

Trial Hearing
WITNESS: DRC-OTP-P-0859

(Open Session)

ICC-01/04-02/06

- 1 International Criminal Court
- 2 Trial Chamber VI - Courtroom 2
- 3 Situation: Democratic Republic of 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
- 7 Tuesday, 17 November 2015
- 8 (The hearing starts in open session at 9.34 a.m.)
- 9 THE COURT USHER: All rise.
- 10 The International Criminal Court is now in session.
- 11 Please be seated.
- 12 PRESIDING JUDGE FREMR: Good morning, everybody.
- 13 Court officer, please call the case.
- 14 THE COURT OFFICER: Thank you, Mr President.
- 15 The situation in the Democratic Republic of the Congo, in the case of the Prosecutor versus
- 16 Bosco Ntaganda, case reference ICC-01/04-02/06.
- 17 And we are in open session.
- 18 PRESIDING JUDGE FREMR: Thank you.
- 19 Appearances now starting with Prosecution.
- 20 MS SOLANO: Good morning, your Honour. Today for the Prosecution appear
- 21 Ms Nicole Samson, senior trial lawyer; Ms Laura Morris, assistant trial lawyer; Mr James Pace,
- 22 assistant trial lawyer; Ms Selam Yirgou, case manager; and I am Julieta Solano, trial lawyer.
- 23 PRESIDING JUDGE FREMR: Thank you, Ms Solano.
- 24 Defence now.
- 25 MR BOUTIN: Good morning, Mr President, your Honours. Appearing for the Defence this

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1 morning: Mr Ntaganda is here present; Margaux Portier, case manager; Elodie Victor,
2 student; Maître Chloé Grandon, assistante juridique; et moi-même, Luc Boutin, conseil adjoint.
3 Merci.

4 PRESIDING JUDGE FREMR: Thank you.

5 Legal Representatives of Victims now, please.

6 MS PELLET: (Interpretation) Thank you, Mr President. The former soldiers are
7 represented by myself, Sarah Pellet, counsel with the OPCV.

8 MR SUPRUN: (Interpretation) Good morning, Mr President; good morning, your Honours.
9 The victims of the attacks are represented by myself, Dmytro Suprun, counsel with the OPCV.

10 PRESIDING JUDGE FREMR: Thank you, both of you.

11 Before the witness can be called, the Chamber will address a couple of procedural
12 matters.

13 First, you have seen that the Chamber's decision on in-court protective measures for the next
14 witness was issued last week. It was decision number 1004.

15 In addition, the Chamber notes that VWU did not recommend the implementation of any
16 special measures under Rule 88, as a result of its vulnerability assessment.

17 Next, this witness, this upcoming witness, is a dual status Witness, and the legal
18 representative of victims of attacks has requested to examine him. It's filing 986.

19 In accordance with the decision on the conduct of the proceedings, the Chamber will
20 rule in this case on that request after the Prosecution's examination-in-chief.

21 And the third issue, yesterday we had a discussion about the timing or about the time
22 needed for examination of this witness. Ms Solano, what is your plan as concerns
23 timing?

24 MS SOLANO: Your Honour, if I could have four hours, I would be grateful. It depends on
25 how the witness does under the examination, but I would be more reassured to know that I

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1 can take four hours if necessary, your Honour.

2 PRESIDING JUDGE FREMR: The Chamber also considered the extent of prospective
3 testimony and also its importance; and accordingly, four hours should be corresponding to
4 that. So according to our decision, you have at your disposal, in fact, those three sessions,
5 and you should finish by the end of this day.

6 If there are no further submissions or requests from the parties or participants, now
7 witness may be escorted in the courtroom, and we have to move into closed session
8 for that purpose.

9 (Closed session at 9.39 a.m.) *(Reclassified entirely in public)

10 THE COURT OFFICER: We're in closed session, Mr President.

11 PRESIDING JUDGE FREMR: Thank you.

12 (The witness enters the courtroom)

13 PRESIDING JUDGE FREMR: Now we can return back into open session, court officer,
14 please.

15 (Open session at 9.41 a.m.)

16 THE COURT OFFICER: We are back in open session, Mr President.

17 PRESIDING JUDGE FREMR: Thank you. Good morning, Mr Witness. Can you hear me?

18 WITNESS: DRC-OTP-P- 0859

19 (The witness speaks Swahili)

20 THE WITNESS: (Interpretation) Yes, I can hear you.

21 PRESIDING JUDGE FREMR: Mr Witness, you are going to testify before the International
22 Criminal Court; and on behalf of this Chamber, I would like to welcome you here.

23 This Chamber has been established to try the case of the Prosecutor against Mr Bosco
24 Ntaganda, and you are called to testify to assist us in our search for the truth.

25 You will be soon asked questions both by judges and lawyers in the courtroom, and

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1 in this connection I would like to guide you in the following way: Please listen
2 carefully to those questions. It's very important that you make sure that you
3 understand the question before you answer it.
4 If you do not understand, feel free to ask for the question to be repeated or rephrased.
5 We want you to tell the truth and tell us only what you really saw or heard or sensed
6 yourself. If you did not see or hear it yourself but you found out some other way,
7 then you should explain how.
8 You may be asked about events that happened many years ago, so it is natural that
9 you may not remember all details. It doesn't matter. Please testify just on that
10 which you remember. Don't guess. Don't make things up. There is nothing
11 wrong in saying "I don't know" or "I don't remember."
12 Do you understand all this, Mr Witness?
13 THE WITNESS: (Interpretation) Yes, I understand very well.
14 PRESIDING JUDGE FREMR: Very well, Mr Witness. Now let me explain to you how the
15 protective measures work that the Chamber has put in place for your testimony.
16 We decided first to order face distortion, which means that the public can't see your
17 face during the testimony. We also decided to order voice distortion, which means
18 that the public will not be able to identify you by your voice, as it has been distorted.
19 And we ordered the use of pseudonym. This means that we will all refer to you only
20 as "Mr Witness" to make sure that the public does not know your name.
21 When you answer questions that will not give away who you are, we will do so in
22 open session, which means that the public can hear what is being said in the
23 courtroom. You can see that we are in open session if the light in front of you is red.
24 When you are asked to describe anything that relates specifically to you, we will do
25 this in private session.

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1 For example, at the very start in a few general questions about you as the person
2 would be asked of and you are asked to mention facts that might reveal your identity;
3 for example, any locations where you live or persons close to you, the light in front of
4 you will then be green. Then there is no broadcast, and no one outside the
5 courtroom can hear your answer.

6 If ever anything gets said during open session which should have been said in private
7 session, we will do our best to protect this information. Your testimony will be
8 broadcast on a delay, and we can remove any such remarks from the broadcast,
9 which will be heard by the public and from the public transcript of the proceedings.
10 The Chamber fully recognizes that your security and well-being is important during
11 the course of this trial. If at any point you feel that you would like a brief break from
12 giving your testimony or you feel unwell, do not hesitate to let us know.

13 Did you understand all of this, Mr Witness?

14 THE WITNESS: (Interpretation) I understand.

15 PRESIDING JUDGE FREMR: Very good then. Now, court officer, can you please
16 administer the solemn undertaking to tell the truth.

17 THE WITNESS: (Interpretation) I solemnly declare that I will tell the truth, the whole truth,
18 and nothing but the truth.

19 PRESIDING JUDGE FREMR: Thank you, Mr Witness. So accordingly with what you have
20 read now, you are now under oath.

21 You have already been informed by representatives of the Victim and Witness Unit
22 and afterwards by representatives of the Prosecution about the importance to speak
23 the truth; nevertheless, I want to reiterate to you that as you have just promised, you
24 have to speak the truth, and it is an offence within the jurisdiction of this Court to
25 give false testimony.

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1 Do you understand that?

2 Sorry. I haven't heard translation of witness response.

3 THE WITNESS: (Interpretation) I understand. I understand very well.

4 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

5 Now I would like to continue with few practical matters you should have in mind

6 when giving your testimony. Everything we say here in the courtroom is written

7 down and interpreted into English and French. It is, therefore, important to speak

8 clearly and to speak at a slow pace like me now. We want to make sure that your

9 words can be well understood by the interpreters and then by the rest of us.

10 Please speak into the microphone and only start speaking when the person asking

11 you the question has finished. To allow for the interpretation, everyone has to wait a

12 few seconds before starting to speak.

13 So I recommend to you when the lawyer has asked his or her question, please count

14 in your head to three and only then give your answer.

15 If you have any questions yourself, raise your hand so we know that you wish to say

16 something. We will then give you the opportunity to speak.

17 Have you understood all that, Mr Witness?

18 THE WITNESS: (Interpretation) Yes.

19 PRESIDING JUDGE FREMR: So very well. That is all for my part, and now we can start

20 with your testimony.

21 Ms Solano, you have the floor.

22 MS SOLANO: Thank you, your Honour.

23 QUESTIONED BY MS SOLANO:

24 Q. Good morning, sir. Can you hear me well?

25 A. Yes, I can hear you very well.

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1 Q. We've met before, but I'll repeat that my name is Julieta Solano, and I will ask you some
2 questions today on behalf of the Office of the Prosecutor. If you do not understand
3 something I say, please ask me to clarify, and I will do so.

4 Please take your time to answer each of my questions so that you can provide the
5 judges with a complete account of what you know.

6 Please pay very close attention to each question so that you can answer in a clear,
7 short way. If I need further details, I will ask you.

8 MS SOLANO: Your Honour, my first few questions should be taken in private session,
9 please.

10 PRESIDING JUDGE FREMR: All right. Court officer, let's move into private session now.

11 (Private session at 9.51 a.m.) *(Reclassified partially in public)

12 THE COURT OFFICER: We're in private session, Mr President.

13 PRESIDING JUDGE FREMR: Thank you.

14 Ms Solano, you may proceed.

15 MS SOLANO: Thank you, your Honour.

16 Q. Sir, can you please state your full name?

17 A. Yes. My name is (Redacted).

18 Q. When were you born?

19 A. I was born on (Redacted).

20 Q. Where were you born?

21 A. I was born (Redacted).

22 Q. And where is (Redacted), sir?

23 A. (Redacted).

24 Q. What ethnic group do you belong to?

25 A. I'm from (Redacted) ethnic group.

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1 Q. Do you also belong to any other ethnic groups?

2 A. My father is (Redacted) and my mother is (Redacted).

3 Q. Do you have any brothers and sisters?

4 A. Yes.

5 Q. Are they alive or dead?

6 A. (Redacted).

7 Q. What were your (Redacted), sir?

8 A. My (Redacted)

9 (Redacted).

10 Q. Sir, could you with the assistance of the usher, would you be able to write your brothers'
11 names on a piece of paper for the transcript, please.

12 Thank you, sir.

13 MS SOLANO: Your Honour, I note for the transcript that the witness has written
14 (Redacted)

15 PRESIDING JUDGE FREMR: All right.

16 MS SOLANO:

17 Q. Sir, in what year and month did your (Redacted)?

18 A. (Redacted)

19 (Redacted)

20 Q. Your (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. What kind of (Redacted)?

24 A. He didn't have (Redacted). He had a (Redacted). He also (Redacted). He had a
25 (Redacted)

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1 Q. Sir, where did you live when you were growing up?

2 A. We grew up in (Redacted), more specifically in (Redacted).

3 Q. During the war that you've just mentioned, what was your occupation?

4 A. During the war I was (Redacted)

5 (Redacted)

6 Q. What was the name (Redacted), and what was (Redacted)?

7 A. (Redacted)

8 Q. With the help of the usher can you please write (Redacted) name down on the same
9 piece of paper.

10 I note for the record that the Witness has written down (Redacted).

11 Sir, what was (Redacted)? What was his occupation?

12 A. He was a (Redacted), but he also had (Redacted).

13 THE INTERPRETER: He also had (Redacted), adds the Swahili booth.

14 MS SOLANO: Mr President, we can go to open session.

15 PRESIDING JUDGE FREMR: All right.

16 Court officer, please return back into open session now.

17 (Open session at 10.03 a.m.)

18 THE COURT OFFICER: We are in open session, Mr President.

19 PRESIDING JUDGE FREMR: Thank you.

20 Ms Solano, you may proceed.

21 MS SOLANO: Thank you, your Honour.

22 Q. Sir, you mentioned the war. What war was this? Who was fighting in this war?

23 A. This was an ethnic conflict pitting the Lendus against the Hema.

24 Q. When did this conflict take place? In what year or years?

25 A. This conflict dates back a long time. We who had grown up in Mongbwalu found out

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1 about this at a later stage when we became adults. But this conflict had been going on for a
2 very long time.

3 Q. What were the Hema and the Lendu fighting about?

4 A. Well, listen, my ancestors would be in a position to tell you that. We're not in a
5 position to say I heard that this was a land conflict. We were children. We were not in a
6 position to know.

7 Q. Sir, I want to ask you about -- I want to ask you whether you remember from your time
8 any major events that occurred during this war?

9 A. These were very difficult events, very difficult.

10 Q. Sir, do you remember anything occurring in Bunia? Do you -- are you aware of any
11 fighting having occurred in that place?

12 A. Well, with reference to any fighting that might have occurred there, we did hear speak
13 about it.

14 Q. What did you hear? Who was fighting in Bunia?

15 A. At the outset, the conflict pitted the Ugandans against the UPC -- rather, the Ugandans
16 asked the UPC to drive Lompondo's APC out. We were in Mongbwalu. We couldn't go to
17 Bunia because there was an issue with the Balendu in the sense that the Balendu could not go
18 to Bunia. Only the courageous ones could go or would go.

19 We heard that Lompondo was fighting against a Hema group supported by the
20 Ugandans. We were in Mongbwalu, but we didn't really know what was going on.

21 Q. Do you know whether the UPC drove Lompondo out?

22 A. Yes. The UPC did drive Lompondo out.

23 Q. Why couldn't the Walendu go to Bunia?

24 A. The Hema had left Mongbwalu, and they had gone to Bunia. We, the Lendus, were in
25 the area of Mongbwalu in the bush.

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1 Q. Sir, what was this group UPC? Did this group play a role in the ethnic conflict
2 between the Hemas and the Lendus?

3 A. I'm sorry, I didn't quite grasp your question. I didn't understand your question.

4 Q. I will clarify it. You mentioned a group called "UPC." You also said that there was a
5 conflict between the Hema and the Lendu ethnic groups. My question is whether the UPC
6 was involved in the ethnic conflict between the Hema and the Lendu.

7 A. The UPC is a Hema movement. At the outset, people talked about the Hemas and the
8 Lendus; but later on, the Hemas took over the control of Bunia, and they created the UPC.

9 Q. Sir, was your family affected by the fighting in Bunia in any way?

10 A. Yes.

11 MS SOLANO: Your Honour, can we go into private session, please.

12 PRESIDING JUDGE FREMR: All right. Court officer, let's move into private session.

13 (Private session at 10.13 a.m.) *(Reclassified partially in public)

14 THE COURT OFFICER: We are in private session, Mr President.

15 PRESIDING JUDGE FREMR: Thank you.

16 Ms Solano, you have the floor.

17 MS SOLANO: Thank you, your Honour.

18 Q. Sir, in what way was your family affected by the family in (Redacted) -- by the fighting
19 in Bunia?

20 A. When Lompondo was driven out during the conflict, (Redacted) left Lipri to go
21 to Bunia, and in Lipri (Redacted) came under attack during an ambush. (Redacted) and, to
22 date, we do not know where (Redacted).

23 Q. And you said this happened in Lipri?

24 A. The event in Lipri affected us; but what I said about (Redacted) was that (Redacted)
25 (Redacted) from Lipri to Bunia, and (Redacted) was ambushed on that journey from Lipri to Bunia.

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1 This was the time when Lompondo was being driven out. People were fleeing, and
2 people were fleeing from Mudzipela and (Redacted). This was when Lompondo
3 was being driven out and when UPC was taking control over Bunia.

4 Q. Who ambushed (Redacted)?

5 A. (Redacted) it was UPC elements. When (Redacted) went to (Redacted) place -- well,
6 (Redacted) said that UPC soldiers had (Redacted), and this was at the time when Lompondo
7 was being driven out of Bunia.

8 Q. Did (Redacted) tell you how the ambush occurred?

9 A. (Redacted) said that at the time when (Redacted) leaving Lipri, (Redacted) arrived in Mudzipela, and
10 he --

11 THE INTERPRETER: The Swahili booth is requesting that the witness slow down, please.

12 PRESIDING JUDGE FREMR: Mr --

13 THE WITNESS: (Interpretation) (Redacted) were ambushed and (Redacted) ran away; and
14 to date, the (Redacted).

15 THE INTERPRETER: Message from the English booth: Some of the witness's answer was
16 lost because the Swahili booth found he was speaking at great speed. Thank you.

17 PRESIDING JUDGE FREMR: Mr Witness, we got message from the Swahili interpreters that
18 because you were responding too fast, so they haven't captured all of your response. So
19 could you kindly, a little bit slower to repeat your response again?

20 MS SOLANO:

21 Q. Sir, were the UPC elements who ambushed (Redacted) armed?

22 A. Do you believe that a soldier can go to the front without carrying an individual weapon?
23 They all had individual weapons.

24 Q. Did (Redacted) tell you whether they used the weapons?

25 A. No.

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1 Q. Did (Redacted) tell you why they had been stopped by the UPC?

2 A. You know, (Redacted) between a Hema locality and a locality under Lendu control.

3 And when arriving in a Hema-inhabited locality, then they would confiscate everything that
4 you had, and sometimes they would even kill the passengers.

5 Q. Were any of the (Redacted) killed, sir?

6 A. I'm not in a position to say because I was not (Redacted). Only (Redacted)
7 would be in a position to say that.

8 Q. And what is (Redacted), sir?

9 A. (Redacted)

10 (Redacted)

11 THE INTERPRETER: (Redacted). Spelling from the English booth.

12 MS SOLANO:

13 Q. Sir, this (Redacted) --

14 PRESIDING JUDGE FREMR: Ms Solano, Ms Solano, please move forward. I don't think
15 this event was the main point of the attack. Please move forward.

16 MS SOLANO: Yes, your Honour. We can go to open session.

17 PRESIDING JUDGE FREMR: Now, court officer, please let's move into open session.

18 (Open session at 10.22 a.m.)

19 THE COURT OFFICER: We're in open session.

20 PRESIDING JUDGE FREMR: Ms Solano, you have the floor.

21 MS SOLANO: Thank you, your Honour.

22 Q. Sir, did the fighting between the Hema and the Lendu ever come to Mongbwalu?

23 A. Yes. And what is more, the fighting in Mongbwalu lasted a long time.

24 Q. Were you in Mongbwalu when the fighting came there?

25 A. Yes, I was in Mongbwalu.

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1 Q. Did this happen before or after the ousting of Lompondo from Bunia?

2 A. The UPC entered Mongbwalu after having driven Lompondo out of Bunia, and the UPC
3 was already controlling Bunia.

4 Q. What time of the year did the UPC enter Mongbwalu?

5 A. Well, listen, as far as dates are concerned and a year, it's difficult for me to remember. I
6 think it was around 2001. I really don't remember.

7 Q. Do you remember the season?

8 A. It was during the rainy season. And the rainy season in Mongbwalu normally
9 commences in August and lasts until December. So it was during the time when it was
10 raining a great deal.

11 Q. Before the UPC entered Mongbwalu, who was in control in Mongbwalu?

12 A. Before the UPC arrived in Mongbwalu?

13 Q. Yes.

14 A. The APC was in Mongbwalu, and these were Mbusa's soldiers.

15 Q. What ethnicity was Mbusa and what ethnicity were his soldiers at the time in
16 Mongbwalu?

17 A. Mbusa is a Nande. And Mbusa's soldiers hailed from all of the Congolese ethnic
18 groups, whether it be Lendu, Nande, from Kisangani, from Isiro and Alurs. I would say that
19 it comprised -- or, his soldiers comprised individuals from all ethnic groups.

20 Q. Tell us what you remember of the day when the UPC entered Mongbwalu?

21 A. Could you please repeat your question?

22 Q. Yes. What happened on the day when the UPC entered Mongbwalu?

23 A. The UPC led two attacks on Mongbwalu. During the first attack they entered the town
24 during the morning and fought until the evening where they were driven out, when they
25 were driven out. And when they launched the second attack, that is when they took control

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1 of the town.

2 Q. The first time they attacked, who drove them out?

3 A. There were soldiers from the APC present. However, as you know, the UPC's sole
4 objective was to target the Balendu. Everybody knew that. And at the outset, this was a
5 conflict pitting the UPC against the APC. However, it was the Lendus who were the real
6 targets.

7 Q. And did the APC or the Lendu drive the UPC out during the first attack?

8 A. Yes. The APC had already been defeated in Bunia driving out Lompondo. He was
9 the leader and it was some of those who were part of Mbusa's group. *They were no longer
10 strong. The Lendu got mixed up with other APC elements and they chased the UPC out,
11 they drove them out. And then it wasn't difficult for the others to take control over the place.

12 Q. Sir, let's stay with the first attack for a moment. Where were you -- where exactly in
13 Mongbwalu were you during the first attack?

14 A. I lived (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Were you in your house during the first UPC attack or were you out and about in
18 Mongbwalu?

19 A. The fighting started in the morning. Nobody left their homes. We all stayed at home.

20 Q. How did you find out what -- how did you find out that the UPC had attacked
21 Mongbwalu if you were inside your home?

22 A. We heard bullets being fired. Our Lendu brothers arrived and said, "The UPC soldiers
23 have already arrived. *They were already around the airport area. We can hear gunfire. You
24 have to start moving up to Sayo, close to the hill, because they're coming in from the airport
25 direction." And that's when we left. We took the children, we took stuff to eat and we fled.

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1 Then afterwards there was gunfire in the centre. But we had left in the direction of Sayo.

2 Q. Sir, was this during the first attack or during the second attack?

3 A. It was the first attack. We fled to Sayo. It was during the second attack that we fled to
4 Andisa.

5 Q. Who did you flee to Sayo with?

6 PRESIDING JUDGE FREMR: Mr Witness, don't respond. I think it would be better to
7 move into private session now.

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

9 (Private session at 10.35 a.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: We are in private session, Mr President.

11 PRESIDING JUDGE FREMR: Thank you.

12 Ms Solano, please repeat your question to the witness.

13 MS SOLANO: Thank you, your Honour.

14 Q. Sir, who were you with when you fled to (Redacted)?

15 A. It was a situation where you just had to run for your life. So we fled and we all met up
16 again in (Redacted). And then we had to see if our family members were there with us.

17 Q. And were your family members there with you?

18 A. Yes. We met up there and we were wondering where is she? Where is she? That
19 was during the first battle. And the child (Redacted) was killed.

20 Q. What -- which (Redacted) was the father of this child?

21 A. It was one of (Redacted) children.

22 Q. How old was the child?

23 A. It was a very young child.

24 Q. How did the child die?

25 A. You know, when there's gunfire, we were told you have to flee. You have to go up to

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1 the hill.

2 (Redacted) had already been killed then, and (Redacted), and (Redacted)

3 stayed back at a time when we were having to flee; everyone had to run off. And

4 then (Redacted)

5 (Redacted)

6 THE INTERPRETER: And the witness points to his neck.

7 THE WITNESS: (Interpretation) When we said "Where is the child," she said, "I was

8 looking for some clothes and I went outside to look for something else and then I realized that

9 the shell had fallen (Redacted), and there was shrapnel that hit the child, and the child

10 died."

11 MS SOLANO:

12 Q. Did your (Redacted) bring the dead child with (Redacted), sir, or was the child left
13 behind?

14 A. During gunfire -- well, (Redacted) couldn't take the child. (Redacted). And we said,
15 "Where is the child? Where is the body?" And (Redacted) said, "I left the body behind."

16 Q. What was your (Redacted) name, (Redacted) of the child? Excuse me. Sorry, sir. I
17 meant to ask you for the name of the child's (Redacted).

18 A. (Redacted)

19 Q. What was the child's name?

20 A. (Redacted)

21 Q. Sir, you said that (Redacted) had stayed behind. Where had (Redacted) stayed?
22 Where did the shell land?

23 A. The shell landed (Redacted). It was early in the
24 morning, around 5.30.

25 Q. Were the other members of your family in (Redacted) with you?

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1 A. Yes. We were all together, and everybody started to tell (Redacted) off. (Redacted)

2 (Redacted)

3 (Redacted)

4 But it was God's will.

5 Q. Sir, did anything else happen during the first UPC attack on Mongbwalu?

6 A. We're talking about what happened (Redacted). I'm testifying about what I know.

7 Q. Where did (Redacted) at the end of that day's attack, sir?

8 A. After the attack, (Redacted), and (Redacted), and we came upon bodies. We couldn't
9 mourn them. We had to dig a pit immediately, and we buried them. The pit wasn't very
10 deep, and we all went back there and buried the bodies.

11 Q. Whose bodies were these, sir, that you buried?

12 A. (Redacted). When we went back to
13 Sayo, we found the (Redacted) in the house.

14 Q. Was that in a house in (Redacted), sir, or in a house in (Redacted)?

15 A. It was in (Redacted). From there we fled the war. We went to (Redacted). As soon
16 as the UPC elements had been beaten, we went back to (Redacted).

17 THE INTERPRETER: Swahili interpreter's correction: We fled.

18 MS SOLANO:

19 Q. Sir, you mentioned a second UPC attack. How long after the first attack did the UPC
20 return to Mongbwalu?

21 A. The second battle didn't take long. I would say one to two weeks. It took one to two
22 weeks.

23 MS SOLANO: Your Honour, I do think that the next questions can be in open session.

24 PRESIDING JUDGE FREMR: Yes, that was just my idea. I fully agree.

25 Court officer, now let's move into open session.

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1 (Open session at 10.47 a.m.)

2 THE COURT OFFICER: We are back in open session, Mr President.

3 PRESIDING JUDGE FREMR: Thank you.

4 Ms Solano, you may proceed.

5 MS SOLANO: Thank you, your Honour.

6 Q. Sir, where in Mongbwalu were you the second time the UPC entered the town?

7 A. Yes.

8 Q. Were you in your house, or were you somewhere else?

9 A. I was at home. At that moment, everybody was scared of moving around. If you
10 moved around, you might get caught up in the fighting. It was hard.

11 Q. What happened when the UPC entered Mongbwalu the second time?

12 A. On the occasion of the second attack, the UPC entered in massive numbers. *The APC
13 men didn't want to fight. They fled. They were the first to flee before the civilians.
14 And as soon as the civilians saw soldiers running away, it was difficult for them.
15 Some brave Lendu took up arrows, knives, spears; and others who were brave asked
16 *APC soldiers to give them weapons, and they used arrows to kill some of the APC
17 soldiers to get weapons, but they didn't manage to win. The UPC were too strong,
18 and that's why we had to flee.

19 PRESIDING JUDGE FREMR: Sorry to interrupt, Ms Solano. I guess our transcript is not
20 correct, because I think even maybe twice that are mentioned UPC soldiers, but in my
21 understanding the correct wording should be APC. The UPC soldiers did not want to fight.
22 So maybe please ask witness to clarify that and then that people ask -- what is that -- yeah.
23 APC fine the second case, but in the first it's line 13. The UPC soldiers were too strong, they
24 fled. So, Mr Witness, who fled, UPC soldier or APC soldiers?

25 THE WITNESS: (Interpretation) APC.

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1 PRESIDING JUDGE FREMR: Ms Solano, you may proceed.

2 MS SOLANO: Thank you, your Honour.

3 Q. Sir, to make sure it was absolutely clear, who was it that did not want to fight against
4 the UPC?

5 A. Soldiers of the APC. APC.

6 Q. And whom did the brave Lendu ask for weapons?

7 A. They asked for guns from APC soldiers who didn't want to fight.

8 Q. Did they get guns from the APC soldiers?

9 A. When the APC soldiers fled, we saw the brave Lendu with weapons. And they were
10 threatening them saying, "Well, if you don't want to give me the weapon, then you'll have to
11 go off and fight the others in battle." And then the soldiers who didn't want to fight handed
12 over their guns. Those who were asking for the weapons were courageous. They were
13 brave Lendu.

14 Q. Did you see this or did you hear about this?

15 A. I was there. It was during our flight. Some were saying yes, we can win. And
16 others were saying no, we won't win. And once we were beaten, we had to flee.

17 Q. Where exactly were you when you saw the brave Lendu get some weapons from the
18 APC?

19 A. We were living in Sayo close by. We were taking the road to flee. When there's war
20 you hear gunfire getting closer. And when that happens, you have to take the necessary
21 measures to flee.

22 Q. How many weapons did you see change hands between the APC and the Lendu, and
23 the brave Lendu?

24 A. I'm not a soldier. It's difficult to estimate the number of guns. But I could see that there
25 were Lendu with guns, two or three guns, arrows, spears. And I thought, well, *God will help

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1 and they may win. We can help them. Let them try. We'll win. If they do win, we'll be saved.

2 Q. And did you win?

3 A. The second battle was hard. We were beaten. They were well armed, armed by their
4 party.

5 Q. What do you mean by "well armed"? Do you know what kind of weapons the UPC
6 had during this second attack on Mongbwalu?

7 A. In the -- in war, you hear noises, gunfire, shots being fired. And you realize that you
8 have to flee. And that's because the noise tells you that it's heavy weaponry.

9 Q. Sir, did you see the UPC soldiers yourself during this second attack on Mongbwalu?

10 A. It was difficult to see them because I was not a soldier. No, I didn't see them.

11 MS SOLANO: Your Honour, I'm mindful of the time. I'm going to change to a new line of
12 inquiry. So if your Honour thinks it's a suitable time?

13 PRESIDING JUDGE FREMR: Then maybe it would be better to break now because we have
14 still 2 minutes only, so I think it's better to break now.

15 So we will first escort the witness out of the courtroom, and for this purpose we have
16 to move into regime of closed session.

17 Court officer, please.

18 (Closed session at 10.58 a.m.) *(Reclassified entirely in public)

19 THE COURT OFFICER: We are in closed session, Mr President.

20 (The witness stands down)

21 PRESIDING JUDGE FREMR: Thank you.

22 Now let's move into open session.

23 (Open session at 10.59 a.m.)

24 THE COURT OFFICER: We are in open session, Mr President.

25 PRESIDING JUDGE FREMR: Thank you.

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1 We will break now for 30 minutes, which means that we will reconvene at half past 11.

2 THE COURT OFFICER: All rise.

3 (Recess taken at 10.59 a.m.)

4 (Upon resuming in open session at 11.35 a.m.)

5 THE COURT USHER: All rise. Please be seated.

6 PRESIDING JUDGE FREMR: We will continue with examination of our witness. But
7 before doing that, I would like just to give one guidance to the witness.

8 Witness, until now, you are doing very well. You followed almost all of my
9 guidance. My only remark is that please try a bit slow down because you are giving
10 very interesting and very detailed responses, which are very helpful I think for us, but
11 sometimes if you are too fast, some details could be missing. So we are highly
12 interested to get absolutely precise translation of your responses. So if you would
13 slow down, it will be very helpful. Okay, Mr Witness?

14 THE WITNESS: Ndiyo.

15 PRESIDING JUDGE FREMR: Thank you very much.

16 Ms Solano, do you want to proceed in private or --

17 THE WITNESS: (Interpretation) Yes.

18 PRESIDING JUDGE FREMR: Sorry. Ms Solano, do you want to proceed in private or in
19 open session?

20 MS SOLANO: Open session. Thank you, your Honour.

21 PRESIDING JUDGE FREMR: Very well. Then you may proceed.

22 MS SOLANO:

23 Q. Sir, you said earlier that during the second attack, you fled to a place called Andisa.

24 Could you please write that name down on a piece of paper with the help of the usher?

25 Thank you. And I note for the record that the witness has spelled A-N-D-I-S-A,

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1 Andisa.

2 Sir, who were you with when you fled to Andisa?

3 A. I was in the company of my entire family.

4 MS SOLANO: Mr President, I note that I don't seem to have the English transcript.

5 PRESIDING JUDGE FREMR: You are correct. I guess court officer will take care of that.

6 THE INTERPRETER: Message from the English booth: The English booth can see the
7 transcript, line 17 on page 26, there's the answer to your question. Thank you.

8 MS SOLANO: I can see it now, your Honour. It just came through. Thank you.

9 PRESIDING JUDGE FREMR: But not me. Oh, now, now it's also fine with me. So you
10 may proceed. Thank you.

11 MS SOLANO: Thank you, your Honour.

12 Q. Sir, where is Andisa relative to Mongbwalu and Sayo?

13 A. Before arriving in Andisa, one goes through Sayo. After Sayo through Nzebi and then
14 one arrives in Andisa.

15 Q. Sir, can you please spell Nzebi on that same piece of paper that you have in front of
16 you?

17 And can the usher please assist him? Thank you, sir.

18 I note for the record the witness has spelled Nzebi, which is now captured in the
19 transcript.

20 Sir, in addition to you and your family, had others also fled from Mongbwalu and
21 Sayo after the UPC's second attack?

22 A. Yes. There were many people who had fled. They had even crossed the river.
23 However, we remained in Andisa.

24 Q. Which river had some people crossed? What is the name of that river?

25 A. It is the Ituri river that they crossed in order to go to Yedi.

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1 Q. How long did it take you to get to Andisa?

2 A. We were fleeing the war. We were walking very rapidly. We took a whole night in
3 order to get to Andisa.

4 Q. And did you stay in Andisa or did you continue to another place?

5 A. We remained in Andisa. There was no point crossing the river. We remained in the
6 same location in Andisa in order to ascertain what we could do then.

7 Q. How long did you remain in Andisa for?

8 A. We remained in Andisa for approximately a week. After four or five days, some
9 people went to Mongbwalu, and they saw all the UPC soldiers, and they wondered, well,
10 those who went there told us that the fighters were pursuing the Balendu. We remained in
11 Andisa for a week as a result.

12 Q. Where did you -- where did you sleep while you were in Andisa?

13 A. In Andisa, we would sleep here and there. We would gather in a house if there was
14 one that would welcome us and we would spend the night in abandoned houses. And
15 because we had been walking for such a long time, we were obliged to rest in those
16 abandoned houses.

17 Q. Did you have any food, sir, while you were in Andisa?

18 A. Well, we didn't have enough to eat. And when we did find food, it was food without
19 any salt, without any oil. We just ate vegetables.

20 Q. Do you know how long before you arrived the houses had been abandoned?

21 A. During the war, if people from Mongbwalu came to Sayo, then those in Sayo would go
22 to Nzebi. And when those in Nzebi heard that those from Sayo were on their way, they
23 would move on themselves to another village. And this is how people were trying to get
24 hold of information.

25 Q. Sir, you mentioned a moment ago that some people amongst you went to Mongbwalu

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1 and saw UPC soldiers and said that the fighters were pursuing the Lendu. Which fighters
2 were pursuing the Lendu?

3 A. Could you please repeat your question? I didn't quite understand it.

4 Q. Of course. You said some people went to Mongbwalu and saw UPC soldiers there,
5 and these people told you that the fighters were pursuing the Balendu. My question is
6 which fighters were pursuing the Balendu? Was it the UPC soldiers, or was it some other
7 fighters?

8 A. These were UPC soldiers who were pursuing the Balendu combatants. They were
9 running after the Balendu and we, in Andisa, did not have any food. We did not have any
10 salt. And that is why we thought about fleeing to Mongbwalu.

11 Q. Sir, when you say Balendu combatants, can you explain to the Court what you mean,
12 please? Were these people armed?

13 A. The combatants did not have any weapons. They were fighting with bladed weapons
14 such as spears, arrows, knives.

15 Q. Sir, and did you return to Mongbwalu?

16 A. Having heard from those who had gone to Mongbwalu, we also went to Mongbwalu.
17 After a time of observation and after having gleaned information from those who had gone to
18 Mongbwalu, we went there.

19 Q. Why did you decide to go back to Mongbwalu? Did you feel that it was safe for you?

20 A. In fact, the reason why we went back to Mongbwalu was that we were hungry. We
21 did not have any food. So those had gone to Mongbwalu would come back with a bit of
22 food or a bit of salt that they'd bought and then they would come back. So upon their return,
23 they said, "Yes, well, you civilians can also go." And the Balendu combatants said, "No, you
24 are civilians. You can come back."

25 So that's why we took our courage into our hands and went back to Mongbwalu. And

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1 because of -- my mother was of Alur ethnic origin, we were courageous enough to go back;
2 and when we went back to Mongbwalu, we settled there and we met the members of the UPC.
3 We were with our entire family.

4 Q. Where did you settle in Mongbwalu once you were back? Where did you live?

5 A. When we returned to Mongbwalu we went back to (Redacted), and we
6 found the abandoned house, which we entered.

7 Q. What did the house look like? What state was it in?

8 A. The house was empty and we didn't know who to ask. The village was full of UPC
9 soldiers. We couldn't ask anybody anything. If you ask a UPC soldier a question he might
10 kill you, so we spent the night on the floor. And it was a difficult life.

11 Q. Sir, did you have any belongings in your house before you fled Mongbwalu, which
12 were no longer then -- which were no longer there when you returned?

13 A. Yes. We had many possessions.

14 Q. What was missing?

15 A. There were no beds left, no mattresses, no chairs, no cooking utensils. There was
16 nothing left.

17 Q. Did you see the house or the room where your sister-in-law had been before she fled?

18 A. Yes. The house had been destroyed during the first war. And we saw the mortars.
19 We could see the shell impacts, the impacts of the shells.

20 Q. Sir, I will now ask you some questions about the fact that you are a victim participating
21 in this case. Do you know what I mean by "a victim participating in this case"? So I want to
22 ask you some questions, not about you as a witness, but about you as a victim participating in
23 the case.

24 And I would like to know, before I ask you my questions, whether there is anything you
25 would like to say about your application to participate as a victim in the case.

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1 A. Could you please repeat your question?

2 Q. Of course. Sir, do you remember that -- do you remember seeing an application form
3 for you to participate as a victim in this case?

4 A. Yes, I do remember.

5 Q. I am going to ask you some questions about what it says on that form, but before I ask
6 you any questions, I want to know whether you want to say anything to the Judges about that
7 form.

8 A. Well, with regard to this form, when we filled it in all of our possessions had been taken
9 and we were told that they would be given back to us.

10 Q. Sir, do you remember what -- do you remember what language that form was filled in?

11 A. The form was filled out in French.

12 Q. Who filled the form out?

13 A. We were with the chef de village, that is, the head of the village. And those who gave
14 us the form said the following: "If anyone was a victim during the war, let that person come
15 forward." Some people were there to help us fill out the forms. In my case, for example,
16 someone else filled it out on my behalf. But we didn't know at the time that this matter was
17 going to come this far. Our understanding, however, was that by filling out these forms we
18 were expecting some form of compensation.

19 Q. Sir, what do you mean that you did not know that this matter was going to come this
20 far?

21 A. Well, what I know is that this was being done for the justice system. Our prime
22 concern at the time was compensation. We thought that we were going to receive
23 compensation on the spot, that is where we were. And we expected that compensation to be
24 provided within a very short time.

25 Q. Do you remember whether you said anything on that form which was not true?

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1 A. Yes.

2 MS SOLANO: Your Honour, could the court officer please show document

3 DRC-OTP-2068-0051. And it is not for public broadcast. This document is confidential.

4 And, your Honour, there are some names, some family names on the form and, for

5 that reason, I request asking my questions in private session.

6 PRESIDING JUDGE FREMR: Let's move into private session now. And, court officer,

7 please assist Ms Solano.

8 (Private session at 12.03 p.m.) *(Reclassified partially in public)

9 THE COURT OFFICER: We are now in private session. And we would like to know which
10 redacted version we are supposed to publish?

11 MS SOLANO: The latest one you have.

12 Q. Sir, can you please let me know if you can see a document on your screen?

13 A. Yes.

14 Q. Do you recognize this document? Have you seen it before?

15 A. Yes. I do recognize this document. That is the document I was referring to a short
16 while ago.

17 Q. Sir, did you sign this document?

18 A. Yes.

19 Q. I'm going to read in French from paragraph 1 of the document, the handwritten portion
20 says: (Interpretation) "During the attacks, there were bombs that (Redacted). My
21 (Redacted) and my (Redacted) were killed by assailants who were firing. (Redacted)
22 (Redacted) End quote.

23 Sir, is this information correct?

24 A. Yes. That is the truth. However, I was just writing these things for the sake of
25 writing.

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1 Q. Sir, was (Redacted)?

2 A. No. (Redacted). That is (Redacted). She's the one

3 who is also known as (Redacted).

4 Q. And the (Redacted)

5 (Redacted)

6 A. Yes.

7 Q. Sir, I'm going to read from the same part of the form. I'm going to quote in French

8 where it says: (Interpretation) "I also lost 120 kilograms of (Redacted). Some persons had

9 kept their (Redacted) at my house and this was taken away by the rebels. I was forced to *flee

10 to (Redacted), which is about 30 kilometres from here."

11 Sir, can you tell the Judges whether that information is correct, please?

12 A. These are all lies. Yeah. Well, they are lies. I am the one who provided this

13 information, by the way. I'm the one who put the information on to these documents. But

14 this information is incorrect. I have already stated previously that this information is

15 incorrect.

16 Q. Sir, do you remember whom you told that this information was incorrect?

17 A. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 So I told them that when I had previously stated that I had lost 120 kilograms of (Redacted)

22 and that I had lost (Redacted), the truth is that the child was killed (Redacted)

23 (Redacted) the woman did not die. That is the truth. And it is a child who was

24 (Redacted). I also told them that the information about the

25 120 kilograms was incorrect.

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1 So those people asked me, "What then do you want us to do?" And I told them at
2 the time that when I provided that information, (Redacted)
3 (Redacted) And then I told them that I wanted to correct that
4 information and bring the truth to their attention.

5 So they -- they heard me and asked me to sign this document. And I don't know
6 whether it is the same document that you are showing me here today.

7 MS SOLANO: Sir, your Honour, can the court officer please display document
8 DRC-OTP-2068-0038, the latest redaction, please.

9 Q. Sir, do you recognize this document, this first page of the document that is on your
10 screen?

11 A. Yes.

12 Q. What is it?

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 MR BOUTIN: Mr President.

25 PRESIDING JUDGE FREMR: Mr Boutin.

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1 MR BOUTIN: Mr President, I question the purpose of this line of questioning. Is the
2 purpose or is the intent of Madam Prosecutor is to declare her own witness hostile, or are we
3 in a situation where she wants to refresh the memories with those previous statements? I
4 don't think that this is the case. So I'm a bit confused as to the purpose of those questions.

5 PRESIDING JUDGE FREMR: Ms Solano?

6 MS SOLANO: Your Honour, I have no intention to seek to have this witness declared hostile.
7 I just want the record to show that the witness and what the witness has explained about the
8 information he provided to the Office of The Prosecutor (Redacted)
9 (Redacted) So all I am seeking to do right now is
10 to establish that the witness has seen the document in front of him and that he recognizes it as
11 a statement that he gave to the Prosecution.

12 PRESIDING JUDGE FREMR: Then you may proceed. Okay.

13 MS SOLANO: Thank you, your Honour.

14 Q. Sir, the document that is in front of you, do you remember whether this is the statement
15 that you gave to the Office of The Prosecutor?

16 A. Yes.

17 MS SOLANO: May I have a moment, your Honour, of your indulgence.

18 PRESIDING JUDGE FREMR: Take your time.

19 MS SOLANO:

20 Q. Sir, is this the -- is this the statement that the Office of The Prosecutor took when you
21 explained to them that (Redacted)

22 (Redacted)

23 A. During those discussions, they showed me the document. They asked me whether I
24 said -- whether I would agree that all that I had stated was correct and I said no. (Redacted)
25 (Redacted) That is what I told

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1 them. That is to the members of the OTP. I told them that there was (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Thank you, sir.

5 Sir, when you (Redacted)

6 (Redacted)

7 A. (Redacted)

8 Q. Sir, I want to --

9 MS SOLANO: Your Honour, we can go back into public session.

10 PRESIDING JUDGE FREMR: All right.

11 Court officer, let's move into open session again.

12 (Open session at 12.20 p.m.)

13 THE COURT OFFICER: We're in open session and the document won't be broadcasted to
14 the public.

15 MS SOLANO: Thank you.

16 PRESIDING JUDGE FREMR: Thank you.

17 Ms Solano, you may proceed.

18 MS SOLANO: Thank you, your Honour. The document does not need to stay on the
19 screen anymore.

20 Q. Sir, I want to ask you again about the time when you came back to Mongbwalu from
21 Andisa. You have already told your Honours about the state that you found your house in.
22 Did you ever find any of your belongings, your belongings which went missing from your
23 house?

24 A. We did not find anything in the house. We were even able to see some of our clothes
25 being worn by some of our neighbours. But it was difficult to -- to raise any questions with

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1 them. These people were Hema and we belonged to another ethnic group. We couldn't
2 even raise a little finger. There was nothing we could do.

3 Q. Apart from your family, were there other Lendus in Mongbwalu when you came back?

4 A. Well, there were some Lendus, but we would disguise ourselves. We did not want
5 people to know that we were Lendu. You see, you may have good relations with the Lendu,
6 but at that time it was out of place to entertain those types of relations, and the Lendu could
7 not go about showing off their money, otherwise they would be killed. So there were some
8 Lendu who were there, but it was mainly the poor Lendu. All those who were well-off or
9 well-to-do had left.

10 Q. And who, according to you -- why do you say that the Lendu who showed off their
11 money would be killed? Why do you say that?

12 A. No, that's not what I said. What I said is that if you have money, if you are rich, it is
13 possible to be identified. It is easy to know who is rich and who is poor because, by the way,
14 this was a tribal conflict. It involved everybody, civilians and soldiers alike.

15 Q. When you came back to Mongbwalu, what would happen if you were identified as
16 Lendu?

17 A. Well, it's a matter of luck. If you are lucky, or if you are unlucky, it goes that way.
18 We grew up in Kilo-Moto. We did not grow up in the village. So when we spoke it was
19 easier for us to be identified because of the language that we spoke. Fortunately, we were a
20 bit taller, growing more or less after the height of my mother's ethnic group. And I happen
21 to be a little bit taller, and that is the reason why I am still alive.

22 Q. You said that while you were in the -- while you were in Andisa, the Lendu combatants
23 told you that if you were civilians, it would be safe to come back to Mongbwalu. Do you
24 remember saying that?

25 A. Yes. But it was not Lendu combatants. The Lendu combatants had fled. It is us, the

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1 civilians, who remained there. But there was hunger at that time. We were told that the
2 UPC soldiers were killing the Lendu. However, some members of the population were with
3 us, but they went back to buy salt and food. And those people who had gone back came
4 back to where we were and told us that not everyone was being killed. And at that time we
5 decided to go back.

6 When we went back, for the first two days everything was calm, and so we remained
7 there.

8 Q. Did anyone -- did any Lendu get killed once you were back in Mongbwalu?

9 A. Yes. Yes. Some people were killed, but everything happened silently. Now, if you
10 were not involved, you remained in your home. Some people were killed in hiding. Maybe
11 they would be abducted and taken away and killed.

12 And if you were in the village and you noticed that that person was no longer visible,
13 then you could understand that the person had been killed.

14 Q. Are there any specific individuals that you recall going missing at this time when you
15 came back to Mongbwalu?

16 A. You know, what I'm telling you here is what I saw. There were cases of
17 disappearances. There was a missionary priest, a father who was in Mongbwalu; he was
18 abducted in broad daylight. We were there. *He was of Lendu Bindi ethnic group, and he
19 was taken away, but he never came back. He had been killed.

20 Q. What was the name of this priest?

21 A. His name was Abbé Bwana Lungwa.

22 Q. Do you know what age he was?

23 A. That happened a long time ago. They went to pick him up at the mission. He was an
24 elderly gentleman and he did not flee when there was fighting. He was an elderly
25 gentleman. He was older than us. He was a former priest.

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1 Q. Do you say he was a former priest? Was he not a priest at the time when he was taken
2 away?

3 A. No, he was still a priest, but he was an elderly person. That's what I meant. He had
4 been working as a priest for a long time. When he was arrested he was still working as a
5 priest. He was killed because he was a Lendu. He was killed, quite simply, because he was
6 a Lendu.

7 His colleagues had fled, but he was not in a position to flee because he was very old
8 and he didn't even have anywhere to go.

9 Q. Who arrested and killed the priest?

10 A. The priests had a vehicle, a four-by-four white Hilux. And he was loaded into that
11 vehicle, he was taken away and he was killed. The soldiers then took possession of his Hilux
12 vehicle. And we no longer saw the priest, nor do we know where he was buried. However,
13 in 2012, 2013, I remember that some priests exhumed his body in order to bring it back to the
14 mission, and I thought to myself, well, is this one and the same priest who was arrested and
15 killed during the war?

16 Q. Do you know who arrested and killed the priest?

17 A. There were many soldiers, many Hema, UPC soldiers in that vehicle. So it was the
18 Hema UPC soldiers and the sector commander Kasanga, a UPC soldier -- Kasangaki. Well,
19 he was the one who was the commander there, but he was the highest-ranking commander.
20 However, that does not mean that he was the one who arrested this priest, this area
21 commander. But all that I do know is that it was UPC elements who killed him.

22 Q. Sir, do you know where the priest's body was exhumed from?

23 A. This is a known fact to all the villages, because his body was exhumed in the year 2013,
24 and his body was taken back to the missionaries. It is Red Cross staff who exhumed him,
25 and this took place in the Kilo-Moto association building, and that is when we mourned him

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1 and we held a requiem for -- we held a requiem mass for the deceased priest.

2 Q. Sir, while the UPC was in Mongbwalu, do you know what or who was at the Kilo-Moto
3 association building? What was this building used for?

4 A. This was a house that was occupied by the high-ranking UPC commanders.

5 Q. Do you know which specific commanders occupied that house?

6 A. The one that we would see on a regular basis and who would hold meetings was
7 Kasangaki. But I do not know the names of the others who were with him. Kasangaki was
8 the one who would organise meetings. But there were many commanders because the UPC
9 had many soldiers.

10 Q. Sir, when you saw the priest in the 4 by 4 with the UPC soldiers, where were you?

11 MR BOUTIN: Mr President.

12 PRESIDING JUDGE FREMR: Mr Boutin?

13 MR BOUTIN: Unless I miss something, I don't think that the witness ever mentioned that he
14 saw the priest in a vehicle, unless I'm mistaken. Could you please provide the transcript?

15 PRESIDING JUDGE FREMR: Ms Solano.

16 MS SOLANO: Yes, your Honour. At page 42, line 13, at line 12, I asked "Who arrested and
17 killed the priest?" At line 13 the witness answered, "The priests had a vehicle, a 4 by 4 Hilux,
18 and he was loaded into that vehicle. He was taken away and he was killed. The soldiers
19 then took possession of his Hilux vehicle, and we no longer saw the priest, nor do we know
20 where he was buried."

21 PRESIDING JUDGE FREMR: All right. You may proceed.

22 MR BOUTIN: Mr President.

23 PRESIDING JUDGE FREMR: Mr Boutin.

24 MR BOUTIN: Sorry. I think it just made my point. The witness never mentioned that he
25 saw anything. So maybe a question of introduction before she go further might clear up the

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1 matter.

2 PRESIDING JUDGE FREMR: Ms Solano?

3 MS SOLANO: Your Honour, at page 41, line 16, the witness said, "There were cases of
4 disappearances. There was a missionary priest, a father who was in Mongbwalu. He was
5 abducted in broad daylight. We were there." That is, your Honour, where I'm coming
6 from.

7 PRESIDING JUDGE FREMR: All right. So please try to clarify that with the witness.

8 MS SOLANO: Yes, your Honour.

9 Q. Sir, did you see the priest when he was taken away?

10 A. There were two cases. The priest in question was taken away from the mission. He
11 was put in a vehicle. We were standing at a comptoir by the roadside, and we identified this
12 vehicle as being the priest's vehicle. The priest was in the rear part of the vehicle, and the
13 commanders were seated inside the vehicle. And when the vehicle was brought back, the
14 priest was no longer in it.

15 Q. Are you saying then that you saw the car twice? Was it on the same day, or was it on
16 different days?

17 A. We saw the vehicle go by. Do you think it was easy to see a vehicle during the war?
18 No. You could only see a vehicle when there were soldiers inside, especially in Mongbwalu,
19 because civilians couldn't move around easily or in their vehicles unless they were well
20 known people. And when the vehicle returned, the priest was no longer on board. There
21 were soldiers in the vehicle. And on the following day we saw the vehicle being driven
22 around with soldiers on board. And they were also transporting soldiers' rations.

23 Q. When you saw the priest in the rear part of the vehicle, in what direction was the vehicle
24 going?

25 A. The priest was taken to the missionaries -- was taken from the missionaries, and they

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1 took him to the military camp, and that is where they killed him. And when we saw the
2 vehicle going by, we identified it and we said, "Ah, there's the priest's vehicle." They took
3 him and we never saw him again. The vehicle was seen at a later stage, but there was no
4 longer any priest on board. We only saw the soldiers in the vehicle.

5 Q. Sir, you said that when you saw the priest in the vehicle, you were standing at a
6 comptoir by the roadside. Where -- where exactly in Mongbwalu was this comptoir?

7 A. I don't know if you've ever been to Mongbwalu. There is a roundabout, and there is a
8 road from the roundabout towards the centre and another road towards the centre. And you
9 take the road towards the centre, leaving the road towards the camp behind you. And the
10 gold trading desks, the comptoir, are always set up along the side of the main road.

11 Q. And how do you know that they took the priest to the military camp?

12 A. The soldiers took the Lendu priest away, and we Lendus took fright because we thought
13 to ourselves, well, if they're taking that Lendu away, if we never see him again, if it will be
14 because he has been killed.

15 Q. How did you know that they took him to the military camp?

16 A. Well, this was a vehicle with soldiers on board, so we could only think of this possibility,
17 namely, that this Lendu priest was going to be killed, because at that moment in time the
18 Hemas were laying down the law, and that's what we were to expect.

19 Q. Sir, you mentioned that Commander Kasangaki held certain meetings. Can you
20 explain to the Judges what those meetings were?

21 A. Well, you see, these were meetings that were held by commanders. They would invite
22 civilians and they said, "Do not be afraid. We have already taken control of the town and
23 nothing bad will happen to you. The enemy will no longer be able to attack you. The
24 Lendus won't attack you." This was what was being said during these gatherings.
25 However, that was not the case because people were suffering. They said, "Don't be afraid,

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1 the town has been secured." But the fact of the matter was that the population was suffering.

2 Q. What do you mean when you say that "the population was suffering"? Who was
3 suffering?

4 A. Well, these meetings were being held in our villages and in our towns, but this did not
5 stop people from being killed; for example, my brother was killed. And during these
6 meetings, people were saying to us, "Don't be afraid, it's peaceful." But what kind of
7 conclusions can one reach? We were told not to be afraid; however, they were all of bad
8 faith. They were killers, these people.

9 Q. Sir, at these meetings, were the Lendu referred to by any particular word?

10 A. The Hemas would talk about the Lendus saying that they were dirt, that one could not
11 work in a dirty place. And they said the Lendus are dirty and we needed to be rid of this
12 dirt.

13 Q. Sir, I heard in your answer the word "mchafu". Can you explain what that word
14 means?

15 A. This is a bad thing, mchafu. It means dirt. Mchafu, well, how do you want me to
16 explain this to you? This is dirt. And in French we say sale, S-A-L-E. That's what we say
17 in French.

18 Q. Sir, you've said that this is the word that the Hema used to refer to the Lendu. Was
19 it -- how about the UPC, how did they refer to the Lendu?

20 A. They were Romeos. Well, they would call themselves Romeos -- Romeos or Romans.
21 And these Romeos or Romans had to be rid of or wipe out the dirt.

22 Q. Do you know what that word means, Romeo or Roman?

23 A. We don't know. Personally, I do not know what the meaning of this is. They would
24 be in a position to know. They call themselves Romeos. But when they talk about the
25 Lendus, they called Lendus mchafu. I know what mchafu means. But as for Romeo, I don't

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1 know what that means.

2 Q. Sir, did you personally attend these meetings between the UPC and the population of
3 Mongbwalu?

4 A. You see, when a meeting was convened by figures of authority within the State, one can
5 take part without any problem. However, when meetings are convened by rebels, one goes
6 there under duress because if one doesn't go, then one might be killed. And if a meeting is
7 held very close to your boutique, you would go close and listen to what was going on. And
8 this might have last an hour or two, and then you would leave.

9 Q. And did you attend these meetings while the UPC was in Mongbwalu? Did you go
10 there personally?

11 A. Yes, we did take part. Personally, I did attend those meetings. And they said, "We're
12 here. Do not be afraid." But, in fact, people were experiencing very bad things.

13 Q. Sir, how many of these meetings do you remember attending, or how frequent were
14 these meetings?

15 A. I cannot remember. The UPC may have remained in that locality for a month or two.
16 I would say they held one or two meetings or more. It was whenever there was a murder.
17 And they would convene a meeting saying to people, "Do not be afraid. We are testing our
18 rifles. Do not be afraid." And in some meetings people would take part, and in others they
19 wouldn't.

20 MS SOLANO: Your Honour, I'm mindful of the time. If your Honour wishes, I could make
21 a break here.

22 PRESIDING JUDGE FREMR: You still have two or three minutes, so it's up to you whether
23 you want to continue or whether it's better for you to cut now and to continue in the
24 afternoon.

25 MS SOLANO: Your Honour, the Witness mentioned earlier his brothers' death, and that's

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1 what I intend to explore with him next, but I cannot do it in such a brief time so I prefer to
2 break.

3 PRESIDING JUDGE FREMR: Yeah, I get the point. In such a case we will break now.

4 And we will have first to take witness out of the courtroom. And for that purpose, we will
5 have to move into closed session.

6 (Closed session at 12.58 p.m.) *(Reclassified entirely in public)

7 THE COURT OFFICER: We're in closed session, Mr President.

8 PRESIDING JUDGE FREMR: Thank you.

9 (The witness stands down)

10 PRESIDING JUDGE FREMR: Witness has left, so we now may move into open session
11 again.

12 (Open session at 12.59 p.m.)

13 THE COURT OFFICER: We're in open session, Mr President.

14 PRESIDING JUDGE FREMR: Thank you.

15 And before -- before we break, according my information, Ms Solano, you have exhausted so
16 far 2 hours and 28 minutes, which means that, in fact, if you succeed to finish by the end of
17 the afternoon session, it would be in accordance with our original guidance. Is it -- is it the
18 case?

19 MS SOLANO: I do expect that that's the case, Mr President.

20 PRESIDING JUDGE FREMR: Very well.

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

22 THE COURT USHER: All rise.

23 (Recess taken at 1.00 p.m.)

24 (Upon resuming in open session at 2.33 p.m.)

25 THE COURT USHER: All rise.

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1 PRESIDING JUDGE FREMR: Good afternoon, everybody.

2 We will continue with examination-in-chief of our witness by Prosecution.

3 So, Ms Solano, you have the floor.

4 MS SOLANO: Thank you, your Honour.

5 Q. Sir, you mentioned earlier your brother who was killed during the war.

6 Without saying his name, because we're in open session and you've already said his
7 name, could you tell us how you learnt that your brother was dead?

8 A. This happened at the time when the UPC had taken over control of the area, and
9 it happened around 3 or 4 p.m. There was gunfire in the village. Now, the shots
10 and firing continued, so we decided to return to the house.

11 When we got to the house, we found out that our elder brother was not there. Then,
12 around 6 p.m., someone said that one of our brothers was absent. In fact, it was our
13 uncle who said so. And there was a lot of shooting and firing, and he was not there.
14 Then, later on, a neighbour came by and asked us how our brother was dressed, and
15 we told him that our brother was wearing a boubou, a white boubou.

16 Then the neighbour continued by saying they had seen someone who had been struck
17 by a bullet and that that person had been killed and that this person was wearing a
18 white boubou. So we decided to go find out what happened.

19 When we got to the place or the location, we found out that it was, indeed, our
20 brother. It was already night-time, around 7 p.m. We wanted to take the body
21 with us, but we were told not to take the body because investigations were going to
22 be conducted. That is how we waited for the next day for the investigations to be
23 conducted, and then the body was handed over to us the next day in the morning.

24 Mid -- if he had been struck by a stray bullet, we would have understood it, but we
25 realized that he was actually gunned down by a bullet that went through his orehead,

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1 so we thought that it was not a stray bullet at all that may have struck him.
2 After the investigations, they told us that it was one of his soldiers or one of their
3 soldiers who had been firing and who had so struck our elder brother to death.
4 So we kept the body at home, looked for a coffin while others went to dig the grave in
5 which he was buried.
6 We were also told that the person who killed him was called Liripa. We were
7 expecting the chief of staff of Bunia, or the commander, to do something about this
8 and to take action, but that's how things were. They came to the house and
9 told -- and asked us, "What do you want us to do to the person who has killed your
10 brother?"
11 We answered saying that we did not even know why that person acted in that way,
12 and we didn't know what they could do, but that we left it to them to decide what to
13 do.
14 We also told them that we did not want them to kill him, and that is how they told us
15 that their chief of general staff was already aware of this issue and was calling for that
16 person to be executed. But this was not a matter for us to handle.
17 At that time, the body was still with us at home.
18 But even before that time, the soldier had already been executed. We only heard
19 some gunshots while we were at home prior to the burial of our brother. So
20 that -- that soldier *was killed around 11 or 12 a.m. Then we went on to bury our
21 brother in the afternoon around 2 p.m.

22 Q. Sir, how long after you arrived in Mongbwalu from Andisa was your brother
23 killed?

24 A. A lot of time had gone by, and we were already getting back into the flow of life,
25 so to speak. Things had begun to take up -- to pick up again, so I would say it was
26

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1 bout two to three weeks. Two to three weeks. Two to three weeks.

2 Q. In which place of the city did you find your brother?

3 A. It was in Mongbwalu near the police station, downhill from the police station in
4 a neighbourhood known as Gangala.

5 Q. Sir, could you spell Gangala on the piece of paper in front of you where you
6 have written already some other names, please.

7 Can the usher please assist.

8 Court officer, I request that when the paper is put on the Elmo that it not be broadcast
9 to the public, please, as there are already some other names on the paper.

10 The witness has spelled G-A-N-G-A-L-A, Gangala.

11 Sir, when you first saw your brother -- when you first saw your brother in this place,
12 what other persons were there? Who else was present?

13 A. It was us, members of the family, myself, my uncle. We arrived at that place
14 with other members of the family. And for -- we were told we could not take the
15 body away. *But there was also our elder brother's brother who lived below the
16 police station were also there with us.

17 Q. Who told you that you could not take the body away?

18 A. The soldiers.

19 Q. Which soldiers were these?

20 A. The UPC soldiers.

21 Q. The next morning who gave your brother's body back to you?

22 A. Their commander, their sector commander. He was the one in charge of the
23 UPC sector in Mongbwalu; Kasangaki. He is the one who gave the order after they
24 had conducted their investigation.

25 Q. Where was Kasangaki when he gave you the body? Where did you collect the
26

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1 body?

2 A. He was with the soldiers. The body remained at the same place where he had
3 been killed. He had been killed between 4 and 5 p.m., and the body remained
4 at -- or, rather, between 5 and 6 p.m., and the body remained at the same place
5 and -- overnight and the soldiers were there, too, and then we went back in the
6 morning, the next day in the morning, and they also were there close to the corpse, to
7 the body. They came with their commander and at that time gave us the order to
8 collect the body, and then they went away.

9 Q. Who told you that the UPC soldier who had struck your brother was called
10 Liripa?

11 A. They had come to the house, the soldiers, they came to the house and asked us
12 what we needed and how they could help us, maybe with some food, so that we
13 could mourn our brother properly. And we were all awake. So we told them no,
14 we had everything that we needed, and we did not want anything from them.
15 At that time, Kasangaki had sent some of his juniors, many soldiers. You know, the
16 UPC was a party. I do not know the number of soldiers that came, but we were told
17 the person who had killed our brother, and they were talking to my uncle and other
18 family members. This is what they said: The person who has killed your brother,
19 we know him. He is a soldier. We are going to take him to the parking and show
20 him to the people that he's the one who had committed the crime while waiting for
21 the order from Bunia from the chief of staff before executing him. So from our home
22 we were able to hear the gunshots, and it is at that time that they executed him.

23 Q. Who was this person, the chief of staff from Bunia?

24 A. The chief of general staff, he was the chief of staff of the UPC, Bosco, whose
25 deputy was Kisembo. So they were awaiting the orders of Bosco, because he is the

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1 one who was going to give the order. He gave all the orders. He was the person
2 who was primarily in charge. * Nobody could oppose him. Everything came from
3 him. All orders came from him.

4 Q. Sir, do you know if this person Liripa was in fact taken to the parking lot?

5 A. We were at home and the soldiers who informed us told us that they had
6 already held or taken the person who had killed our brother. We did not go with
7 them.

8 Now, others who went there told us that it was not necessary for us to go there. We
9 had already lost one of our own and, therefore, it was not necessary for us to go there.
10 We did not go there.

11 Q. Sir, where in Mongbwalu was this parking lot?

12 A. They called for a meeting at the parking, the Vodacom parking. There was a
13 Vodacom shop opposite. And today it is a building that belongs to one
14 Mugegere (phon). That is the building at which they usually met. That is the place
15 to which they took him. And then from there they took him somewhere. I don't
16 know, Doga (phon), but we didn't go there. We were told that it is at that location
17 that he was executed. No, we didn't go there. I myself, I did not go there. Maybe
18 other persons went there, but I didn't go myself.

19 Q. Sir, you've said something that wasn't captured properly in the transcript. You
20 said, "And then from there they took him somewhere. I don't know, Doga, but we
21 didn't go there." *Is that what you said "Doga"?

22 THE INTERPRETER: From the Swahili booth, Mr President, the Swahili interpreters
23 would like the witness to kindly repeat his question and speak slowly so that they can
24 capture the full meaning of what he's saying.

25 PRESIDING JUDGE FREMR: A message from the interpreters too, and through me

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1 to Ms Solano and to witness, there is some overlapping and also you spoke,
2 Mr Witness, you probably spoke too fast. So could you, Ms Solano, repeat your last
3 question and you then, Mr Witness, your response.

4 So Ms Solano, please.

5 MS SOLANO: Yes, your Honour.

6 Q. Sir, from what you know, did the UPC take Liripa somewhere else after the
7 Vodacom parking?

8 A. No, I am not in a position to tell you the place to which he was taken. I know
9 that they had taken him to execute him, but I do not know where they took him to, so
10 I can only talk about what I saw.

11 Q. Did anyone in the UPC explain to you or to your family why they were
12 punishing this soldier, Liripa?

13 A. No, not someone from the UPC. It was us, ourselves, who felt that if they had
14 killed him, then it is a crime. If he had not been killed, we would have perceived
15 things differently. You see, today we are talking about crimes that happened a long
16 time ago. If he were still alive, then we would have had the opportunity to ask him
17 who had done it and whether something bad had happened between him and that
18 person. But if only he were alive, then we would have been able to put that question
19 to him.

20 MS SOLANO: Your Honour, can I ask one question in private session, please?

21 PRESIDING JUDGE FREMR: For sure.

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

23 (Private session at 2.57 p.m.) *(Reclassified partially in public)

24 THE COURT OFFICER: We are in private session, Mr President.

25 PRESIDING JUDGE FREMR: Thank you.

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1 Ms Solano, you may proceed.

2 MS SOLANO: Thank you, your Honour.

3 Q. Sir, where did you bury (Redacted)?

4 A. (Redacted).

5 MS SOLANO: We can return to open session, your Honour.

6 PRESIDING JUDGE FREMR: All right.

7 Let's move into open session again.

8 (Open session at 2.58 p.m.)

9 THE COURT OFFICER: We are back in open session.

10 PRESIDING JUDGE FREMR: Thank you.

11 You may proceed, Ms Solano.

12 MS SOLANO: Thank you, your Honour.

13 Q. Sir, I just want to be sure I understand you. You have said that Kasangaki

14 gave an order, but that orders also came from Bosco, the chief of staff from Bunia.

15 Can you just clarify which order was given by Kasangaki and which order was given

16 by Bosco, the chief of staff from Bunia, please?

17 A. The commanders came to our house and told us that they had already caught

18 the person who had killed our brother. They said they were waiting for orders from

19 Bunia, orders from their superiors. And they said that according to those orders,

20 anyone who killed would be subjected to similar treatment.

21 We didn't say anything, but we thought to ourselves why kill him? "Don't kill him,"

22 *we said, "Why would you kill him? You should not kill him because he does not

23 know what he has done." Then they said: Well, we are awaiting orders from their

24 superiors to execute him and that as soon as the orders come in they would execute

25 him. And as soon as the orders were received, they did what they said they would do.

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1 Q. And which was the order given by Kasangaki?

2 A. He sent soldiers. The soldiers arrived at the house. If Liripa had not been
3 killed, he had already been caught by -- and taken to court, he would have been
4 judged to answer for his acts if he hadn't been executed. He should have been before
5 Court. He should have been in detention. *And he would have said who had sent
6 him, he would have given the person's name.

7 Q. Sir, I'm going to change to a slightly different topic now.

8 Apart from the missionary priest and from your brother, was anyone else whom you
9 knew killed or disappeared while the UPC was in control of Mongbwalu?

10 A. There was someone else. As my big brother's trading desk was around about
11 10 metres -- in fact, those people had their EIS. They had taken that person and
12 taken them off to the camp. To date, that person has never been found again and
13 nobody has come across a grave even.

14 Q. Sir, according to the transcript, you've said a word, you've said that "those
15 people had their EIS." What is that?

16 A. They had their AIS. They were agents, officials sometimes wearing military
17 uniform, but sometimes not, sometimes without military uniform. We saw them
18 take him off to the camp, and to date we don't know where they have buried him.
19 We have no news about that person.

20 Q. Sir, can you please write "AIS" on the piece of paper that's next to you.

21 I note for the transcript that the witness has written "AIES."

22 Sir, do you know what this was, AIES?

23 A. It's a term that means intelligence agents, such as we have learnt, and
24 sometimes they wore military uniform, sometimes they were in civilian clothing, but
25 they were soldiers.

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1 Q. Were they UPC soldiers?

2 A. Yes. They were UPC soldiers.

3 Q. Sir, who was the person that the AIES took to the camp?

4 A. His name was Tutu -- Itutu.

5 Q. Can you please spell that on the piece of paper next to you.

6 The witness has spelt I-T-U-T-U.

7 Sir, what was Itutu's occupation?

8 A. He was a gold panner and a trader. He had his own gold trading desk.

9 Q. What ethnic group did he belong to?

10 A. It's difficult to say which ethnic group he belonged to. They were our elders.

11 I think his mother was Munyali. I don't know exactly which ethnic group he

12 belonged to. They were our elders in the village.

13 Q. What do you mean that they were your elders? Do you mean your family's

14 elders, or do you mean something else?

15 A. No, I'm not talking about an elder in my family. It's somebody who is older

16 than me in the village, our elders with whom we grew up --

17 Q. Sir --

18 A. -- in the same village.

19 Q. Can you spell the ethnic group? Can you spell it on the piece of paper next to

20 you, please.

21 And can the usher please show that.

22 A. I think that they did belong to that ethnic group, but I'm not absolutely certain.

23 Maybe -- maybe they were Nyali, because sometimes I would hear him talking

24 Swahili and Lingala. It's very difficult to say exactly which ethnic group he

25 belonged to.

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1 MS SOLANO: Can the usher please assist so that what the witness is writing down
2 is displayed on the Elmo?

3 The witness has spelt M-U-N-Y-A-L-I.

4 Q. Sir, given that you're not entirely sure of the ethnic group, let me ask you this
5 way: Is it possible that Itutu was a Hema?

6 PRESIDING JUDGE FREMR: Ms Samson -- Ms Solano, he said he is not sure, so I
7 think I will not permit this question, so please proceed.

8 MS SOLANO: Yes, your Honour.

9 Q. Sir, to which camp do you believe that Itutu was taken?

10 A. He was taken to the camp that's close to the airport. It's the biggest military
11 camp. And up until this very day, it is a military camp, but it's just that I'm not
12 certain that they took him to the camp. We saw them taking him towards the camp,
13 but I'm not sure that they arrived at the camp with him. To date, he has not yet been
14 found.

15 Q. Sir --

16 A. He's gone missing.

17 Q. Were they walking, were they driving? How were they transporting Itutu?

18 A. They took him by foot.

19 Q. Sir, I'm going to change to a different topic now.

20 Did you ever encounter any problems yourself, your own person, in this period of
21 your life?

22 A. Yes, there were problems.

23 Q. Did you have any problems with the UPC yourself?

24 A. Yes. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 MS SOLANO: Your Honour, may we move into private session, please.

6 PRESIDING JUDGE FREMR: All right.

7 Let's move into private session now, court officer, please.

8 (Private session at 3.14 p.m.) *(Reclassified partially in public)

9 THE COURT OFFICER: We are in private session.

10 PRESIDING JUDGE FREMR: Thank you.

11 Ms Solano, you may proceed.

12 MS SOLANO: Thank you, your Honour.

13 Q. Sir, where were you when this happened?

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted) It was close to Lipri, around

18 Mwanga, and it was in the area occupied by the UPC. There were discussions, and

19 (Redacted)

20 (Redacted)

21 Q. Sir, how do you know that they were UPC soldiers and that this was a UPC
22 area?

23 A. (Redacted). We know the area

24 occupied by the UPC soldiers. *There were barriers, and at each one, when there

25 were UPC agents, we gave money and if it was the Ugandans, we had to pay money,

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1 and sometimes there were problems.

2 Q. Sir, I'm -- when this happened, were you armed?

3 A. We're civilians. How could we have weapons? (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)

22 Q. Apart from the knife, were the UPC soldiers carrying other weapons?

23 A. When a -- well, a soldier has to, (Redacted), and by

24 definition, *he has to have a gun with him.

25 Q. Sir, my question was whether, apart from the knife, the soldiers who stopped

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1 you had other weapons?

2 A. The soldier had other weapons, (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted) And we were left there on our

6 own.

7 Q. Can you give the name of (Redacted), please?

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Sir, I can confirm that we are in private session, so no one can hear these names.

13 What ethnic groups did (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. Sir, do you remember (Redacted)

18 (Redacted)

19 A. Yes.

20 Q. Do you remember whether they took photographs?

21 Sir, I saw you nod your head, but could you please speak your answer into the

22 microphone?

23 A. I said yes.

24 Q. Sir, I would like to show you two photographs. Are you able to look at them?

25 A. Yes, I will look at them.

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1 Q. Thank you, sir.

2 Can --

3 PRESIDING JUDGE FREMR: Mr Boutin, any objection?

4 MR BOUTIN: No, Mr President.

5 MS SOLANO: Can the court officer please display DRC-OTP-2068-0054.

6 Q. Sir, can you see that image on the screen?

7 A. Ndiyo. Ndiyo.

8 Q. Can the court officer --

9 THE WITNESS: (Interpretation) Yes.

10 MS SOLANO: Can the court officer please show DRC-OTP-2068-0055.

11 Q. Sir, can you see the image on the screen?

12 A. Yes.

13 Q. Do you recognize what these photographs show?

14 A. It's a photo that was taken of me (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 MS SOLANO: Your Honour, I seek to tender these photos into evidence, please.

21 PRESIDING JUDGE FREMR: Mr Boutin, any objection?

22 MR BOUTIN: No objection.

23 PRESIDING JUDGE FREMR: Well then, the two photographs, the first one ERN
24 ending with 0054, and the second one ERN number ending with 0055 are admitted
25 into evidence as Prosecution's exhibits.

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1 You may proceed, Ms Solano.

2 MS SOLANO: Thank you, your Honour.

3 The photo can be removed from the screen, please.

4 Q. Sir, what happened to (Redacted) if you know?

5 A. They (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. But how did you know that, sir?

12 A. That -- (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Sir, and we're in private session; so if you need to say any names, you can do so
17 comfortably.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 A. He said that he often went to Mandro. Bosco Ntaganda's residence was in
11 Mandro. His entire group was in Mandro, and Bosco Ntaganda would send some of
12 his men (Redacted)

13 (Redacted)

14 (Redacted)

15 THE INTERPRETER: Message from the Swahili booth: Mr President, could the
16 witness be asked to repeat the last part of his answer? Thank you.

17 PRESIDING JUDGE FREMR: Mr Witness, the interpreters asked me or told me that
18 they haven't captured the last part of your response. Could you kindly repeat it
19 again? Thank you.

20 THE WITNESS: (Interpretation) This is what I said: (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE FREMR: Ms Solano, please, could you kindly hold on for a

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- 1 second, ma'am? My transcript has frozen.
- 2 Court officer, could you assist me.
- 3 Now it is fine. Okay. You may proceed.
- 4 MS SOLANO: Thank you, your Honour.
- 5 Q. Sir, how exactly did you (Redacted)
- 6 A. It was a difficult operation. (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 Okay. Then he was invited in for a second time to (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. Sir, when was this (Redacted)?

10 A. Dates -- well, I've forgotten the date. What I know is that (Redacted)

11 (Redacted) during the conflict, at the time of the clashes.

12 Q. Was it before or after the UPC's takeover of Mongbwalu?

13 A. They (Redacted) prior to capturing Mongbwalu. It was at a time when they
14 were getting ready to attack Mongbwalu.

15 Q. How about the (Redacted), when did that occur? Was it before or after the
16 attack on Mongbwalu?

17 A. (Redacted) when the UPC troops were already in Mongbwalu. You know,
18 things had dragged on for a while, and the efforts to recover the vehicle had taken
19 quite some time. So at the time we got the vehicle, the UPC was already in
20 Mongbwalu and in Bunia. We recovered the vehicle from Bunia. The journalist
21 went to Bunia to hand over the money, and at that time the UPC had already
22 captured Mongbwalu. That is when this happened.

23 MS SOLANO: Your Honour, we can move into open session.

24 PRESIDING JUDGE FREMR: All right.

25 Court officer, let's move into open session now.

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1 (Open session at 3.44 p.m.)

2 THE COURT OFFICER: We are in open session, Mr President.

3 PRESIDING JUDGE FREMR: Thank you.

4 Ms Solano, you may proceed.

5 MS SOLANO: Thank you, Mr President.

6 Q. Sir, how long did the UPC stay in control of Mongbwalu?

7 A. I am having difficulty remembering how long they stayed there. You see, after
8 we got back the vehicle and repaired it, we began to do our transportation activities
9 again. We went from Mongbwalu to Ariwara, that was the main itinerary, and then
10 subsequently came the attack by the Ugandans on the UPC. And then later on we
11 learnt that the Ugandans and Lendus had arrived in Mongbwalu and had driven out
12 the UPC, and they had all gone in different directions, that is, the UPC; some to Bunia,
13 some elsewhere. And others even went in the same direction as we were going
14 when we did our transportation business towards Ariwara.

15 Kisembo's group was in that area. Kisembo's group is said to have gone towards
16 Medhji (phon), a location or an area which is on the Watsa road.

17 So the Lendus and the Ugandans re-entered Mongbwalu and remained there until the
18 government came and took over that part of the country, at which point the UPC
19 troops went back to their areas.

20 So all of this happened the way it did until the entire area was taken back by
21 government forces.

22 Q. Sir, to your knowledge, did the UPC ever try to capture Mongbwalu again?

23 A. I really am not in a position to know. Those two groups, whether it be the
24 Lendu or the Hema, both groups wanted to control Mongbwalu, the trade centre.
25 Each group wanted to have control over Mongbwalu.

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1 You know, Mongbwalu is an area that belongs to the Nyali. It doesn't even belong
2 to the Lendu. So Mongbwalu is in Djugu because all of those figures of authority in
3 Djugu are Lendu, and we are the majority. We are more in number than the other
4 ethnic groups; although, the fact is that Mongbwalu belongs to the Nyali. The
5 Lendu, the Gegere, the Hema, everybody wanted to have control over Mongbwalu.
6 So I don't know whether they tried to recapture Mongbwalu again.

7 But, furthermore, you had Ugandans, then you had the French who came to Bunia,
8 and then the government did everything in its power to take back that part of the
9 country. And that's how when they got to Mongbwalu they evacuated everybody,
10 even the Lendu. In Bunia they demobilized the UPC troops and then subsequently
11 demobilized the Lendu and that marked the end of the war.

12 Q. Thank you, sir.

13 Sir, while the UPC was in control of Mongbwalu, was the Mongbwalu airport
14 functioning? Were there planes landing and taking off?

15 A. In Mongbwalu, at the time of the UPC, aircrafts were not able to get to
16 Mongbwalu. When the UPC was in control of that area, planes could not land there,
17 but at the time of the Lendu, aircraft were able to land and supply food. You see, the
18 UPC had blocked off all the roads leading to the areas from which we could get sugar
19 and salt and these basic commodities. *So there was a friend -- a Nande plane which
20 came from Butembo to land in Mongbwalu. But it was during the APC time. It was
21 then that a man called Kisoni's plane arrived. But at the time of the UPC, most food
22 and supplies came by road, by car.

23 Q. Sir, did gold mining continue in Mongbwalu while the UPC was in control?

24 A. Yes, yes. Yeah, gold mining continued. However, the diggers or miners just
25 did casual mining, so to speak, just to get a little bit of money. It was not possible to

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1 carry out substantive or substantial mining.

2 Q. Sir, before today had you ever seen Bosco Ntaganda with your own eyes?

3 A. No. No.

4 Q. Sir, you said at the beginning of your testimony today that in the -- at around
5 the time that Lompondo was in Bunia, the Lendu could not go to Bunia and that only
6 the courageous Lendu could go. Why could the Lendu not go to Bunia?

7 A. There was a tribal war going on. The UPC was in Bunia. The Lendu were in
8 another area. And if one were courageous, then one could go to the areas that were
9 occupied by the other camp. There was a risk to it. One could lose everything.
10 You could go to Bunia with your goods, for example, and come back without any
11 problem on one trip, and then you go on a second trip and everything that you had is
12 taken away from you.

13 Q. Thank you, sir.

14 You also said earlier today that you believe you were not identified as a Lendu in
15 Mongbwalu because you're taller, similar to members of your mother's ethnic group.
16 So my question is: Is it possible or was it possible at the time to tell the difference
17 between a Lendu and a Hema by looking at them, by their physical appearance?

18 A. Yes, yes, quite easily, easy to recognize them. But there were other signs as
19 well. If somebody were your enemy or who hated you, they could identify you or
20 point you out and claim that you are Lendu. You see, in any event it was also
21 possible to recognize Lendu by their accent, by the manner in which they spoke. It
22 was possible to determine which ethnic group the speaker or one person or the other
23 came from.

24 Q. And in your case you said that you had grown up in Kilo-Moto, not in the
25 village. How did growing up in Kilo-Moto affect your accent or the way in which

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1 you speak?

2 A. There is a great significant difference between the accent of someone who is
3 born in the village and who grows up in the village. They have a village accent.
4 But Mongbwalu is a mixture of all ethnic groups in Congo. Although the Lendu are
5 a majority, there are people from other ethnic groups there who speak Swahili,
6 Lingala, French and other dialects. But if you are born in the village, you speak only
7 one language. If you are Lendu, you speak only Lendu. So it is very rare that such
8 a person would speak Swahili.

9 Q. How about the physical appearance, what do Lendus or what did Lendus
10 normally, generally speaking, look like?

11 A. The Lendu are generally short people. There are no Lendus who are tall. So
12 really, if you come across a tall Lendu, it must be a mix, a Lendu mixed with another
13 ethnic group. But generally speaking, Lendu people are short and fat. Some are
14 actually very, very short, very small in size.

15 Q. How about the Hema, sir, what are their typical physical characteristics?

16 A. Well, it all begins with the names. There's a great difference between the
17 Hema names and the Lendu names.

18 Q. Sir, sir --

19 A. Secondly --

20 Q. I'm sorry to interrupt you, it is -- I do so only in the interest of time. My
21 question was about the physical appearance of the Hema.

22 MR BOUTIN: Mr President.

23 PRESIDING JUDGE FREMR: Mr Boutin.

24 MR BOUTIN: I let my colleague following through with this line of questioning
25 about his opinion as to the physical appearance of other ethnic group. As far as I'm

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1 concerned, this is a matter of opinion. It has not been based on anything. It hasn't
2 been provided why he would have better knowledge about physical appearances of
3 those ethnic groups better than others. So in my view this line of questioning is not
4 appropriate.

5 PRESIDING JUDGE FREMR: Yes, objection sustained.

6 Mr Witness have already indicated one sign typical for Lendu, so the opposite sign I
7 think should be typical for Hema.

8 Ms Solano, it is 1 minute remaining, so last question if you want.

9 MS SOLANO: Yes.

10 Q. Sir, do you remember at the time that you were interviewed by the Office of the
11 Prosecutor whether you drew a sketch of some of the locations which you have
12 mentioned today during your testimony?

13 A. They asked me to show where we found the body of my older brother,
14 where we buried him, the road that goes to Sayo, and (Redacted)
15 (Redacted) They asked me to draw all of
16 that.

17 MS SOLANO: Your Honour, as I am out of time, I seek your guidance as to whether
18 I might ask the witness two more questions in relation to his sketch and then seek to
19 admit it into evidence.

20 PRESIDING JUDGE FREMR: No, Ms Solano. I would like -- it is also valid for
21 anybody here. You should manage your time. You had been given in advance a
22 clear time limit. You wasted your time limit for some, in my view, other not too
23 much relevant questions. So I have to be strict on that. Sorry, you have to finish
24 now.

25 MS SOLANO: Yes, your Honour. I'm guided. I would just like to tender into

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1 evidence the two -- I think the two pieces of paper where the witness has been writing
2 names today, please, if I could see them for a moment.

3 PRESIDING JUDGE FREMR: Yes, could we manage that.

4 And, Mr Boutin, any objection to this request?

5 MR BOUTIN: No, Mr President.

6 (Pause in proceedings)

7 MS SOLANO: There was another paper where the witness wrote down the names
8 of his brothers.

9 (Pause in proceedings)

10 MS SOLANO: Thank you, your Honour. These are four pieces of paper, and if the
11 Defence has no objection after inspecting them, I seek to have them admitted as
12 evidence.

13 (Pause in proceedings)

14 PRESIDING JUDGE FREMR: Before --

15 MR BOUTIN: No objection, Mr President.

16 PRESIDING JUDGE FREMR: Before our ruling I have a question to court officer.
17 How we should specify those four papers? Is that enough for you if
18 you just refer to Ms Solano's description?

19 THE COURT OFFICER: The Registry will attribute an ERN number to the
20 document that will be uploaded under eCourt and released to the party. I could
21 provide you with those ERN number tomorrow morning.

22 PRESIDING JUDGE FREMR: Okay. So we can expect a positive ruling on that, but
23 we will decide on that tomorrow when we have at our disposal the ERN numbers.
24 So now, Mr Witness, you will be excused for today.

25 I would like to thank you for answering all questions put to you today. Tomorrow

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1 we will continue with your testimony. And I have to highlight that in the meantime
2 you must not discuss your testimony with anybody else, including with your family
3 members or friends who you may be in contact with tonight. Do you understand that?

4 THE WITNESS: (Interpretation) Yes.

5 PRESIDING JUDGE FREMR: Very well. So have a good rest and we will see you
6 again tomorrow morning.

7 Now please move into closed session and the witness may be escorted out of the
8 courtroom.

9 (Closed session at 4.05 p.m.) *(Reclassified entirely in public)

10 THE COURT OFFICER: We are in closed session, Mr President.

11 PRESIDING JUDGE FREMR: Thank you.

12 (The witness stands down)

13 PRESIDING JUDGE FREMR: And we will return back for a short while into open
14 session now.

15 (Open session at 4.06 p.m.)

16 THE COURT OFFICER: We are in open session, Mr President.

17 PRESIDING JUDGE FREMR: Thank you.

18 The last issue I would like to solve is the request made by Mr Suprun to
19 question Witness P-0859 on four areas you have specified.

20 Mr Suprun, first question whether you -- whether do you insist on your request, and
21 if yes, the second one would be whether you, in the light of the questioning
22 conducted by Ms Solano, you are amending your previous request?

23 MR SUPRUN: (Interpretation) Thank you, your Honour. Indeed, I maintain my
24 request. I need to go through a number of questions with the witness that have not
25 been adequately covered by the Office of The Prosecutor and those questions concern

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1 the four themes that I identified in my request. So I estimate that I would need no
2 more than 30 minutes. Thank you.

3 PRESIDING JUDGE FREMR: And Mr Suprun, are you sure that your questions will
4 not be repetitive?

5 MR SUPRUN: (Interpretation) Indeed, your Honour. I will take measures to
6 avoid there being repetitive questions. Thank you.

7 PRESIDING JUDGE FREMR: Give me a second. I will confer with my colleagues.
8 (Trial Chamber confers)

9 MR BOUTIN: Mr President.

10 PRESIDING JUDGE FREMR: But before -- before we rule on that, I would like also
11 to hear parties. So, sorry, I will start with Prosecution. Sorry for omitting that.
12 Ms Solano, your comments on request made by Mr Suprun?

13 MS SOLANO: No objection, your Honour.

14 PRESIDING JUDGE FREMR: No objection.
15 And Mr Boutin?

16 MR BOUTIN: Sorry, with your leave, my colleague, Ms Grandon, will address this
17 issue.

18 PRESIDING JUDGE FREMR: Please.

19 MS GRANDON: Yes, thank you, Mr President. I'm going to be very short.

20 Four topics were mentioned by my colleague. I will first oppose to the topics B,
21 which is the circumstances in which the witness family's member were killed.

22 I believe this topic was already covered by the Prosecution in great details. So

23 I believe the question of my colleague will be repetitive if he was allowed to ask again
24 question about that topics.

25 And in the light of the decision you issued on 16 September of this year, you decided

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1 that the scope of the question of my colleague should be limited to the concrete harm
2 suffered by the witness, as well as the harms suffered by other victim of the same
3 attack.

4 So I believe that for topic A and C that they might be outside the scope that you ruled
5 on. And unless they are limited to the harm resulting from the situation of the
6 witness and other related victims, we oppose also to this two topics. Thank you.

7 (Trial Chamber confers)

8 PRESIDING JUDGE FREMR: So our ruling is following: We are granting
9 Mr Suprun to put questions on area indicated under points A, C and D, which means
10 situation of the witness and his relatives before and after the attacks on Mongbwalu;
11 then harm suffered by the witness and his relatives as a result of the events; and D,
12 situation of other victims of the same attacks, such as neighbours living in the same
13 compound under a condition that it will not be repetitive. I will guard that. And
14 we are granting for those three topics 20 minutes.
15 It is our ruling.

16 And now we adjourn and we will reconvene tomorrow 9.30.

17 THE COURT USHER: All rise.

18 (The hearing ends in open session at 4.11 p.m.)

19 RECLASSIFICATION REPORT

20 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
21 the public reclassified and lesser redacted version of this transcript is filed in the case.