but what I am  
7 focusing on is to ensure that this is the same person, when you refer here in this  
8 paragraph to (Redacted) that's the same person who you are referring to in your  
9 testimony as (Redacted); is that correct?

10 A. [15:21:56] Yes, that's right.

11 Q. [15:21:59] And what it says here in the sentence I have just read is that  
12 (Redacted) to warn the people of Buli not to attend the meeting."

13 And then it goes on, (Redacted) travelled to Buli to deliver this message personally."

14 You seem here, Mr Witness, to be saying in your statement that (Redacted) actually  
15 told (Redacted) this information, is that correct, about what they had captured on the  
16 Motorola radio set?

17 A. [15:22:52] First of all, he sent a message to tell people in Buli, it was (Redacted)  
18 because (Redacted) was with us in Gutsi. He sent the message and then he followed  
19 on afterwards. He left when others had already gone to the meeting to do with the  
20 ceasefire.

21 Q. [15:23:24] And you said in your statement that he told (Redacted) this  
22 information. So do I understand correctly that he communicated this information in  
23 person or did he communicate by some other means this information?

24 A. [15:23:47] I said that they had their means of communication, which means that  
25 he sent a young man, who is more flexible and faster, to go and tell the people, not

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1 just (Redacted), but he wasn't the only one who was to  
2 be found there. So, first of all, he sent the young man and then he went afterwards as  
3 well and he found that the others had already gone because people were starting to  
4 go, the second or third day they were going to Ngabulo. \*And when those people  
5 left -- in fact, Gombili, for example, he is our child, and anyhow he went and he came  
6 back in the evening and then he went the next day and we went through -- right  
7 through to Kilo \*and showed him the arsenal. It was a process and it wasn't really  
8 a proper organisation of peace, it \*would have been a more lasting peace.

9 Q. [15:25:16] Did the young man who was faster and more flexible actually convey  
10 that information to (Redacted), to your knowledge? By "that information," of course  
11 I mean the information that was intercepted over the Motorola that the pacification  
12 meeting was in fact a trap.

13 A. [15:25:49] Well, I have to say here that I wasn't reassured, because when he got  
14 that message he had to set out his position. I was in Buli and I suffered for a long  
15 time. And can I follow the pacification meeting? Well, it was up to him to decide,  
16 or he says, "No, my brother said that I shouldn't go and that I don't go." Third  
17 version, it actually didn't happen, it didn't get there in time. In other words, he  
18 didn't get to hear of it. I didn't see (Redacted) after that, only at the moment of his  
19 burial.

20 Q. [15:27:01] I was just checking the French transcript and one clarification in  
21 respect of your answer: Did you -- I understand that you did not hear from  
22 (Redacted) whether the information had been conveyed, but did you hear from  
23 anyone else, for example, the young man who had been (Redacted)messenger or from  
24 (Redacted) himself, that in fact the information had been communicated to (Redacted)  
25 Did you hear that?

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1 A. [15:27:54] Did I hear whether (Redacted) had received that information? I don't  
2 remember. But maybe I can tell you about people like (Redacted) got the  
3 information and that was what everyone deplored. He got the \*information. \*He said he  
4 had already done 50, that is half of 100 or half a century. Even though that is not in the  
5 statement, he had to go because he wanted peace for themselves. Well, he had already spent  
6 (inaudible) in the world, and he was going to die. But he left. And so he was aware.

7 THE INTERPRETER: [15:28:26] Could the witness be asked to repeat his answer again, please. The interpreter has lost the thread.

8 PRESIDING JUDGE FREMR: [15:28:38] Mr Witness, sorry, could you start your  
9 response again because it was not captured by the interpreters. Sorry for that.

10 THE WITNESS: [15:28:49] (Interpretation) This is what I said: The question was asked  
11 about (Redacted). So I said (Redacted) didn't tell me that he had  
12 got the information, but he was found dead among the people who had gone to the meeting,  
13 the pacification meeting. People were tired of the war, there were people who had heard the  
14 message and despite that they went because they really needed peace. (Redacted)  
15 (Redacted) he went. A lot of people said to him, "Don't go, don't go." But he went.  
16 That's an example that shows that there were people who heard the message, they got the  
17 message, but they were so fed up with the war that they said maybe this is the way out and  
18 they went. But (Redacted), I never saw him again because he went to the meeting, the  
19 meeting wasn't held and (Redacted) was only seen again as a corpse.

20 MR GOSNELL: [15:30:47]

21 Q. [15:30:47] Was (Redacted) a militia leader? Was he part of the combatants, the Lendu combatants?

22 A. [15:30:57] Yes, yes.

23 Q. [15:30:59] And aside from the Motorola set that they had in Gutsi, did anyone  
24 else who was a Lendu combatant possess Motorola radios, to your knowledge?

25 A. [15:31:18] No. We did not have any radios. It is only the enemy who had

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1 radios.

2 Q. [15:31:28] Did (Redacted) have a gun?

3 A. [15:31:43] (Redacted) Well, we are talking about a weapon? You are talking  
4 about firearms, or are you talking about bladed weapons such as machetes, and  
5 stones? Are you talking about firearms or bladed weapons?

6 Q. [15:32:03] Firearms, Mr Witness, because -- and I think I can just jump to the end  
7 by saying that there has been substantial -- there is substantial information that in fact  
8 the Lendu combatants were rather well armed, that they had many guns, they had  
9 many rifles, that there were commanders, battalion commanders, that there was  
10 a chain of command, and that this all existed in February 2003, including based upon  
11 resources that were obtained from the APC. That's all true, isn't it?

12 PRESIDING JUDGE FREMR: [15:32:41] Hold on, Mr Witness. Ms Rabanit.

13 MS RABANIT: [15:32:43] Yes, I object to the form. I believe that this is put in  
14 a form of a statement from Defence counsel and it should be put in the form of  
15 a suggestion to which the witness could agree or disagree.

16 PRESIDING JUDGE FREMR: [15:32:56] Mr Gosnell.

17 MR GOSNELL: [15:32:58] Well, I was trying to save time and --

18 PRESIDING JUDGE FREMR: [15:33:02] But I am fine with that, because you said  
19 that we had or we have information, we don't have what is the source of the  
20 information, whether the information is truthful or not, so I think it is the same  
21 proposal, in my view. So please proceed.

22 MR GOSNELL: [15:33:18] Well, I will definitely defer to your Honour's wisdom on  
23 the propriety of my question, Mr President.

24 Q. [15:33:28] Do you have my question in mind, Mr Witness, or shall I try to repeat  
25 it?

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1 A. [15:33:35] Please, kindly repeat.

2 Q. [15:33:37] During your testimony, and I will frame it like this, you said  
3 that -- and this is page 83, line 7 of yesterday's testimony, in response to my learned  
4 colleague's question about whether there were any training centres for Lendu  
5 combatants, you said, "Was there really a training centre to cut with a machete or to  
6 throw stones? I don't think there were." And what I am suggesting to you is that in  
7 fact the Lendu combatants were well armed, they possessed firearms, they had guns,  
8 they had many men with guns, and they had a structure of organisation in  
9 February 2003. That's true, isn't it?

10 A. [15:34:37] Yes, there were organisations. I have talked about what happened in  
11 Buli. There was a raid \*on a certain day. (Redacted) did it single-handedly when  
12 he was barred from using a rifle, and his chief (Redacted) told him, but he was heady  
13 and unfortunately took it upon himself to proceed, and to some extent it distracted  
14 the enemy. So he would strike and then go to another position and so the enemy  
15 was under the impression that there might have been many people who were reacting  
16 to the attacks of the UPC. So there were organisations such as the organisations of  
17 Maître Kiza, but those are not people from Kobu. I told you that yesterday and  
18 I was being almost taken out of topic, but the President brought things back to order  
19 and I explained. So I hadn't been asked to talk about the organisations in  
20 Kpandroma, Mahagi, Katanga and what have you. There were organisations in all  
21 areas.

22 Q. [15:36:07] And I think you have just alluded to this. It is correct, is it not, that  
23 there were elements of the APC from Mongbwalu that came and joined the Lendu  
24 fighters in the area around Kobu during shika na mukono?

25 A. [15:36:44] Well, are you saying that the APC, the government army, at the time

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1 joined Lendu combatants to fight against the UPC, is that what you are saying?

2 Q. [15:37:01] Not all of them, but elements and elements that were well trained and,  
3 in some cases, well armed, armed, left the APC and joined the Lendu combatants?

4 That's correct, isn't it?

5 A. [15:37:23] That is correct, but not necessarily in Kobu. That happened in  
6 Mongbwalu, which is heterogenous. Kobu is homogenous. In Bunia, there were  
7 organisations as well and that is what you may have seen on the photographs that  
8 you showed me before. These are people who used to work elsewhere previously.  
9 They could have gone wherever they wanted to go. So the APC -- well, there was  
10 a negotiation with the APC who understood upfront that they were fighting against  
11 the Lendu people for nothing. That is the first thing. And I said this yesterday as  
12 well. So we did not organise ourselves into a common front against anyone.  
13 However, unfortunately, we had been chased and the APC, their leader was called  
14 Papy, he went to the North Kivu with all the material and so all those who remained  
15 could either go to Bunia or to Mongbwalu, and that's why you don't see their names  
16 there. You only see the names of the Lendus. However, I agree with you that they  
17 were there, yes.

18 However, not in Kobu. I am from Kobu and I am focusing on Kobu.

19 Q. [15:38:52] And you said during your testimony at line 14 of page 81 yesterday  
20 that "The Lendu suffered aggression and as a counterpart we had to carry out  
21 a counter-attack. That's what you would call legitimate defence, legitimate defence."  
22 Did Lendu forces ever commence attacks against villages, to your knowledge?

23 A. [15:39:42] Well, you are putting your question to me in English and I am  
24 listening to you in French. So let me see if I have understood you clearly. You are  
25 asking whether at that time the Lendus also started to attack people of the UPC; is

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1 that correct? Maybe the interpreter can help me to understand.

2 Q. [15:40:03] Let me specify my question a little bit more narrowly. Are you  
3 aware of any occasions when Lendu forces attacked villages and killed civilians?

4 A. [15:40:24] Lendus attacked Hemas? Now you are talking about tribes.  
5 Lendus attacking Hema and killed civilians where?

6 PRESIDING JUDGE FREMR: [15:40:35] Mr Witness, I believe that you are not clear  
7 of the question. The question was a bit different. It was not about the ethnics, the  
8 question was whether Lendu combatants killed civilians is the core of the question.

9 THE WITNESS: [15:40:55] (Interpretation) Well, whether they killed civilians or  
10 whether I was aware of it or I learned about it?

11 PRESIDING JUDGE FREMR: Exactly.

12 THE WITNESS: (Interpretation) Well, on the territory of Lendu combatants or on  
13 enemy territory? Because he talked in terms of attacks or aggression.

14 Now, if it is in general terms, what I can say is the following: Somebody comes to  
15 your area, wants to kill you and to steal from you. I think you can arm yourself as  
16 best you can, as you seek to defend yourself against the attacker who has come to  
17 your place.

18 At that time then you might lose people, you might lose property, but if you are  
19 strong enough, you might be able to chase them out, but this can result in loss of  
20 human life and in loss of material or property as well. That is how the Lendu  
21 combatants also killed some Hema.

22 So it was very complicated for us, for our combatants. Because we did not have any  
23 problems with other people. We had problems only with one single community and  
24 within that community there were vulnerable people. You could not shoot at an old  
25 person or an elderly person or a child for nothing. But again, these things can

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1 happen. You might even have a stray bullet. But the issue was very complicated,  
2 as complicated as the war in Mongbwalu. You see, it was a heterogenous area and  
3 there were various communities and tribes there. But when it came to the enemy,  
4 they struck at everyone. They killed, they killed. Even some Hemas, they killed  
5 even some civilians.

6 Q. [15:43:23] Is it true or not true that there was a large scale attack by Lendu forces,  
7 mainly in the guise of the FNI, on Drodro and Largu in April 2003 in which many  
8 civilians were killed? That's correct, isn't it?

9 A. [15:43:58] Hema civilians?

10 Q. [15:44:04] Hema or other ethnicities.

11 A. [15:44:07] But not Lendu?

12 Q. [15:44:10] Mr Witness, the ethnicity of the victims --

13 A. [15:44:10] Well, thank you.

14 Q. [15:44:12] -- is not relevant to the question. The question that I am asking you,  
15 and surely you have heard of Drodro and Largu and surely you have heard of the  
16 attacks on these places in April 2003, have you not?

17 A. [15:44:30] First of all, I think that there was a group from Masumbuku, from  
18 \*(inaudible), people from everywhere. So this is clear, there were Lendu combatants  
19 everywhere where you had Lendu villages. There were Hema villages in Lendu  
20 villages. So I -- I cannot be certain, but I cannot confirm anything. I was in Kobu  
21 and Largu was very far away. I cannot provide you with any specifics. Now, I  
22 might have learnt something, but I don't know whether I am in a position to confirm  
23 anything today.

24 What I can say, however, is that there were clashes, but you know, charity begins at  
25 home. And MONUC massacred some of our people at, well, \*Logan, and that was

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1 different from the Hema and Lendu combatants. It was in relation to the death of  
2 \*nine people from \*Bangladesh at the lake, very far away there. And then you know  
3 also that children at the \*Logan primary school were also killed. That's a problem  
4 that was raised by the government several times, but it has never been solved.

5 Q. [15:46:14] Mr Witness, in respect of my question, which was about Largu,  
6 you've just said at line 24 to 25, "I might have learnt something, but I don't know  
7 whether I am in a position to confirm anything." Does that mean that if you have  
8 only heard something as a matter of hearsay you don't think you are in a position to  
9 confirm it or to express it in this courtroom?

10 A. [15:46:47] No. Whatsoever I heard I can talk about, if I have not forgotten it.  
11 However, you talked about Largu. You talked about Largu. And, for me, Largu  
12 was the base for the militia, Hema militia. So if something happened, I don't know  
13 when, but what I know with greater detail is that in Djailo (phon). Djailo is in the  
14 Lendu community, people were killed there at a field and this was mentioned during  
15 the pacification \*meeting.

16 So that's what I heard. But I don't want to talk about what I heard, I want to talk  
17 about what I saw myself and that's why I am focusing on Kobu. And again, these  
18 things happened a very long time ago and once again I am really sorry if what I say  
19 appears to be incoherent. However, what is true is that there are several testimonies  
20 to the fact that it is true that these events took place.

21 MR GOSNELL: [15:48:12] May we have DRC-OTP-2062-0285 once again, please.

22 Q. Now, Mr Witness, while this document is coming up, I can ask you a couple of  
23 questions already. And it concerns your statement today at page 15 about houses in  
24 Kobu being destroyed. Can you tell us in Wadza and Kobu what percentage of the  
25 houses were destroyed, either by burning or other means?

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1 A. [15:49:16] Well, a lot of houses were destroyed, many of houses were  
2 destroyed, paille as well -- or, rather, houses in thatch, they were -- they were torched.

3 And, as you can see, there was significant loss of houses.

4 Q. [15:49:35] Are you saying that it was only the thatched houses that were  
5 burned?

6 A. [15:49:46] That's not what I said. I said the thatched houses were in more  
7 remote areas. They were burnt wherever they were located. And this would be in  
8 areas such as Katwa and in the periphery, maybe 5 or 10 kilometres from here or up  
9 to 20 kilometres. Everything was torched. And so for the houses that were along  
10 the roadside, their roofs were taken off and they were destroyed.

11 Q. [15:50:28] Using this chart or this map that you drew as a reference point, can  
12 you tell us which houses on this drawing were destroyed, by one means or another?

13 A. [15:51:10] Well, you now have to consider the place where the survivors were  
14 lodged. There were areas -- that was an area that was guarded by some people.  
15 Those houses were used by the enemy for -- as their temporary residences and that is  
16 why those houses were not immediately destroyed because they were useful to them.  
17 (Redacted) And, as you can see, there was another house, a storey building, but it  
18 was simply slightly damaged, it didn't collapse.

19 Anyway, your question was which houses were destroyed in that area. And, well,  
20 those houses had been useful to those people, but you can see there is a chapel, but if  
21 you go to Tchudja and to other areas which I talked about, (Redacted) destroyed.  
22 But that's not up to a kilometre from here, just about 500 or 600 metres from this other  
23 house.

24 Q. [15:52:34] I understand your explanation for houses on this map not having  
25 been destroyed, the fact that according to you the UPC found them to be useful. Do

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1 I understand your explanation correctly?

2 A. [15:52:56] Yes, thank you, that's what I said.

3 Q. [15:53:02] And once they had no further use for these houses such as when they  
4 were leaving Kobu, did you learn why they didn't at that time burn down the houses?

5 A. [15:53:22] I think I said this already at some point. It's because they had to  
6 leave quietly or discreetly, so destroying that house with weapons or burning it down  
7 could have drawn people's attention to what was going on. That's one.

8 Secondly, or thirdly, they did not have time. The message arrived quite abruptly:

9 "Return quickly. Bunia has fallen. Come and reinforce the team." And that's why  
10 they had to leave promptly. None of them stayed back. They all left. They didn't  
11 go through Bambu. They went through Kilo, Nyangarai and then on to Bunia.

12 Those who were in Mabanga went from Mabanga directly through Barrière to Bunia.

13 Q. [15:54:27] Why did the UPC forces have to leave quietly or discreetly?

14 A. [15:54:42] Because their project on Kobu had failed and they needed to go back  
15 and reinforce their group so that Bunia would not fall. But finally Bunia fell to the  
16 hands of the Ugandans, although they had been reinforced by Rwandans. All that  
17 remained was the airport.

18 Q. [15:55:04] Now you said that after -- earlier today, that after you left Kobu you  
19 went to (Redacted) and then after (Redacted) you went to Lipri. What was the  
20 condition of Lipri in terms of houses having been burned? Were any houses burned  
21 there in Lipri?

22 A. [15:55:32] In Lipri? You are talking about Lipri, not Kobu?

23 Q. [15:55:38] I am talking about Lipri, where you went, according to you, after  
24 Kobu (Redacted). You do confirm you went to Lipri after you left Kobu and then  
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. [15:56:10] And what percentage of houses in Lipri had been burned down,  
4 according to you, if any percentage at all?

5 A. [15:56:28] Many houses were burnt down in Lipri, but not at the time of the  
6 shika na mukono. It was before. Well, you see, when we went to Gutsi, some  
7 people remained in Buli, Ngotu, in \*Ango and in Lipri, and so Lipri was torched, or  
8 part of it before, although some houses were still standing. People were quite  
9 courageous and if a house was destroyed, they had to quickly build another one in  
10 order to continue living. Even in the market, when the houses were -- when the  
11 buildings in the market were burnt down, people would build other buildings up.

12 Q. [15:57:26] So you are saying the buildings around the Lipri market were burned  
13 down?

14 A. [15:57:44] Yes. Yes, there were some changes. You see, the stores and sheds  
15 in the market are there, then these are trading facilities. Once they were destroyed,  
16 others were built. I don't know whether you remember this, but I talked about six  
17 months, for six months during which people could not sleep because the enemy was  
18 present in the city. So that's what separated the effacer le tableau from shika na  
19 mukono.

20 Q. [15:58:20] So on the occasion, and I want to just confirm this, I want to make  
21 sure that we're clear, on the occasion that you yourself passed through Lipri, you  
22 observed widespread damage of houses having been burnt down; is that correct?

23 A. [15:58:43] Yes. Yes. Some places were totally burnt, others were partly burnt  
24 and others were not torched, particularly those areas that were used as residences for  
25 those who in a rotating manner had occupied the area.

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1 Q. [15:59:08] And the houses that were destroyed by burning, was there any  
2 distinction between thatched roofed houses that were burnt and houses that were  
3 more solid, in terms of the houses that were destroyed?

4 A. [15:59:31] Oh, so that's another question, whether houses with roofing sheets  
5 had been destroyed. Yes, houses with roofing sheets had been destroyed. If there  
6 was any such house, it would -- it would be a bit burnt if the next house had been on  
7 fire. So there were other areas where a number of houses were also burnt. Some  
8 other houses which were a little more solid, what happened was that the roof would  
9 be destroyed, the roofing sheets would be destroyed, or the doors or the windows  
10 will be destroyed. That was some kind of sabotage.

11 Q. [16:00:18] Are you saying that none of those more solid houses were burned?  
12 They only had the sheeting for the roof and the doors stolen?

13 A. [16:00:45] Is that what I said? No, I didn't say that. I said that if there were  
14 houses with roofing sheets, these are the houses that are referred to as solid houses.  
15 It is not solid because they are built in brick, but because they are built in poto poto,  
16 so though at those type of houses, and if it was noticed that it was complicated to  
17 destroy that type of house quickly, then the houses in thatch will be torched and the  
18 houses next to those would catch fire as well. They also may have used petrol or  
19 mats, mats which can quickly burn if they have roofing sheets. And if you use those  
20 mats they would light up quickly and they would burn down the woodwork in the  
21 house and then that's how the house would be destroyed.

22 Q. [16:01:49] So there was widespread fire damage in the centre of Lipri when you  
23 were there, correct?

24 A. [16:02:02] I was just passing through Lipri. I said that I left Gutsi, I spent  
25 (Redacted), and then I transited via Lipri. I didn't spend the night in Lipri, I went

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1 straight up to Bunia. I didn't spend the night in Lipri and that's why I just saw the  
2 centre of Lipri and along the road and that's all.

3 Q. [16:02:39] Aside from the pressure that you say was exerted on you in respect of  
4 obtaining photographs, were you ever pressured to find witnesses to the events in  
5 Kobu and bring them to the attention of, for example, the Lendu notable?

6 A. [16:03:22] You are asking whether I was under pressure to find witnesses who  
7 were to testify to what where? Please could you repeat that, I didn't quite catch it.

8 Q. [16:03:36] Let me put it more neutrally, were you ever asked to provide  
9 assistance in finding witnesses to the Kobu massacre or its aftermath?

10 A. [16:04:01] No, I don't know. I don't really understand your question. Witness,  
11 for me to be a witness, that's not what anyone was asked for. No one was asked for  
12 that, for me to be a witness. I decided --

13 Q. [16:04:28] Mr Witness, it is not about you and I will change my question to ask  
14 you whether anyone asked you to assist them in finding victims of the events in  
15 Kobu?

16 A. [16:04:57] I don't think so, because I gave the names of people that you have in  
17 \*the statement, but I never said go and see such-and-such a victim, go and see (Redacted)  
18 (Redacted), I never did that. That was internal organization.

19 MR GOSNELL: [16:05:37] Could I please have again the (Redacted) notes which again  
20 were sent yesterday at 9.18 with the title "P-0121 OTP statement notes".

21 Q. And, Mr Witness, what these notes indicate you having stated during the first  
22 day of your interview with the OTP in (Redacted), at page 2, is the following under  
23 "audition précédente": (Interpretation) "In (Redacted) I assisted people from the ICC,  
24 including a certain (Redacted)

25 THE INTERPRETER: [16:06:44] Interpreter's correction: "from the CPI including

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1 a certain (Redacted)

2 MR GOSNELL: (Interpretation)"... to find war victims and help them to understand

3 the situation. (Redacted)

4 (Redacted)

5 THE INTERPRETER: Interpreter's second correction: it was ICC in the first sentence.

6 MR GOSNELL: [16:07:10]

7 Q. Mr Witness, if I can just ask my question, and I am not particularly interested in

8 (Redacted), but I am interested in the name (Redacted)

9 Can you tell us who (Redacted) was, if you remember?

10 A. [16:07:56] Well, this part is quite vague for me. It's all about (Redacted). I don't

11 have any precision with regards to (Redacted). \*At least I remember the names of the

12 people with whom I worked after ... I don't have any precision in that regard. If at

13 that time I remembered I could have said. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted). That's

17 what I had to say. I don't know who I told that too, but if it was with one of the

18 collaborators from your organisation that could be true. We met certain people, I

19 had the names of other people. (Redacted) was a name I never forgot. People I

20 worked with in (Redacted)

21 Q. [16:09:23] (Overlapping speaker) -- fair to say that at this time the FNI was in

22 a political, and perhaps even still a military struggle with the UPC?

23 A. [16:09:50] Political and military, is that it? Political and military. Well that

24 was -- well, I don't know how to explain whether it is political or military. When the

25 war started, well, that's something I heard, in 1998, '99, 2000 it was around those times

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1 in the north, Walendu-Pitsi sector, the population was attacked. They attacked them  
2 with machetes, with rifles, the Alur lost a lot of people in a very short time. That's  
3 what I heard. Now you asked a question: If -- you asked a question. What was  
4 the question? I don't remember it well.

5 Q. [16:10:54] Let me put it like this: You knew in (Redacted) that an  
6 investigation by the ICC or a prosecution by the ICC would discredit the UPC.  
7 Didn't you?

8 PRESIDING JUDGE FREMR: [16:11:19] Hold on, Mr Witness. Ms Rabanit.

9 MS RABANIT: [16:11:22] Yes, object to the question because maybe the -- the  
10 witness doesn't -- should take off his headphones.

11 PRESIDING JUDGE FREMR: [16:11:34] Mr Witness, could you kindly get off your  
12 headphones.

13 MS RABANIT: [16:11:46] At least in the first two years cited by Defence counsel,  
14 there was no investigation by this Court.

15 PRESIDING JUDGE FREMR: [16:12:00] So you are asking to rephrase the question  
16 or?

17 MS RABANIT: [16:12:11] Yes, unless I misunderstood the question, which I  
18 apologise in advance if it's the case.

19 MR GOSNELL: [16:12:21] I will rephrase, Mr President.

20 PRESIDING JUDGE FREMR: [16:12:23] Very well.

21 Mr Witness, you can take headphones back. Thank you. Thank you, Mr Witness.

22 MR GOSNELL: [16:12:36]

23 Q. [16:12:37] Mr Witness, did you believe in (Redacted) when you were meeting with  
24 (Redacted) that an investigation or a prosecution by the ICC would effectively  
25 discredit the UPC?

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1 A. [16:13:05] This is a high-level question. Am I able to analyse such things to  
2 know (Redacted) And if it  
3 made the UPC right, what would our interest -- and if it made us right, what would  
4 be the interest in that? This is a question which is a very high level. The event in  
5 Bunia, Ituri, Congo, if that event, his arrival was favourable or unfavourable to one  
6 side or the other. (Redacted)

7 (Redacted)

8 Q. [16:14:19] Yes, and I should have put my question better. Even lawyers can  
9 make mistakes. And the question that I meant to put to you was whether you knew  
10 that an investigation or a prosecution by the ICC of the UPC would discredit the UPC.  
11 Is that something that you were aware of at that time in (Redacted)

12 A. [16:14:58] I have really got no idea.

13 Q. [16:15:02] Even though you, according to the organigram we were looking at,  
14 (Redacted)

15 (Redacted)

16 PRESIDING JUDGE FREMR: [16:15:22] Argumentative. Please proceed,  
17 Mr Gosnell.

18 MR GOSNELL: [16:15:25] Yes, Mr President.

19 Q. [16:15:33] Mr Witness, does it jog your recollection about this person named  
20 (Redacted) if I were to ask you whether he had any association with (Redacted)

21 A. [16:16:04] Yes, (Redacted). Yes, now I see. I know (Redacted) I think it  
22 was the investigators, by them. (Redacted) is not from my community but he is a close  
23 friend of (Redacted). Somebody I don't see, I haven't seen in a very long time.

24 Q. [16:16:37] You have anticipated my next question. You have just said you have  
25 not seen (Redacted) for a long time. Can you estimate when it was that you last

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1 spoke to Mr --

2 PRESIDING JUDGE FREMR: [16:16:53] Hold on, Mr Witness.

3 Ms Rabanit.

4 MS RABANIT: [16:16:57] I'm sorry to interrupt Defence counsel. I don't think  
5 that's the person he was referring to when he said that he hadn't seen him in a long  
6 time. I think he is talking about the other person.

7 MR GOSNELL: [16:17:13] It is apparently clearer in the French and that's apparently  
8 true.

9 Q. [16:17:20] Mr Witness, when did you last speak to (Redacted)

10 A. [16:17:26] (Redacted)

11 was in the village, Kpandroma, that's what I knew. You are asking if I separated  
12 from him a long time ago. (Redacted)

13 But (Redacted) who is not in Bunia and he hasn't been for a very long time.

14 Q. [16:18:06] Yes. I am not asking you about (Redacted) at all at the moment. I am  
15 just asking you about (Redacted), and my question is: When is the last time  
16 that you spoke to him?

17 A. [16:18:28] Before his departure to Kpandroma. So that was two months ago, or  
18 one month, approximately.

19 Q. [16:18:57] Is he a very close friend of yours, would you say?

20 A. [16:19:10] (Redacted)

21 Q. [16:19:12] Yes.

22 A. [16:19:13] He is a friend, brother.

23 MR GOSNELL: [16:19:15] May we have, please, DRC-OTP-2089-0076. I would like  
24 to err on the side of caution and use the version that is more redacted, please. It's tab  
25 29 instead of tab 28.

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1 PRESIDING JUDGE FREMR: [16:19:41] Mr Witness?

2 THE WITNESS: [16:19:44] (Interpretation) Yes. Please excuse me, I just need to be  
3 excused.

4 PRESIDING JUDGE FREMR: For sure.

5 Court usher, please assist.

6 And in the meantime, may I be provided with the update on timing?

7 (The witness stands down)

8 THE COURT OFFICER: [16:20:08] Yes, Mr President. The Defence used so far  
9 2 hours and 49 minutes.

10 PRESIDING JUDGE FREMR: [16:20:18] Mr Gosnell, do you think you will need all  
11 those 11, 11 --

12 MR GOSNELL: [16:20:25] I don't think so, Mr President, probably just four to five,  
13 maximum.

14 PRESIDING JUDGE FREMR: [16:20:30] It would be fine because I would just like to  
15 sit within the normal two-hour session, if possible. By the way, in this connection I  
16 have also to ask Ms Rabanit about possible redirect.  
17 Ms Rabanit?

18 MS RABANIT: [16:20:44] No questions at this point envisaged.

19 PRESIDING JUDGE FREMR: [16:20:47] Thank you, Ms Rabanit.

20 MR GOSNELL: [16:20:57] Maybe, while we are waiting, the document could be put  
21 up, just to make sure that we have the right one.

22 PRESIDING JUDGE FREMR: [16:21:04] Yes. Good point.

23 Court officer, could you assist. The ERN number is DRC-OTP -- you have it, all  
24 right.

25 (Pause in proceedings)

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1 (The witness enters the courtroom)

2 MR GOSNELL: [16:22:23]

3 Q. [16:22:23] Thank you very much, Mr Witness, and I can tell you that I just have  
4 one or two more questions and then we will be finished. And we are just waiting for  
5 a document.

6 This is the unredacted version.

7 PRESIDING JUDGE FREMR: [16:22:48] Mr Gosnell asked for more redacted version.

8 MR GOSNELL: [16:22:55] I understand a copy was also sent by email.

9 PRESIDING JUDGE FREMR: [16:23:07] Ms Rabanit.

10 MS RABANIT: [16:23:08] If it assists Defence counsel, I think it is fine to show  
11 the -- I see it is corrected.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 A. [16:31:02] I've got no idea, Counsel.

25 Q. [16:31:04] Thank you very much, Mr Witness.

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1 MR GOSNELL: Mr President, I do seek to tender the document on the screen for  
2 impeachment purposes.

3 PRESIDING JUDGE FREMR: [16:31:12] Ms Rabanit.

4 MS RABANIT: [16:31:15] I believe this document may have been read into the  
5 record. If it wasn't, we have no objection.

6 PRESIDING JUDGE FREMR: [16:31:26] Still actually I don't see any reason why to  
7 reject this request, so this document is admitted for the purpose of impeachment as  
8 a further Defence exhibit.

9 So, Ms Rabanit, do you maintain your position there is no need for redirect?

10 MS RABANIT: [16:31:47] Indeed, your Honour.

11 PRESIDING JUDGE FREMR: [16:31:48] Very well.

12 So now let's move into open session.

13 (Open session at 4.32 p.m.)

14 THE COURT OFFICER: [16:32:06] We are in open session, Mr President.

15 PRESIDING JUDGE FREMR: [16:32:09] Thank you, court officer.

16 Mr Witness, it concludes your testimony. I can imagine that it was not easy  
17 experience for you, but we appreciate that you underwent such a long journey and  
18 we hope that your testimony could assist us in our deliberation and in our effort to  
19 find the truth in this case.

20 So on behalf of this Chamber I thank you and we wish you safe journey home.

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

22 THE WITNESS: [16:32:54] (Interpretation) Thank you. I would like to thank you.

23 (The witness is excused)

24 PRESIDING JUDGE FREMR: [16:33:13] And unless there are no further requests for the floor,  
25 we will adjourn. And we are going to continue tomorrow at 9.30 with testimony of Witness P-31.

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- 1 THE COURT OFFICER: [16:33:27] All rise.
- 2 (The hearing ends in open session at 4.33 p.m.)
- 3 RECLASSIFICATION REPORT
- 4 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 5 the public reclassified and lesser redacted version of this transcript is filed in the case.