

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
 2 Trial Chamber VI
 3 Situation: Democratic Republic of the Congo
 4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
 5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
 6 Trial Hearing - Courtroom 2
 7 Wednesday, 6 July 2016
 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
 16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
 17 And for the record, we are in open session.
 18 PRESIDING JUDGE FREMR: Thank you, court officer.
 19 Now appearances in habitual order, please.
 20 MS SOLANO: Good morning, your Honours. For the Prosecution appear James
 21 Pace, assistant trial lawyer; Ms Marion Rabanit, associate trial lawyer; Ms Laura
 22 Morris, assistant trial lawyer; Ms Dianne Luping, trial lawyer; Ms Selam Yirgou, case
 23 manager; and I am Julieta Solano, trial lawyer.
 24 PRESIDING JUDGE FREMR: Thank you, Ms Solano.
 25 Defence, please.

1 MR GOSNELL: Good morning, Mr President. Good morning, your Honours.

2 Christopher Gosnell for Mr Ntaganda this morning, who is present in court, assisted
3 by Isabelle Martineau, Erik Cookson-Montin and Han Catherine Morin. Thank you,
4 Mr President.

5 PRESIDING JUDGE FREMR: Thank you very much, Mr Gosnell.

6 And now Legal Representatives of Victims, please.

7 MR ABDOU: Good morning, Mr President. Good morning, your Honours. The
8 former child soldiers are today represented by myself, Mohamed Abdou, associate
9 legal officer with the OPCV.

10 MS GRABOWSKI: Good morning, Mr President. Good morning, your Honours.

11 Anne Grabowski for the victims of the attacks today. Thank you.

12 PRESIDING JUDGE FREMR: Thank you, Mr Abdou. Thank you, Ms Grabowski.
13 Before the upcoming witness can be called, the Chamber shall deliver its decision on
14 the Prosecution request seeking that special measures be adopted for the testimony of
15 Witness P-19, which is filing number 1383.

16 The Chamber granted last week, and I am referring to filing number 1433, the
17 requested in-court protective measures for the witness. It further decided that the
18 need for hearing certain evidence in private session would be assessed on a
19 case-by-case basis and deferred its decision on the Prosecution request for certain
20 specific special measures until receipt of the related vulnerability assessment. The
21 VWU provided this assessment via email on 3 July 2016.

22 And for the remainder of this decision we shall move to private session.

23 So, court officer, please move into private session now.

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

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

1 PRESIDING JUDGE FREMR: Thank you, court officer.

2 Having considered the VWU's recommendations, the Prosecution's submissions and
3 the fact that the Defence does not oppose the granting of the requested special
4 measures, the Chamber finds it appropriate to adopt the following measures for the
5 duration of the witness's testimony:

6 That the familiar support assistant from the VWU sit next to the witness in the
7 witness box; then that the questioning is adapted to the needs and capacities of the
8 witness, particularly questions should be short and straightforward and when
9 addressing sexual violence be framed in a manner that takes into account the sensitive
10 nature of the evidence to be elicited; and that breaks be taken if necessary during the
11 witness's testimony.

12 With regard to the issue raised by the Defence about the mode of questioning of the
13 witness, the Chamber recalls that any objections to the manner of questioning of the
14 witness will be adjudicated if and when such objections arise.

15 The Chamber will also monitor the situation and may modify the assistance granted if
16 required.

17 This concludes the Chamber's ruling and we may now move back into open session.

18 So, court officer --

19 Mr Gosnell, please.

20 MR GOSNELL: Mr President, I have a disclosure issue to raise and it may be best if
21 we address it in private session so we can all speak freely.

22 PRESIDING JUDGE FREMR: Please go ahead, Mr Gosnell.

23 MR GOSNELL: Mr President, it concerns the -- a request for redactions which was
24 turned down by the Prosecution. And perhaps it would be best if we could just all
25 look at the document together so we can see what I'm speaking about, with your

1 permission, Mr President.

2 PRESIDING JUDGE FREMR: All right then.

3 MR GOSNELL: So this is Prosecution tab 2, DRC-OTP-0171-1511. I'll say that
4 number again, DRC-OTP-0171-1511.

5 If we could turn please to ERN page 1514 and, Mr President, this is the witness's first
6 statement given in (Redacted) to the Office of the Prosecutor and at paragraph 10 we see
7 that there is an identification of the witness's husband which has been blacked out.
8 And this husband or former husband is no longer apparently the husband of the
9 witness, the person is separated from the witness. And relevantly for the
10 submissions I'm about to make (Redacted). The person has no
11 identified role, according to the witness's statement, in any of the events that she
12 describes.

13 Those are all important issues for your Honours to be aware of.

14 Now, on 14 June 2016 the Defence sought the identity of this former husband and on
15 29 June the Prosecution responded in relevant part saying, "The remaining category
16 A1, B and D1 redactions referred to by the Defence at page 60 are standard and
17 ongoing redactions and will be maintained in accordance with the redactions
18 protocol."

19 Now, the redactions protocol at paragraph 23, which is filing 411, annex A in this case,
20 it says, quote, "For family members whose identifying information is redacted on the
21 basis of their own security and who are of no relevance to any known issue in the case,
22 redactions shall be ongoing."

23 Now, the Prosecution in its response has offered no indication that there is any
24 protection concern in respect of this estranged husband, and our request, I
25 respectfully submit, indicates that there is a material issue in respect of this person's

1 identity and that we wish to undertake investigations in respect of this person.

2 Those investigations have been obviously impaired, obstructed by not having that
3 person's identity revealed to us, and we're not obliged, I suggest, Mr President, to
4 explain in detail to the Prosecution the reasons why we consider this person's identity
5 to be material.

6 I would suggest it's obvious when you read the events described by the witness why
7 it might be material, but it certainly shouldn't be our obligation to go into detail to
8 explain our strategy to the Prosecution in order to satisfy them that it is material.

9 And then to receive a summary response such as this, Mr President, is not a basis for
10 failing to disclose information that the Defence has indicated is indeed material.

11 And this is just part of a broader context, Mr President. We received, just to give an
12 example, Prosecution tab 35, DRC-OTP-2094-0289, lengthy description of contacts
13 between P-154 the intermediary and this witness disclosed only on 1 July 2016.
14 DRC-OTP-2092-0325, one of numerous notes describing the role of P-154 disclosed on
15 23 May 2016. DRC-OTP-2093-0218, pre-interview assessment of P-19 dated
16 (Redacted) disclosed on 28 June 2016. This is documentation that the Defence was
17 entitled to long before last week.

18 And these are significant disclosure failings and we request, Mr President, that you
19 order the Prosecution to disclose to us the identity of the persons -- of this witness's
20 former husband so that we can conduct proper investigations.

21 Thank you, Mr President.

22 PRESIDING JUDGE FREMR: Ms Solano, are you able immediately provide us with
23 any response?

24 MS SOLANO: Yes, your Honour. In relation to the -- my colleague's last
25 submissions about the role of P-154, this has of course been the subject of an order by

1 your Honours for the Prosecution to file its observations later today, and we are

2 preparing to do so, so I'm not going to delve into that.

3 In relation to the identity of the witness's former husband, and I can confirm that the

4 person is no longer her husband, your Honours, we submit that (Redacted)

5 (Redacted) is not material to any known issue in the case. The

6 witness -- the witness's materials do not reveal that this individual played any role

7 whatsoever in the events that she testifies to, and the Defence can certainly explore

8 with her during their cross-examination whether in fact the man played a role or not,

9 whether he was, so to put it, in the picture at the times that the event occurred, what

10 his role was in relation to the witness's deceased children, et cetera. There are a

11 number of questions that the Defence is already well able to ask without, your

12 Honours, the Prosecution being forced to disclose the identity of her husband.

13 The person -- the witness's former husband is not somebody that the Prosecution is

14 currently in contact with and for that reason we are unable to assess the risks that he

15 may or may not face as a result of disclosure of his identity, and of course disclosing

16 his identity would normally require us to try to establish contact with him and that

17 would quite possibly reveal the fact that the witness is appearing as a Prosecution

18 witness.

19 And for all of those reasons we submit that the basis on which we have maintained

20 this redaction, the paragraph from the redactions protocol that Mr Gosnell has read

21 out fully supports the Prosecution's current position, and so in sum, your Honours,

22 we oppose the move to reveal his identity.

23 PRESIDING JUDGE FREMR: And, Ms Solano, could you provide us with

24 information how long, what time you as the Prosecution you are aware of the fact that

25 those two are separated?

1 MS SOLANO: Your Honour, I don't have the exact date with me, but I know that
2 after this partner the witness had another partner and it was -- she already had this
3 (Redacted) partner, this next partner either at the time of her first or her second statement.

4 If your Honours give me a moment, I can try to give you the exact date.

5 PRESIDING JUDGE FREMR: Please take your time.

6 Mr Gosnell, in the meantime?

7 MR GOSNELL: Just, if I may, just a very, very brief reply to what has been
8 mentioned by my colleague from the Prosecution.

9 The Prosecution has just admitted that it doesn't know, has no basis to know whether
10 there are security concerns in relation of this other person. It's their assumption that
11 there are security concerns, but they don't have a basis for it. And, Mr President,
12 I would suggest that they must have a basis for it in order to effect this redaction.
13 The second point is of course we can explore the matter in cross-examination, but
14 how am I supposed to do that without having proper investigations having been
15 conducted? And this is ultimately the problem. Unless we all admit that the
16 Defence doesn't need to do any investigations, it's not necessary for a fair trial. And
17 maybe that is the Prosecution's position.

18 PRESIDING JUDGE FREMR: Ms Solano, are you ready to respond to my question?

19 MS SOLANO: Your Honour, I'm sure the last point was rhetorical. Of course the
20 Prosecution acknowledges that Defence have a right and a duty to carry on
21 investigations, but of course we also think that there are issues that are material and
22 issues that are not. In our submission the identity of the witness's former husband is
23 not material to the Defence's case and for that reason we don't think that they should
24 be entitled to the name.

25 The person, this former husband, because we don't know where he is, we are certain

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1 that he does not have access to an initial response system or any of the other
2 mechanisms that would be available to individuals whose security may be impaired
3 by disclosure of their identities in this case. And for this reason we maintain our
4 position of the lifting of the redaction.

5 PRESIDING JUDGE FREMR: And I think you didn't respond to my question how
6 long you are aware of the fact that Witness P-19 and her husband were separated.

7 MS SOLANO: Your Honour, we're still looking for the information. If I can have
8 one more moment, perhaps I can find it.

9 PRESIDING JUDGE FREMR: All right. Maybe now we will anyway deliberate on
10 that during our break, so you can provide us at the end of this session. All right?
11 So now we can move into open session and bring witness into the courtroom.

12 (Open session at 9.52 a.m.)

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

14 PRESIDING JUDGE FREMR: Thank you, court officer.

15 (The witness enters the courtroom)

16 PRESIDING JUDGE FREMR: Madam Witness, good morning. Can you hear me?

17 WITNESS: DRC-OTP-P-0019

18 (The witness speaks Swahili)

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

20 PRESIDING JUDGE FREMR: Very well. Madam Witness, on behalf of this
21 Chamber, I would like to welcome you to this courtroom. You are called to testify in
22 the case against Mr Bosco Ntaganda.

23 Madam Witness, you will be soon asked questions both by the Judges and lawyers
24 and in this connection I would like to guide you as follows:

25 Please listen carefully to those questions. If you do not understand, feel free to ask

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1 for the question to be repeated. We want you to tell the truth and tell us what you
2 saw, heard and sensed yourself. If you didn't see or hear it yourself but you found
3 out some other way, then you should explain how.

4 You may not remember all details and it doesn't matter. Please testify just on that
5 which you remember. Don't guess. Don't make things up.

6 Do you understand all this, Madam Witness?

7 THE WITNESS: (Interpretation) Yes, I understand.

8 PRESIDING JUDGE FREMR: Good. Madam Witness, protective measures are put
9 in place to ensure that your identity is not revealed to the public. It means that the
10 public cannot see your face and that your voice is being disguised so that the public
11 cannot recognize it. We will refer you only as "Madam Witness" and ensure that
12 your name and any other information that risks revealing who you are is not
13 broadcast to the public.

14 Therefore, whenever you need to describe anything that might reveal your identity,
15 we will do so in private session so that no one outside the courtroom can hear your
16 answer.

17 Do you understand?

18 THE WITNESS: (Interpretation) Yes, I understand.

19 PRESIDING JUDGE FREMR: Now, Madam Witness, you will find piece of paper,
20 now you are provided with this piece of paper, with the solemn undertaking. So
21 please now make your solemn undertaking to tell the truth by reading out the
22 declaration you have in your hands.

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

25 PRESIDING JUDGE FREMR: Very well, Madam Witness. It means you are now

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1 under oath. And you also need to be aware that it's an offence within the
2 jurisdiction of this Court to give false testimony. Do you understand that?

3 THE WITNESS: (Interpretation) Yes.

4 PRESIDING JUDGE FREMR: All right. Now, a few practical matters you should
5 have in mind when giving your testimony.

6 It's important to speak into the microphone, to speak clearly and to speak at a slow
7 pace approximately like me now to allow the interpreters to translate everything.

8 What is very important when a question is asked, please do not respond immediately
9 but please count in your head to three and only then give your answer. This pause is
10 essential to properly interpret and record what you were saying.

11 If you have any questions during your testimony or if you feel that you need a break,
12 do not hesitate to let us know by raising your hand like this. We will then give you
13 the opportunity to speak.

14 Have you understood all this, Madam Witness?

15 THE WITNESS: (Interpretation) Yes, I understand.

16 PRESIDING JUDGE FREMR: Fine. So now Madam Witness we can start your
17 testimony.

18 Who will be examining the witness? It will be you, Ms Solano?

19 MS SOLANO: Yes, your Honour.

20 PRESIDING JUDGE FREMR: So then, Ms Solano, you have the floor. And I would
21 like to remind you that the Chamber considers that the examination-in-chief for this
22 witness should be completed within four hours.

23 Now you have the floor.

24 MS SOLANO: Thank you, your Honour.

25 QUESTIONED BY MS SOLANO:

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1 Q. Good morning, madam. Can you hear me well?

2 A. Yes.

3 Q. We have met before. My name is Julieta Solano and I will be asking you
4 questions on behalf of the Prosecution.

5 Can you please state your full name.

6 MS SOLANO: (Redacted)

7 PRESIDING JUDGE FREMR: (Redacted)

8 (Redacted)

9 (Private session at 10.00 a.m.) *(Reclassified partially in public)

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

11 PRESIDING JUDGE FREMR: Thank you, court officer.

12 May I be given translation of just now what Madam Witness said. Was it captured?

13 THE INTERPRETER: Mr President, from the Swahili booth: Could the interpreter
14 repeat what she said because the channel was blocked.

15 PRESIDING JUDGE FREMR: So the Swahili booth, could you kindly repeat what
16 you captured, if anything.

17 You meant the witness. Okay. I think never mind we can just start again, please.

18 MS SOLANO:

19 Q. Madam, can you please say your name once again?

20 A. (No interpretation)

21 MS SOLANO: There's no interpretation, your Honour. I'm sure it's being
22 addressed.

23 PRESIDING JUDGE FREMR: Again, I don't know whether it's technical or --

24 THE INTERPRETER: Mr President, there is a technical problem. The
25 channels -- your Honour, there was a technical problem due to cross channels, but we

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1 think it's been resolved.

2 PRESIDING JUDGE FREMR: So hopefully it's fine now.

3 So Ms Solano, please continue.

4 MS SOLANO:

5 Q. Madam, I believe you said your name is (Redacted); is that right?

6 A. Yes.

7 Q. Were you born on (Redacted)?

8 A. Yes.

9 Q. Were you born in (Redacted), Orientale
10 province, Democratic Republic of the Congo?

11 A. Yes.

12 Q. What is your ethnicity?

13 A. I am Lendu.

14 Q. Is it correct that (Redacted)
15 (Redacted)

16 A. Yes.

17 Q. And thereafter, did you (Redacted)?

18 A. Yes.

19 Q. Do you speak and write (Redacted)?

20 A. Yes, I can write it.

21 Q. And do you also speak these languages?

22 A. Yes, I can speak those languages, (Redacted).

23 Q. What is your current occupation?

24 A. Currently (Redacted)

25 (Redacted)

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1 Q. Are you a mother?

2 A. Yes.

3 Q. How many children have you given birth to?

4 A. I have (Redacted) children with me, but there are other children who belong to other
5 members of my family who have died. There are (Redacted) of them. And I lost some
6 children myself, they died.

7 Q. How many of your own children did you lose?

8 A. (Redacted)

9 Q. When did your own children die?

10 A. I did not understand your question.

11 Q. Did your (Redacted) children die of natural causes?

12 A. They were killed during the war and one of them died because they had taken
13 ill.

14 Q. Madam, your children who died who were killed during the war, what ages
15 were they?

16 A. I no longer remember.

17 Q. The war during which they were killed, what war was it? Who was fighting in
18 this war?

19 A. It happened during the armed conflict between troops of the UPC and the
20 Lendus.

21 Q. Do you know what year this was in?

22 A. It was in 2002 to 2003.

23 Q. Madam, can you give us the names of your (Redacted) who were killed
24 during this war and can you tell us whether they were boys or they were girls?

25 A. (Redacted)

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1 Q. And which of them died during the war? Which were the (Redacted) that died
2 during the war?

3 A. (Redacted)

4 MS SOLANO: Your Honours, I seek authorisation to refresh the witness's memory
5 in relation to the age of her (Redacted) children who were killed during the war. This is
6 information that she provided to the Prosecution during her first interview. And the
7 witness stated at page 15, line 2 that she does not remember their age.

8 PRESIDING JUDGE FREMR: All right then.

9 MS SOLANO: And can the court officer please display DRC-OTP-0108-0142, the
10 most recently redacted version.

11 Q. Madam, and what I am showing on the screen is a copy of the statement that
12 you gave the Office of the Prosecutor in (Redacted). And I'm going to request the
13 assistance, your Honours, of the VWU assistant to read to the witness -- or, perhaps
14 I can do it myself, your Honours, from paragraph 10 on page 0143.

15 PRESIDING JUDGE FREMR: Thank you. I guess it will be faster, yes.

16 MS SOLANO:

17 Q. And at that page, madam, you said to the Prosecution that (Redacted)
18 (Redacted). Do you now remember the ages of your (Redacted)
19 (Redacted), at the time that they were killed?

20 Can you please speak your answer into the microphone, madam.

21 PRESIDING JUDGE FREMR: Madam Witness, have you heard the question? If yes,
22 why you are not responding?

23 THE WITNESS: (Interpretation) I did not quite understand the question.

24 MS SOLANO:

25 Q. Madam, I have just read to you the ages of (Redacted) that you gave the Office

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1 of the Prosecutor when the investigators interviewed you in (Redacted). And according to
2 your statement, (Redacted) years old. My question is whether
3 that makes you remember the ages of (Redacted) when they died?

4 A. Yes.

5 Q. And how old were (Redacted) when they died?

6 A. (Redacted) years old.

7 Q. And how old was (Redacted)?

8 A. (Redacted) years old.

9 Q. Thank you. Madam, you said earlier that you have -- or that you look after
10 (Redacted) children who belong to members of your family who died. Who are the
11 members of your family whose children you look after? Who are these family
12 members who died?

13 A. The members of my family who died are (Redacted).

14 Q. How did they die?

15 A. They were killed during the war.

16 Q. Is this the same war between the UPC and the Lendu or a different war?

17 A. It was during the war between the UPC troops and the Lendus.

18 Q. And how were (Redacted) related to you?

19 A. We were siblings. We had the same father and the same mother.

20 Q. Where was your brother (Redacted) killed?

21 A. They killed him -- they killed him in Mongbwalu.

22 Q. Who killed him in Mongbwalu?

23 A. The UPC troops.

24 Q. When did this happen?

25 A. In 2002.

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1 Q. Do you know in what part of the year 2002?

2 A. It was in (Redacted), the month of (Redacted).

3 Q. And how do you know that the UPC troops killed him?

4 A. The UPC troops had taken over control of Mongbwalu. And the inhabitants of
5 that area had fled to Kobu. It is at that time that he was killed.

6 Q. And how do you know that your brother was killed by UPC troops? Did you
7 see it or did somebody tell you about it?

8 A. It is the relatives who were in Mongbwalu who had fled to Kobu who told me.
9 They told me that (Redacted) had been killed by the UPC troops and that they had fled.

10 Q. Did your relatives explain to you the circumstances in which your brother was
11 killed?

12 A. (Redacted)

13 Q. And how is it that you know that this was in (Redacted) 2002?

14 A. (Redacted)

15 (Redacted)

16 Q. Madam, where was your (Redacted) killed?

17 A. (Redacted) was killed in Kobu.

18 Q. Do you know where in Kobu she was killed?

19 A. (Redacted)

20 Q. When was this?

21 A. It was at the time that they took us together with them. And they closed us in
22 a house, they locked us in a house and then they separated and then they went to kill
23 them.

24 Q. Who did all this? Who took you and locked you in a house and separated you
25 and then killed (Redacted)?

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1 A. It was the UPC troops.

2 Q. Do you know what year and what month this was in?

3 A. I don't remember very well the month, but it was in 2003.

4 Q. Do you remember whether it was in the beginning, in the middle, in the end of
5 the year 2003?

6 A. I don't remember very well.

7 Q. You mentioned that your relatives had fled from Mongbwalu to Kobu. Apart
8 from your relatives, did you see whether any other people also fled from
9 Mongbwalu?

10 A. Those who fled to go to Mongbwalu wasn't just members of my family, there
11 were people from different tribes.

12 MS SOLANO: Your Honour, we could move into open session now.

13 PRESIDING JUDGE FREMR: Very well.

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

15 (Open session at 10.34 a.m.)

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

17 PRESIDING JUDGE FREMR: Thank you.

18 Ms Solano, please proceed.

19 MS SOLANO: Thank you, your Honour.

20 Q. Madam, these people who fled from Mongbwalu to Kobu, which tribes did they
21 belong to?

22 A. Those who left Mongbwalu to flee to Kobu were from different tribes. Not just
23 the Lendu, there were Nande, Alur and a lot of other tribes.

24 Q. Do you remember whether members of the Hema tribe also fled from
25 Mongbwalu to Kobu?

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1 A. That's what I just said. There were almost all tribes there. There were Hema
2 too, Nande, Alur, all the tribes.

3 Q. Where did these people stay in Kobu?

4 A. There weren't houses for them because there were so many of them. They
5 were outside, they were everywhere.

6 Q. What was the state of their health, if you know?

7 A. They were very numerous. People didn't have food to eat. Every -- their
8 health wasn't good and there wasn't enough food for everyone.

9 Q. Madam, were any of them injured?

10 PRESIDING JUDGE FREMR: Mr Gosnell.

11 MR GOSNELL: Objection. Leading.

12 MS SOLANO: Your Honour, not leading. The question can be answered with a
13 positive or a negative answer, and of course any details would be supplied by the
14 witness, not by me.

15 PRESIDING JUDGE FREMR: Yes. Objection overruled. Please proceed.

16 MS SOLANO:

17 Q. Madam, were any of them injured?

18 A. Yes, there were.

19 Q. What kind of injuries did they have?

20 A. There were people who had injuries on different parts of their bodies. Some
21 had broken bones.

22 Q. Did you learn how they had received these injuries?

23 Do you know how they were injured?

24 A. They were injured following shots, or knife wounds, or from other bladed
25 weapons.

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1 Q. Apart from Mongbwalu, was there fighting in any other places that you are
2 aware of, in any other towns or villages? Did the war ever come to where you were
3 in Kobu?

4 A. The war in Kobu came when we had already fled. We went to another locality,
5 Bula.

6 Q. Did you say Bula?

7 A. We fled to go to *Gula (*phon*), Gula (*phon*).

8 Q. And why did you flee from Kobu to Gola?

9 A. From Kobu we went to Gola because the UPC troops took that locality.

10 Q. How did you find out that the UPC took over that locality?

11 A. Often they came from different directions. Sometimes they came from Bambu
12 and then they withdrew. They did that approximately three times. And then
13 afterwards, they arrived, they attacked Bambu, Gola, Lipri, Kilo coming from
14 different roads and that's the reason why we didn't stay there. We went to the
15 locality of Gola.

16 Q. How do you know that the UPC attacked Bambu?

17 A. We heard -- we heard explosions from heavy weapons.

18 Q. How close or far are Bambu and Kobu?

19 A. I can't tell you that precisely.

20 Q. Which are the roads, the different roads from which the UPC attacked Bambu,
21 Kobu, Lipri and Kilo?

22 A. They took the main road.

23 Q. And which is the main road? What does the main road connect?

24 A. The main road goes to Mongbwalu and it continues, it goes further on.

25 Q. And did the UPC also come on other roads?

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1 A. The road from Lipri, from Dala and from Kilo.

2 Q. Do you know whether the population of Bambu, Lipri and Kilo stayed in those
3 villages after the UPC attacks?

4 A. They didn't stay in their locality. We went to Kobu and from Kobu we
5 separated, we went to *Gula (*phon*).

6 Q. Did you see the people from Bambu and Lipri and Kilo yourself?

7 A. I saw them. We were speaking and asking, "Where do you come from?" And
8 they said, "I come from Kilo, I'm from Lipri, I'm from Bambu." Others say they came
9 from Dala. So we would speak to them like that.

10 Q. Did they tell you why they had come to Kobu? Did they tell you why they had
11 left their villages?

12 A. They said that because the UPC troops had come to their homes they had done
13 so. Had surrounded them already.

14 Q. The people from Lipri, Kilo, Bambu who came to Kobu, what ethnicities were
15 they?

16 A. They were from different tribes.

17 Q. Was there a tribe or tribes that were particularly well represented among the
18 people who had fled to Kobu?

19 A. I haven't understood your question well.

20 Q. Were they mostly of one tribe or of some tribes more than others?

21 A. The most of them were Lendus.

22 Q. Madam, where is Gola?

23 PRESIDING JUDGE FREMR: Mr Gosnell.

24 MR GOSNELL: I think a comment it merited here; namely, that the witness has
25 twice used the term Gula and once used the term Gola, or at least that's what the

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1 transcript showed. So I'm at least just noting that for the record, Mr President.

2 PRESIDING JUDGE FREMR: All right. Well noted.

3 MS SOLANO:

4 Q. Madam, the location that you fled to from Kobu, can you please repeat its name
5 very slowly for the record.

6 A. I went to Gola.

7 Q. And how far is Gola from Kobu?

8 A. I can't tell you that precisely.

9 Q. How did you get from Kobu to Gola?

10 A. We went on foot.

11 Q. And how long did that take you?

12 A. You -- if you go by foot and -- you go through other localities in order to get
13 there.

14 Q. And do you remember how long it took you to get there from Kobu to Gola?

15 A. I no longer remember.

16 Q. Who else was with you on your travel from Kobu to Gola?

17 A. When we fled to go to Gola I had my child. There were a lot of other people
18 from different tribes, it wasn't only members of my family.

19 Q. Which of your children did you have with you?

20 MS SOLANO: Your Honour, actually can we move into private session please and
21 can the witness's microphone please be shut down, shut off until we move into
22 private session.

23 Can you please press her button. Thank you.

24 PRESIDING JUDGE FREMR: Exactly.

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

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1 (Private session at 10.57 a.m.) *(Reclassified partially in public)

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

3 PRESIDING JUDGE FREMR: Thank you, court officer.

4 Ms Solano, please proceed.

5 MS SOLANO: Thank you, your Honour.

6 Q. Madam, which of your children did you have with you as you fled to Gola?

7 A. At that time they hadn't been killed.

8 Q. Were (Redacted) with you as you fled to Gola?

9 MR GOSNELL: Objection.

10 PRESIDING JUDGE FREMR: On what ground?

11 Please hold on, Madam Witness.

12 On what ground, Mr Gosnell?

13 MR GOSNELL: It's leading, Mr President.

14 PRESIDING JUDGE FREMR: Ms Solano.

15 MS SOLANO: Your Honour, the question can be answered affirmatively or

16 negatively. I'm not putting any words in the witness's mouth.

17 PRESIDING JUDGE FREMR: Mr Gosnell.

18 MR GOSNELL: But, Mr President, whether an answer can be answered with a yes

19 or no is not the definition of non-leading. In fact, most leading questions will be

20 answered with a yes or a no. That's actually a hallmark of a leading question.

21 PRESIDING JUDGE FREMR: Yes, but objection is overruled. There is even some, I

22 would say, base for, or context already, I think, explored. And frankly saying, it's

23 not crucial information. And even taking into account the witness capability, it's

24 fine.

25 So please proceed.

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1 MS SOLANO: Thank you, your Honour.

2 Q. Madam, I repeat my question: Were (Redacted) with you as you fled to
3 Gola?

4 A. Yes.

5 Q. And were any other of your family members with you as well?

6 A. Yes, they were with me.

7 Q. Which other family members were with you?

8 A. I was with my mother, I was with (Redacted). She wasn't dead at that time. We
9 were together, together with her, as well as other members of my family.

10 MS SOLANO: Your Honour, I'm mindful of the time. And it would be suitable to
11 have a break if it suits your Honours.

12 PRESIDING JUDGE FREMR: Yes, you are right.

13 Madam Witness, we will break now for 30 minutes so you can take some short rest
14 and we will continue after 30 minutes.

15 So now court officer, please guide Madam Witness out of the courtroom.

16 And for the rest of this session let's move into open session.

17 (The witness stands down)

18 (Open session at 11.02 a.m.)

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

20 PRESIDING JUDGE FREMR: Three minor points. First of all, is Prosecution ready
21 to provide the Chamber with response to my original question concerning the time
22 you have at your disposal information about separation of this witness and her
23 husband?

24 MS SOLANO: Your Honour, my information is still somewhat incomplete, so if
25 I can answer when we come back from the break I would be most obliged.

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1 PRESIDING JUDGE FREMR: Mr Gosnell, do you have this information?

2 MR GOSNELL: Yes, I do, Mr President, at least in part, and that is in the statement
3 itself that we were looking at at the very beginning. It indicates that at that time --

4 PRESIDING JUDGE FREMR: Mr Gosnell, we are in open session, so let's move into
5 private session for this part of your submission.

6 (Private session at 11.03 a.m.) *(Reclassified partially in public)

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

8 PRESIDING JUDGE FREMR: Thank you.

9 Mr Gosnell.

10 MR GOSNELL: Thank you, Mr President. And thank you for stopping me.

11 Indeed, it says in the (Redacted) statement that the witness is separated.

12 PRESIDING JUDGE FREMR: Well, then hopefully we can move again into open
13 session.

14 MS SOLANO: Your Honour.

15 PRESIDING JUDGE FREMR: Ms Solano.

16 So please remain, rather, still in private.

17 Ms Solano.

18 MS SOLANO: Thank you, your Honour. What we don't currently know is when
19 the separation occurred, how long before the (Redacted) statement. That's what we are still
20 trying to find out, whether we have that information in our possession.

21 PRESIDING JUDGE FREMR: All right.

22 Now let's move into open.

23 (Open session at 11.04 a.m.)

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

25 PRESIDING JUDGE FREMR: Yes, just one comment from my side to the way of

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1 questioning of this witness. It's apparent that it's really tough task, it is -- witness is
2 rather slow, but I guess that Ms Solano found a proper way how to examine this
3 witness, means it requires short and simple questions.

4 And as to the leading aspects, I think purely leading questions just putting to her
5 mouth something what witness hasn't mentioned at all, it should be -- it should
6 be -- it will be prohibited. But if there there is still some basis already explored, some
7 context already explored and apparent from the previous answers, then some
8 questions with certain leading aspects will be permitted.

9 And the last issue: Correction of the transcript, page 26, line 12, I am not sure that I
10 said question is overruled. If yes, I meant the objection is overruled.

11 That's it and we will continue 11.35.

12 THE COURT USHER: All rise.

13 (Recess taken at 11.06 a.m.)

14 (Upon resuming in open session at 11.38 a.m.)

15 THE COURT USHER: All rise.

16 Please be seated.

17 PRESIDING JUDGE FREMR: So we will continue, but before that there are -- first of
18 all court officer would like to make some announcement.

19 THE COURT OFFICER: Thank you, Mr President. I would like to ask all
20 interpreters to restart Transcend as the server needed to be restarted. Thank you.

21 PRESIDING JUDGE FREMR: And the reason why we haven't yet invited madam
22 witness is that the Chamber would like to deliver a short oral ruling concerning her
23 testimony. And this ruling is following:

24 Earlier this morning the Defence requested lifting of the redaction relating to the
25 name of Witness P-19 former husband as mentioned in DRC-OTP-0171-1511.

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1 The Prosecution opposed the request, the relevant submissions are reflected on the
2 transcript.

3 The Chamber recalls that in accordance with the terms of the redaction protocol, it is
4 for the Prosecution to justify the retention of challenged redactions.

5 In this instance the Chamber notes that the Prosecution is not in contact with the
6 individual in question and, therefore, not in a position to assess potential security
7 risks.

8 The Chamber has also taken into account the fact that the individual in question is not
9 referred to in the witness's account of events.

10 Nonetheless, having considered the nature of the witness's anticipated evidence, the
11 individual's alleged ethnicity and the potential close relationship of the individual to
12 other family members who are central to the witness's account, the Chamber grants
13 the request and directs that the redaction be lifted forthwith.

14 It concludes our ruling. And now witness may be brought into the courtroom.

15 And in the meantime, just for the information of public, we will continue with
16 testimony of our witness, but since that it's a protected witness, and such a witness
17 was given guarantee that his or her identification will not be -- identity will not be
18 revealed, so that is why for some parts of this testimony it should be conducted or
19 could be conducted in private session.

20 So now I am asking Ms Solano, who is conducting further examination, subject to her
21 upcoming questions, whether there is a need to move into private session or whether
22 we may remain in open session.

23 MS SOLANO: We may remain in open session, your Honour, for the moment.

24 PRESIDING JUDGE FREMR: Very well.

25 (The witness enters the courtroom)

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1 PRESIDING JUDGE FREMR: Madam Witness, welcome back.

2 THE WITNESS: (Interpretation) Thank you.

3 PRESIDING JUDGE FREMR: I can understand that it's not easy task for you to
4 testify before the Court, but I would like to emphasise that so far you are doing very
5 well, so don't be scared. Just continue in the way you did it so far. So, so far
6 everything is fine.

7 And now the Prosecution will continue with your examination.

8 Ms Solano, please.

9 MS SOLANO: Thank you, your Honour.

10 Q. Madam, can you hear me?

11 A. Yes, I can hear you.

12 Q. Before the break you were telling us that from Kobu you fled to Gola. Can you
13 tell the Judges what happened once you were in Gola?

14 A. I have not quite understood your question.

15 Q. What happened in Gola? Who did you meet there?

16 A. When we arrived in Gola, one day some UPC troops came with a letter calling
17 for peace or pacification.

18 Q. How do you know this? Did you see these troops yourself?

19 A. When we arrived there for the pacification exercise, it is then that I saw them.

20 Q. Can you explain what you mean? Where did you go for this pacification
21 exercise?

22 A. We had been convened to the peace meeting. So we left Gola and went to
23 Sangi, near the Catholic church in Sangi.

24 Q. Who invited you to go to Sangi?

25 A. It is the UPC that called people out to this peace meeting. They said that the

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1 war was over and that they wanted peace. And we felt and believed that they really
2 wanted to peace, whereas they were planning something else.

3 Now, when we got there we found out that others who had gone before us had
4 already been arrested. They arrested them and we were unable to retreat ourselves
5 and we were, therefore, also arrested at that location.

6 Q. Who were the people who had gone before you?

7 A. It was other Lendu inhabitants.

8 Q. Do you know how many people had gone there before you?

9 A. Many. Many of them. There were many of them.

10 Q. Were they -- can you tell us if they were men or they were women or they were
11 a mix and what ages these people were who had gone to Sangi before you?

12 A. It was a mixed group of men, women, young girls, young boys. All those
13 people were there.

14 Q. And how about your group, who was in your group?

15 A. The group in Sangi was also a mixed group of various persons.

16 Q. Madam, you say that the group that had gone there before you had been
17 arrested. Can you explain what you mean by "arrested"?

18 A. This is -- this is what I meant: UPC troops arrested them, caught them.

19 Q. And were these people free to leave if they chose to?

20 A. No. They did not have any authorisation to leave. They were actually tied up,
21 their wrists and their feet were tied up and so they could not, they could not move.

22 Q. And the UPC troops who had arrested them, do you remember what were they
23 wearing?

24 A. The UPC troops wore camouflage military uniforms.

25 Q. Were they armed? Were the UPC troops armed?

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1 A. Yes, they were armed.

2 PRESIDING JUDGE FREMR: And sorry to interrupt. Sorry, please follow, Madam
3 Witness. Please proceed.

4 THE WITNESS: (Interpretation) They had -- they were armed with knives.

5 PRESIDING JUDGE FREMR: But sorry, Ms Solano, but I would like to put some
6 additional question at this moment.

7 Madam Witness, those tied people, could you see them on your own eyes?

8 THE WITNESS: (Interpretation) Yes. Yes. I saw them myself.

9 PRESIDING JUDGE FREMR: And do you remember where did you see them?

10 THE WITNESS: (Interpretation) In Sangi.

11 PRESIDING JUDGE FREMR: All right. But I meant if you could specify the place,
12 whether it was in a building or outside or the specific place.

13 THE WITNESS: (Interpretation) They were outside, outdoors in Sangi, not far
14 away from the Catholic church in Sangi. And it is from there that they took us all
15 the way to Wadza. They had us carry their luggage and their various items.

16 PRESIDING JUDGE FREMR: Thank you very much, Madam Witness, for this
17 clarification.

18 Ms Solano, sorry for interrupting you. Please proceed.

19 MS SOLANO: Thank you, your Honour.

20 Q. Madam, you've just mentioned the place where they took you. Can you repeat
21 the name of that place? It sounded like Wadza.

22 A. Wadza.

23 Q. And where is Wadza?

24 A. Wadza is in Kobu.

25 Q. Okay. But first I want to ask you more questions about Sangi. You say that

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1 when you and your group arrived you were not able to retreat. Why not? Couldn't
2 you run away?

3 A. We were surrounded. There were troops all around us, UPC troops. That is
4 why we could not flee.

5 Q. And where in Sangi were you? Were you outside? Were you inside a
6 building? Where were you?

7 A. We were outside in Sangi, outside. However, there were some people in a
8 house. And then while there they took some women to the bush and mistreated
9 them.

10 Q. Who took these women to the bush?

11 A. The UPC troops.

12 Q. Did you see this happen? Did you see the UPC troops take the women away?

13 A. I saw it with my own eyes.

14 Q. And what do you mean that they mistreated them?

15 A. They were raped.

16 Q. How do you know that they were raped?

17 A. They were shouting, screaming. Some of them did not return to where we
18 were. I don't know whether they were killed but, in any case, they did not return.

19 Q. Did some of the others return?

20 A. I am not sure, but I know that some of them did die.

21 Q. Did you speak to any of these women after they were raped?

22 A. They were screaming and they were saying some words.

23 Q. What words were they saying?

24 A. They were shouting, saying "I don't want you to rape me." They were
25 protesting against what their aggressors were doing using these words.

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- 1 Q. How many women did you see being taken away to the bush?
- 2 A. I don't really know.
- 3 Q. Do you remember what ages they were?
- 4 A. There were some young girls among them. I don't know how old each one of
- 5 them was.
- 6 Q. How do you know that some of these women died?
- 7 A. After they were taken into the bush, we never saw them again.
- 8 Q. Did you see how many UPC soldiers took them into the bush?
- 9 A. There were a lot of them.
- 10 Q. Did the UPC soldiers talk about what was happening in front of you?
- 11 A. I didn't understand your question.
- 12 Q. Did you hear the UPC soldiers talking about the rapes?
- 13 A. Yes, they talked about it.
- 14 Q. What did they say?
- 15 A. They said that "The Lendu are useless wild animals and we can do with them
- 16 anything we want. They are not humans."
- 17 Q. How long did the rapes go on for?
- 18 A. I don't know.
- 19 Q. You mentioned that some people were inside a house. Can you explain what
- 20 house they were in?
- 21 A. These were houses belonging to local population, to people who had fled.
- 22 They were around the church.
- 23 Q. Do you know what happened to the people inside those houses?
- 24 A. I don't know what was the fate of those who were inside these houses.
- 25 Q. And what happened to the rest of the people who were with you outside near

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1 the church?

2 A. Are you talking about those who were near the church in Sangi or those who
3 were by the church in Wadza?

4 Q. In Sangi. So the people in your group, how were you treated?

5 A. We were made to carry bundles to Wadza, but when we were next to the church
6 in Sangi, they didn't do anything to us.

7 MS SOLANO: Your Honour, can I ask a question in private session, please?

8 PRESIDING JUDGE FREMR: Certainly.

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

10 (Private session at 12.12 p.m.) *(Reclassified partially in public)

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

12 PRESIDING JUDGE FREMR: Thank you, court officer.

13 Ms Solano, please proceed.

14 MS SOLANO: Thank you, your Honour.

15 Q. Madam, where was your (Redacted) and where were your children, (Redacted)
16 (Redacted), at this time while you were detained in Sangi?

17 A. They were with us, but we were at different places.

18 Q. Can you explain what you mean? Where were they?

19 A. When we left Sangi, we were made to carry either light or heavy bundles on the
20 orders of the troops. It was while we were on the way that I saw (Redacted) and my
21 children also carrying loads. They were also hitting us. While we were on the way,
22 some people died, three people died, others were burned -- or, rather, not -- it was --

23 THE INTERPRETER: Correction from the Swahili interpreter: Houses were set on
24 fire.

25 THE WITNESS: (Interpretation) I saw my children walking with a woman called

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1 (Redacted). And when we arrived at Wadza, all the houses were occupied, they were
2 very full. One could hardly breathe. We were in different houses.

3 MS SOLANO:

4 Q. Madam, (Redacted)?

5 A. (Redacted)

6 Q. Do you know whether the UPC soldiers knew (Redacted)?

7 A. I told them (Redacted).

8 Q. Why did you tell them that? Madam, why did you tell the UPC that (Redacted)
9 (Redacted)?

10 A. No, it was not me. It was more that the UPC troops knew that (Redacted)
11 (Redacted).

12 Q. How do you know that the UPC troops knew this?

13 A. (Redacted)

14 Q. And did the UPC troops respond to this information?

15 A. No. The only thing they said was that (Redacted).

16 MS SOLANO: Your Honour, we can go to open session.

17 PRESIDING JUDGE FREMR: Very well.

18 Court officer, let's move into open session.

19 (Open session at 12.20 p.m.)

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

21 PRESIDING JUDGE FREMR: Thank you.

22 Ms Solano, please proceed.

23 MS SOLANO:

24 Q. Madam, on the way from Sangi to Wadza who was hitting you?

25 A. The UPC troops.

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- 1 Q. What did they hit you with?
- 2 A. With their rifle butts.
- 3 Q. What part of your body did they hit you on?
- 4 A. It was more the others who were hit.
- 5 Q. And what part of the body were the others hit on?
- 6 A. They were hit everywhere, all over their bodies.
- 7 Q. Did you see this yourself?
- 8 A. Yes, I witnessed this.
- 9 Q. You said that three people who were part of this group died. How did they
- 10 die?
- 11 A. We found their corpses by the road.
- 12 Q. Do you know who these people were?
- 13 A. They were Lendus.
- 14 Q. And how do you know that?
- 15 A. They were Lendu.
- 16 Q. Can you explain how you know they were Lendu?
- 17 A. Their hands were tied behind them.
- 18 Q. Had you seen these people before, before they were killed?
- 19 A. They were part of the group that I was with. In fact, the people were being
- 20 taken in small groups and there were some that went ahead of us.
- 21 Q. Do you know whether, apart from these three people who you saw -- whose
- 22 corpses you saw, did anyone else die on the way between Sangi and Wadza?
- 23 A. I didn't see any.
- 24 Q. These bundles, these items that you were carrying, what were they?
- 25 A. These were bags containing items pillaged from the Lendu villages, but I don't

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1 know exactly what these items were.

2 Q. How do you know that they were pillaged from Lendu villages?

3 A. They were pillaging all the houses before setting fire to them and they were
4 taking everything from these houses.

5 Q. Did you see this happen?

6 A. Yes.

7 Q. And who was doing the pillaging and who was setting fire to the houses?

8 A. It was the UPC soldiers.

9 Q. Were you, the Lendu prisoners, were you talking among yourselves?

10 A. No, we were not talking to each other.

11 Q. Were you talking with the UPC soldiers?

12 A. No, we were not talking to the UPC soldiers. We were being given orders by
13 them.

14 Q. And what orders were they giving you?

15 A. For example, they said "Carry this bundle." Some of these were very heavy,
16 but we carried them nevertheless.

17 Q. Did they give you any other orders?

18 A. I did not quite understand your question.

19 Q. Did the UPC soldiers tell you what else to do?

20 A. Please repeat your question.

21 Q. Apart from telling you to carry the bundles, did the UPC soldiers give you any
22 other orders?

23 A. If one didn't walk quickly, they would beat one up.

24 Q. Did you see this happen?

25 A. Yes.

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1 Q. Who did it happen to?

2 A. There were many of us on the road. Some people came from various other
3 areas.

4 Q. Madam, were the UPC soldiers talking among themselves?

5 A. Yes, they talked among themselves.

6 Q. Did you understand what they were saying to each other?

7 A. Are you talking about when they were along the road or when they were
8 already at Wadza?

9 Q. Along the road.

10 A. Well, this is what they used to say to themselves: "Oh, today we have captured
11 many prisoners of war."

12 Q. Madam, let's move on to what happened when you arrived at Wadza. Can
13 you describe for the Judges in your own words what happened?

14 A. When we arrived in Wadza there were many people in houses. They took us
15 to a place where there were other women who were cooking in another house.

16 Q. Who were those women?

17 A. I do not know them.

18 Q. Do you know whether those women were cooking in that house by their own
19 choice?

20 A. No, they were not doing it willingly.

21 Q. Why were they doing it?

22 A. They were given orders to do so by the UPC soldiers.

23 Q. And how do you know that?

24 A. I was with them.

25 Q. How many women were cooking in that house?

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1 A. I am not able to give you an exact number or figure.

2 Q. And who were they cooking for?

3 A. They were cooking for the UPC troops.

4 Q. Can you tell us where, in what part of Wadza this house was?

5 A. That house was near Hotel Paradiso.

6 Q. Madam, you said that -- you referred to other houses, and you said that the
7 houses were full of people, so full that it was difficult to breathe. Who were the
8 people in these houses?

9 A. They were Lendu who had been taken hostage.

10 Q. Who had taken them hostage?

11 A. The UPC troops.

12 Q. Did you see these people yourself?

13 A. Yes, I saw them.

14 Q. Did you go into those other houses?

15 A. They wanted to make us enter into that house, but when we got to the door we
16 found out that there were too many, way too many people in that house, and that's
17 why they took us to another house.

18 Q. Were there any UPC soldiers in that house?

19 A. No. Only Lendus who had been captured were in those houses.

20 Q. And were the Lendus in those houses free to leave if they wanted to?

21 A. They were held in there. And the UPC troops had surrounded the entire
22 neighbourhood.

23 Q. Were the UPC soldiers armed?

24 A. Yes, they were armed. Some of them were armed and others were not.

25 Q. What were they armed with?

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1 A. They had some small light weapons, as well as some heavy weapons which had
2 chains of ammunition.

3 Q. And when you say "small light weapons", do you mean bladed weapons or do
4 you mean fire weapons?

5 A. They were guns.

6 MS SOLANO: Your Honour, can we move into private session, please?

7 PRESIDING JUDGE FREMR: For sure.

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

9 (Private session at 12.47 p.m.) *(Reclassified partially in public)

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

11 PRESIDING JUDGE FREMR: Thank you.

12 Ms Solano, please proceed.

13 MS SOLANO: Thank you, your Honour.

14 Q. Madam, can you please tell the Judges in your own words what happened to
15 you personally in this house in Wadza?

16 A. They took me as their wife.

17 Q. Who took you?

18 A. One commander whose name was Linganga. He told me to kneel down, then
19 he used his penis to penetrate my vagina and also to penetrate my anus against my
20 will.

21 Q. Madam, did this happen once or more than once?

22 A. In my case, he did that only once in that way. Other women also suffered the
23 same fate at different locations.

24 Q. Did Commander Linganga say anything to you while he was raping you?

25 A. When he was raping me he said that we are not human beings, that we were not

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1 human beings, that we were beasts or animals and that we were hostages.

2 Q. And who did he mean? Who was he referring to as beasts?

3 A. The other soldiers. It was the other soldiers.

4 Q. Was he calling the other soldiers beasts?

5 A. No. He was talking to me. He was referring to me.

6 Q. How do you know that this person's name was Commander Linganga?

7 A. It is when they called out his name that I was able to hear it.

8 Q. Who called out his name?

9 A. His bodyguards.

10 Q. And how do you know that they were his bodyguards?

11 A. It was very easy to recognize a commander because he always had a black

12 Motorola in his hand and would be surrounded by children who were his

13 bodyguards. They -- he would not be carrying a weapon but, rather, a Motorola in

14 his hand.

15 Q. Who were these children -- sorry, what ages were these children who were his

16 bodyguards?

17 A. They were young people who were less than 18 years old.

18 Q. Madam, can you tell the Judges what was going through your mind and what

19 you were feeling when Commander Linganga was raping you?

20 A. I felt as if everything was finished for me. I felt as if I were dead.

21 Q. Did anyone see Commander Linganga rape you?

22 A. There were many of us in the house, in that house, and most of those who were

23 there were Lendus internally displaced persons whose names I do not remember.

24 Q. Did any of the other Lendu internally displaced persons see

25 Commander Linganga rape you?

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1 A. I don't know. I don't know if they saw it or if anyone saw it.

2 Q. What part of the house were you in when the rape occurred?

3 A. It was not in a room. It was in a place where they used to rape other people.

4 What they used to do was that they would rape women by even putting sticks into
5 their vaginas. That was a horrible thing to do.

6 Q. Did you see this happen yourself?

7 A. Yes, yes, I saw that with my own eyes.

8 Q. Did you see that once or more than once?

9 A. It is something that happened often, an -- a common occurrence.

10 Q. Do you remember how long, how much time you spent in that house in Wadza?

11 A. I no longer remember.

12 MS SOLANO: Your Honour, we could break if it suits your Honours.

13 PRESIDING JUDGE FREMR: Yes, it does, but I will have just one additional
14 question.

15 Madam Witness, you said, as concerns the place you had been raped, it was not in a
16 room, so was it inside house or outside the house?

17 THE WITNESS: (Interpretation) (Redacted)
18 (Redacted)

19 PRESIDING JUDGE FREMR: (Redacted)
20 (Redacted)

21 (Redacted)

22 THE WITNESS: (Interpretation) (Redacted)
23 (Redacted)

24 PRESIDING JUDGE FREMR: Now I see. Thank you very much, Madam Witness.

25 Let's now move into open session.

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1 (Open session at 1.02 p.m.)

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

3 PRESIDING JUDGE FREMR: Thank you, Court officer.

4 So now, Madam Witness, you will have a chance to take some rest and you also will

5 be provided with lunch and we will continue after 90 minutes. So thank you very

6 much for patiently responding all the questions.

7 Now, court officer, please guide madam witness out of the courtroom.

8 (The witness stands down)

9 PRESIDING JUDGE FREMR: And now usual inquiry for the sake of planning.

10 According to my information, Ms Solano, you so far exhausted 2 hours and

11 40 minutes, so you still have at your disposal 1 hour 46. Do you think you will need

12 all the time to complete your examination-in-chief?

13 MS SOLANO: I do, your Honour.

14 PRESIDING JUDGE FREMR: All right. So it will be ideal to finish -- because we

15 have two hours at our disposal, it will be ideal to finish at least by the end of this

16 afternoon's session.

17 Now we break and we will continue half past 2.

18 THE COURT USHER: All rise.

19 (Recess taken at 1.04 p.m.)

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

21 THE COURT USHER: All rise.

22 Please be seated.

23 PRESIDING JUDGE FREMR: Good afternoon, everybody.

24 Before we continue with the testimony I will deliver orally one Chamber's ruling.

25 And it's oral ruling on the Defence request seeking disclosure of the identity of

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1 Prosecution intermediary P-154, which is filing number 1435.

2 It's noted that the Defence first raised this issue in Court last week during its
3 cross-examination of Witness P-18, at transcript 111 and, as directed by the Chamber,
4 subsequently requested disclosure of the information by way of a written filing on
5 4 July 2016.

6 As instructed, the response from the Prosecution was provided by way of an ex parte
7 email earlier today. Certain further submissions were made orally on 6 July 2016.

8 As a preliminary matter, the Prosecution is instructed to put on the record the
9 submissions it provided via email by reproducing the content in a written filing no
10 later than 22 July 2016. A public redacted version thereof, as well as of the Defence
11 request, should also be filed by that same deadline. The Chamber notes that the
12 Prosecution also undertook in its email to provide a redacted version of its emailed
13 submissions to the Defence and, to the extent that this has not already occurred,
14 instructs the Prosecution to do so by the end of today's session.

15 Turning to the merits of the request, the Chamber recalls that, pursuant to redaction
16 protocol adopted in this case, which is annex A to filing number 411, identifying
17 information of intermediaries may be redacted, as standard category D4, to ensure
18 that these individuals can continue assisting in the disclosing party's investigation in
19 a safe and effective manner.

20 Consistent with prior jurisprudence, including that of Trial Chamber I in decision
21 number 2434, and Trial Chamber V(a) in decision number 904, the Chamber considers
22 that a case-by-case assessment is appropriate in relation to disclosure of the identity
23 of intermediaries.

24 First, the Chamber notes that the individual concerned has been in contact with
25 several Prosecution witnesses, some of which have already testified in the present

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1 case, and that he was no longer a Prosecution intermediary as of July 2009. The
2 Chamber further notes that, as submitted by the Defence, information provided by
3 the Prosecution seems to suggest that P-154 may have sought to exploit his position to
4 obtain improper personal benefit. While neither of these factors alone would
5 necessarily render the identity material, the Chamber also notes that the Defence has
6 identified in its request a number of issues potentially related to P-154's role as an
7 intermediary that are of prima facie relevance to the case at hand.
8 This includes particularly issues concerning any interactions between intermediary
9 P-154 and Witness P-18.

10 In light of the above, the Chamber considers that the Defence should be provided
11 with the opportunity to explore the role of the intermediary in question in a more
12 concrete manner. Accordingly, and while noting the security concerns raised by the
13 Prosecution and the fact that it could not conduct an updated assessment of the level
14 of risks faced, the Chamber is of the view that the nondisclosure of the information
15 sought to be disclosed would be unduly prejudicial to the accused and inconsistent
16 with the principles of a fair trial.

17 Consequently, the Chamber hereby orders the Prosecution, with immediate effect, to
18 provide the Defence with the name of Intermediary P-154. The Chamber also
19 instructs the VWU to monitor the situation of the individual concerned in light of the
20 present decision and, should it find it necessary, to take any measures it considers
21 warranted.

22 This concludes the Chamber's oral ruling.

23 Now, court officer, you may bring the witness into courtroom.

24 And one update as to the timing. As we already said, Ms Solano has one hour 46.

25 Am I right, Ms Solano, 46 minutes? But what is also important, because of other

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1 commitments of Judges, we have to finish today at 4.25. So it will depend if you will
2 be finished, that's fine. If not, we will simply continue tomorrow.

3 MS SOLANO: Thank you, your Honour.

4 (The witness enters the courtroom)

5 PRESIDING JUDGE FREMR: Good afternoon, Madam Witness. Can you hear me?

6 THE WITNESS: (Interpretation) Yes. Thank you. I can hear you very well.

7 PRESIDING JUDGE FREMR: Fine, Madam Witness. So we will continue with your
8 testimony. And I have, just repeat what I already said. So far you are doing very
9 well. You are, completely followed my guidance. So please continue in the same
10 way.

11 Now the floor goes to Prosecution.

12 MS SOLANO: Thank you, your Honour. May I request private session, please?

13 PRESIDING JUDGE FREMR: All right.

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

15 (Private session at 2.42 p.m.) *(Reclassified partially in public)

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

17 PRESIDING JUDGE FREMR: Thank you, court officer.

18 Ms Solano, please proceed.

19 MS SOLANO: Thank you, your Honour.

20 Q. Madam, can you hear me well?

21 A. Yes, I can hear you.

22 Q. Thank you. I have some further questions relating to the time that you spent
23 detained in the house in Kobu. First, in relation to the women who you say were
24 forced to cook for the UPC, what ethnicity were they?

25 A. They were Lendu.

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1 Q. Thank you. You also referred to some children who were part of
2 Commander Linganga's, who were his bodyguards and you said that they were
3 young people who were less than 18 years old. My question is: How old was the
4 youngest amongst them?

5 A. They were less than 18 years old.

6 Q. Do you know the age of the youngest one amongst them?

7 A. I can't say exactly how old he was, but it was a small child.

8 Q. Thank you. Madam, in addition to the women who you have described were
9 raped in this house, were any men also raped?

10 A. There were also men raped by other men. They were raping them from behind
11 by the buttocks.

12 Q. Who raped these men?

13 A. UPC soldiers.

14 Q. And what did the UPC soldiers use to rape these men?

15 A. In some cases they were using bits of wood.

16 Q. And who were the men who were raped by the UPC soldiers in this house?

17 A. They were Lendu.

18 Q. The ones who were not raped with sticks, what were they raped with?

19 A. They were using their penis.

20 Q. Did you see these rapes take place?

21 A. I saw them with my own eyes.

22 Q. How many Lendu men did you see being raped by the UPC soldiers in the
23 house?

24 A. There were a lot of them.

25 Q. Do you know what happened to these men after they were raped?

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1 A. They died.

2 Q. How did they die?

3 A. Following the rapes they suffered a great deal and then they died.

4 PRESIDING JUDGE FREMR: Ms Solano, at the moment we are not dealing with the
5 story of witness herself. Is there still a need to remain in private?

6 MS SOLANO: Your Honour, I am actually going to go to the events that concern her
7 directly after I think just one more question.

8 PRESIDING JUDGE FREMR: All right.

9 MS SOLANO:

10 Q. Were you present when these men died?

11 A. Some died while I was there, and those I saw die with my own eyes.

12 Q. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 A. (Redacted)

21 (Redacted)

22 PRESIDING JUDGE FREMR: Mr Gosnell.

23 MR GOSNELL: I understand that there is a problem with the computer at the back
24 used by Mr Ntaganda. Could we pause until it's fixed, Mr President?

25 PRESIDING JUDGE FREMR: Yes, for sure. May I just inquire how much time you

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1 expect it will be needed for that?

2 (Pause in proceedings)

3 PRESIDING JUDGE FREMR: So now I was told that Mr Ntaganda kindly agreed to
4 follow transcript on another. So, Mr Ntaganda, thank you for your indulgence and
5 we can go on.

6 Ms Solano.

7 MS SOLANO: Thank you, your Honour.

8 Q. Madam, are you talking about two different occasions on which Commander
9 Linganga raped you or the same?

10 A. In that way he raped me only once.

11 Q. Did he rape you in another way?

12 A. No.

13 Q. Apart from Commander Linganga, did you meet, did you personally meet any
14 other UPC commanders?

15 A. Yes.

16 Q. Who was that?

17 A. Salumu.

18 Q. And when did you meet Salumu?

19 A. At a time when he had already arrested us, when we were already there.

20 Q. Do you mean in the house in Wadza?

21 A. When they arrested us, I recognized his name. He was using the Motorola.

22 There were a lot of commanders, but I have only remembered those two names.

23 Q. Did you see him?

24 A. I saw him.

25 Q. Where?

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1 A. When they arrested us.

2 Q. Do you mean in Gola or in Sangi or in Kobu?

3 A. In Sangi.

4 Q. And what was Salumu doing in Sangi when you saw him?

5 A. They commanded the other soldiers for everything that was happening there.

6 They were commanding those soldiers.

7 Q. Who is "they"? Do you mean Salumu or do you mean someone else?

8 A. A number of commanders, but the only names I have retained are those two
9 names from the time that I was there.

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

11 PRESIDING JUDGE FREMR: Very well.

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

13 (Open session at 2.59 p.m.)

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

15 PRESIDING JUDGE FREMR: Thank you.

16 Please proceed.

17 MS SOLANO: Thank you, your Honour.

18 Q. Madam, why do you say that Salumu was commanding the soldiers in Sangi?

19 What makes you say that?

20 A. This is the reason why I say that: I think that this is how things happened.

21 The commanders, well, there were many of them. Now, when they spoke on the

22 Motorola I managed to get two names, Salumu and Linganga.

23 Q. Where were you when you managed to get these two names?

24 A. Outside. I was outside.

25 Q. In what town?

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1 A. In Sangi.

2 Q. And who was holding the Motorola from which you got these two names?

3 A. It was the commanders who had Motorolas.

4 Q. Madam, I want to now ask you again about the house in Kobu. How did you
5 leave that house? The house that you were detained in by the UPC.

6 A. The -- they went out of the house to prepare food, but I didn't prepare food.

7 Q. So how did you personally leave the house?

8 A. Well, we prepared food and people kept watch on us, but sometimes we were
9 able to get out because the kitchen was outside.

10 Q. Please continue. What happened after -- what happened once you were
11 outside?

12 A. Outside the men raped the women. That was done in a wild way or a savage
13 way.

14 Q. What men raped what women?

15 A. It was UPC troops.

16 Q. Who did they rape? Who were these women?

17 A. They raped men too.

18 Q. And what do you mean "in a savage way"?

19 A. That's to say that the men raped men.

20 Q. Are these the same rapes of men that you told us about before or are they
21 different ones?

22 A. That's what I told you about before.

23 MS SOLANO: Your Honour, can we return to private session, please.

24 PRESIDING JUDGE FREMR: For sure.

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

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1 (Private session at 3.07 p.m.) *(Reclassified partially in public)

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

3 PRESIDING JUDGE FREMR: Thank you, court officer.

4 Ms Solano, you may proceed.

5 MS SOLANO: Thank you, your Honour.

6 Q. Madam, after you were detained at the house in Kobu, where did you go?

7 A. Afterwards there was a call that was made on the Motorola that was come from

8 Bunia. I was listening and it was said that the Ugandans had entered Bunia and

9 Lendu from Zumbe, and it was said that Lendus from Zumbe had entered Bunia.

10 But it wasn't Lendu, it was the Ugandans, they had come in support of them. (Redacted)

11 (Redacted)

12 And then when we were trying to see how to flee I was shot (Redacted) and I fell onto

13 the ground as a dead person. The person who wanted to save me was killed. And

14 the two of us remained lying on the ground in the bush not far from the place where

15 we had been.

16 Q. (Redacted) were you shot?

17 A. I was shot (Redacted).

18 Q. Can you be more specific? (Redacted)

19 A. (Redacted)

20 Q. Who shot you?

21 A. I don't know who among the UPC troops.

22 Q. And why do you think it was the UPC troops who shot you?

23 A. I say that it was them because they were the ones who arrested us, they had the

24 intention to kill us. They were the only ones who had guns. And they had the

25 intention to kill me.

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1 Q. Why do you say that they had the intention to kill you?

2 A. I say that they had the intention of killing us because they said that we, the
3 Lendu, we weren't human beings, we were just wild animals. "We're going to
4 exterminate you in three days," that's what they said.

5 Q. Who said that? Who said that they were going to exterminate you in three
6 days?

7 A. UPC troops.

8 Q. And when did you hear them say this?

9 A. They said that, well, when they had already arrested us when we were there.

10 Q. You say that there was a person who wanted to save you. Who was this
11 person?

12 A. That was one of the people who also fled, a Lendu.

13 Q. And how was this person killed?

14 A. This person wanted to help me but was shot.

15 Q. And who shot him?

16 A. The UPC.

17 Q. What happened after you were there lying on the ground after you were shot?
18 What happened to you next?

19 A. I was lying there. There were men from (Redacted) who were, come to get food
20 and I shouted out and they came towards me. They saw that I was in a bad position
21 and they carried me. And when we got to the road, we found the child (Redacted)
22 (Redacted), and that was the person who transported me (Redacted).

23 Q. What is (Redacted)?

24 A. (Redacted) is a village. It's on a hill in the forest, in the bush.

25 Q. And where was the UPC at this time? After you fell on the ground, where was

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1 the UPC?

2 A. Well, they had already left for Bunia.

3 Q. Did you stay in (Redacted)?

4 A. I didn't stay there. From there I was taken to (Redacted).

5 (Redacted) was the name.

6 Q. How did you get from (Redacted) to (Redacted)?

7 A. I was transported.

8 Q. Who transported you?

9 A. People who went to the bush to get food and young people and other people
10 who were hiding in the bush, they are the ones who transported me to (Redacted), to
11 (Redacted).

12 Q. And what happened while you were at (Redacted)?

13 A. (Redacted) treated me with traditional medicine. There were also other
14 people who were -- had also been shot who also received treatment in the same place.

15 Q. What treatment did you receive?

16 A. Traditional medicine. Traditional medicine. And other medicines which
17 weren't effective. They came from Buli.

18 Q. Can you explain to the Judges what these traditional medicines were, as well as
19 the medicines that came from Buli?

20 A. This traditional medicine, when you boil water and -- and then there
21 was -- rubbed (Redacted) and the medicine came from Buli. There were also
22 other products which were used, remedies, and (Redacted).

23 Q. Who were the other people who had been shot and were receiving treatment in
24 the same place?

25 A. It was also Lendu.

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- 1 Q. Who had they been shot by?
- 2 A. UPC.
- 3 Q. How do you know that?
- 4 A. When I was there I asked them the question, "How were you injured?" And
- 5 they told me that it was UPC troops that had done that.
- 6 Q. Did they tell you where they were when they were injured in this way?
- 7 A. No. I got this information when I was receiving treatment in (Redacted).
- 8 Q. And where were these people from? What villages did they come from?
- 9 A. They came from Kobu.
- 10 Q. Did you know these people before you met them at (Redacted)?
- 11 A. No.
- 12 Q. How many were they at (Redacted)? How many of them had been shot?
- 13 A. There were five of them.
- 14 Q. And do you remember in what part of their bodies they had been shot?
- 15 A. What I was an eyewitness of, one had been shot in the thigh and the other in the
- 16 arm, and the other I didn't see.
- 17 Q. Did they tell you whether they had been shot in the same UPC attack or at a
- 18 different point in time?
- 19 A. The people with whom we were in the same house said that they had been
- 20 injured during the same attack. But others, I don't know.
- 21 Q. Madam, how long did you stay at (Redacted)?
- 22 A. I spent (Redacted) there.
- 23 Q. And where did you go after that?
- 24 A. After that we returned to Kobu.
- 25 Q. Who did you return to Kobu with?

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1 A. My mother.

2 Q. Did you find out what happened to your (Redacted) and your children, (Redacted)
3 Redacted? You told us that they were killed in Kobu. Did you learn how they were
4 killed?

5 A. From (Redacted) my older sister and my mother, they said that there were a lot
6 of bodies and we asked that everybody go there to be able to see if there wasn't a
7 member of the family amongst those bodies. My mother went there and she found
8 the body and the bodies were buried there. And from (Redacted) returned to Kobu
9 and, once there, I went to the tomb.

10 Q. Whose bodies did your mother find?

11 A. She recognized the body of (Redacted), my children. And
12 recognized these three bodies among -- or, in the middle of the other bodies that were
13 there. There was a large number of bodies.

14 Q. Where did your mother see these bodies?

15 A. It was next to the Catholic church, not far from the Hotel Paradiso.

16 Q. Did your mother see the bodies before they were buried?

17 A. Yes.

18 Q. (Redacted)

19 A. (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 A. (Redacted)

24 Q. (Redacted)

25 A. The victims were members of different ethnic groups, but most of those who

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1 had been killed were Lendu.

2 Q. What was the name of your sister who came to (Redacted) with your mother?

3 A. (Redacted)

4 Q. Madam, did you meet (Redacted) again after you left (Redacted)?

5 A. No, I didn't see her again. Later I heard that she had been killed by UPC

6 troops. She wanted to go to Kobu and at that time she was killed by the UPC

7 because she was providing medical care to Lendu.

8 Q. Who told you that?

9 A. We left Kobu to go and see her, but we didn't see her. She was already dead.

10 She had been killed.

11 Q. (Redacted)

12 (Redacted)

13 A. (Redacted)

14 Q. (Redacted)

15 A. (Redacted)

16 (Redacted)

17 Q. (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 A. (Redacted)

21 PRESIDING JUDGE FREMR: Sorry, Ms Solano. Again one additional question

22 from my part.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 THE WITNESS: (Interpretation) (Redacted)

2 PRESIDING JUDGE FREMR: I can fully understand that. (Redacted)

3 (Redacted)

4 (Redacted)

5 THE WITNESS: (Interpretation) (Redacted)

6 (Redacted)

7 PRESIDING JUDGE FREMR: All right.

8 Ms Solano, please proceed.

9 MS SOLANO:

10 Q. Madam, when the Prosecution investigators interviewed you in (Redacted), did you
11 tell them about your rape?

12 A. No. I did not mention it. I was ashamed of saying anything about it.

13 Q. Did you mention your rape to the investigators in (Redacted)?

14 A. Yes. I found the courage to talk about it.

15 Q. Do you remember discussing your rape with any doctors?

16 A. Initially I was afraid of mentioning it because I was ashamed, but later I found
17 the courage to speak of it.

18 Q. Do you remember meeting a doctor called Maeve Lewis on (Redacted)?

19 A. I remember that.

20 Q. Do you remember talking to her about your rape?

21 A. I spoke of it.

22 Q. Do you also remember meeting with another doctor called Sophie Gromb on
23 (Redacted)?

24 A. I don't recall that doctor very well.

25 Q. If I tell you that the second doctor Sophie Gromb did a physical examination of

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1 you, does that make you -- does that help you remember?

2 A. Was this doctor a white doctor? Was the doctor white? Could you explain
3 that to me, please.

4 Q. Yes, she was white.

5 A. Yes, I met her.

6 Q. Do you remember what part of your body this doctor examined?

7 A. She took some blood.

8 Q. Do you remember (Redacted)?

9 A. Yes, among other things.

10 PRESIDING JUDGE FREMR: Madam Witness, you look at bit tired. Do you want
11 to have some five, 10 minutes break and then we would continue just for last
12 20 minutes? Would it be okay with you to break for a short while?

13 THE WITNESS: (Interpretation) Yes.

14 PRESIDING JUDGE FREMR: But in fact we will not break because I will utilise this
15 time to deliver one oral ruling, but we will just provide Madam Witness with some
16 rest. So please take Madam Witness out of the courtroom for just a bit more than
17 5 minutes. And as soon as I will finish oral ruling, we will invite her back.

18 (The witness stands down)

19 PRESIDING JUDGE FREMR: And since the decision has to be delivered in private
20 session, we will remain in private session. And this ruling concerns request for
21 protective measures for Witness P-113 for whom the Prosecution request face and
22 voice distortion as well as use of a pseudonym in filing number 1385.

23 It also requests that evidence related to the witness's alleged rapes be heard in private
24 session. Finally, the Prosecution requests certain special measures pursuant to Rule
25 88 of the Rules.

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1 On 20 June 2016, the Legal Representatives of the victims of the attacks and the
2 Defence responded to the request with filing numbers 1408 and 1410, respectively.
3 The LRV supports the request and the Defence does not oppose the measures
4 requested.

5 On 6 July 2016, the Chamber received the VWU's protective measures assessment,
6 which recommends granting the same protective measures as sought in the request.
7 The Chamber incorporates by reference the applicable law set out in its first decision
8 on protective measures, which has filing number 824.

9 In ruling on the request, the Chamber has considered particularly the following
10 factors: First, the witness's anticipated evidence, in particular the unique nature of
11 those portions relating to the alleged sexual violence; second, the potential risk to the
12 safety and well-being of the witness should her identity become known to her
13 community or perpetrators of the alleged incidents; three, the security incidents
14 reported by the Prosecution; four, the area of residence of the witness, which is in a
15 region where the security situation remains unstable; and five, the minimal degree of
16 protection currently provided. The Chamber has had particular regard to the VWU's
17 assessment in respect of the witness's security situation.

18 The Chamber further notes the reported instances where other witnesses, including
19 crime-base witnesses, were allegedly threatened as a result of their involvement with
20 the Court.

21 In light of the above, the Chamber is satisfied that an objectively justifiable risk exists
22 with respect to the witness's security, warranting the protection of the witness's
23 identity from the public. The Chamber further finds that the in-court protective
24 measures sought do not unduly infringe upon the rights of the accused, given that the
25 accused and the Defence will be able to see the witness give evidence and hear the

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1 witness's voice without distortion. Accordingly, the Chamber grants the measures
2 of use of a pseudonym for the purposes of the trial and voice and face distortion
3 during testimony pursuant to Rule 87 of the Rules.
4 With regard to the Prosecution's request to elicit certain evidence concerning the
5 alleged rape of the witness in private session, the Chamber finds it appropriate to
6 assess the necessity of such measure on a case-by-case basis at the relevant time.
7 Turning to the request for special measures, the Chamber defers its decision until
8 receipt of the VWU vulnerability assessment.
9 Finally, the Chamber orders the filing of public redacted versions of the Defence and
10 LRV responses within two weeks.
11 This concludes the Chamber's ruling.
12 And as soon as we are in -- because we are still private session, we have also another
13 ruling to be delivered. I can continue with the other one.
14 And it's oral ruling on Defence request for admission into evidence of three
15 documents used with Witness P-877.
16 And the ruling is following: On Monday 27 June, at the end of Witness P-877's
17 testimony, the Defence requested the admission into evidence of three documents it
18 used during its cross-examination. The Prosecution and Legal Representative for
19 former child soldiers responded orally. Now that the Chamber has been in a
20 position to review the edited transcripts of cross-examination, which were notified by
21 the Registry last Friday and earlier today, the Chamber will deliver its oral ruling on
22 this request for admission into evidence.
23 The Defence requests concerns first, a screening note, second, the victim application
24 form (Redacted), and third, (Redacted)
25 (Redacted)

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1 (Redacted)

2 The Defence specified that admission of the witness's victim application form was
3 sought for it to serve a writing example of the witness.

4 The Prosecution does not oppose admission of the specific paragraphs of the
5 screening note that were put to the witness for the purposes of showing any
6 contradictions, but opposes admission into evidence of the two victim application
7 forms.

8 As a preliminary matter, the Chamber would like to recall the principles set out in
9 decision number 1070 with regard to admission of material for impeachment
10 purposes. In particular, the Chamber will not admit items where the inconsistency
11 in question has not been put to the witness and where is it adequately already
12 reflected on the record. The Chamber recalls in this regard that material
13 inconsistencies should be put to the witness and the cross-examination should be
14 conducted in a manner designed to create a self-contained record.

15 In light of the focus of the Defence cross-examination on the handwriting of various
16 entries in the witness's notebook, the Chamber will admit into evidence the witness's
17 victim application form, which has ERN DRC-OTP-2092-0288, for impeachment
18 purposes.

19 As to the screening note, which has ERN DRC-OTP-2069-0096, the Chamber notes
20 that the information that is said to be contradictory to the witness statement has been
21 placed on the record in transcript number 110, on pages 4 and 5.

22 Consequently, the Chamber does not consider it necessary to duplicate the
23 information and rejects the request to admit the screening note into evidence.

24 Similarly, as to the victim application form for victim a/00637/13, which appeared as
25 number 37 on the Defence list of items it intended to use with the witness, the

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1 Chamber considers that the relevant information has sufficiently been put on the
2 record in transcript number 109, pages 71 to 73, and therefore need not be admitted
3 into evidence for impeachment purposes.

4 This concludes the Chamber's ruling.

5 And now, court officer, please bring Madam Witness again into the courtroom from
6 the rest and we still have 25 minutes.

7 While according to our measuring Ms Solano has 56, so I guess we will spill over to
8 tomorrow, unless you will be able to finish earlier. What is your current position,
9 Ms Solano?

10 MS SOLANO: Your Honour, I might be able to finish.

11 PRESIDING JUDGE FREMR: Sorry, I saw some -- am I wrong?

12 (Pause in proceedings)

13 PRESIDING JUDGE FREMR: Sorry, I probably -- I was for sure wrong. You still
14 have 46 minutes. If I said 26 I was wrong, but I meant that today we have
15 25 minutes because we will have to finish 4.25. So no problem, you can continue
16 tomorrow.

17 (The witness enters the courtroom)

18 PRESIDING JUDGE FREMR: Madam Witness, can you hear me?

19 THE WITNESS: No interpretation.

20 PRESIDING JUDGE FREMR: I didn't get any translation so I understood that she
21 could hear me.

22 Madam Witness, are you feeling a bit better?

23 THE WITNESS: (Interpretation) I feel tired.

24 PRESIDING JUDGE FREMR: I would like to ask you just to stay with us last
25 20 minutes, last 20 minutes for today. Do you think it is still okay with you?

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1 THE WITNESS: (Interpretation) No, I can't.

2 PRESIDING JUDGE FREMR: All right. I think we will respect the current health
3 condition of the witness. It was a long day for her. It was very tiring and
4 demanding.

5 So, Madam Witness, you will be now free. And just one reminder I would like to
6 emphasise. We will continue tomorrow and, in the meantime, you must not discuss
7 your testimony with anybody else. Do you understand?

8 THE WITNESS: (Interpretation) Yes.

9 PRESIDING JUDGE FREMR: All right.

10 So now, court officer, please escort Madam Witness out of the courtroom and then we
11 will move for the very end of our session to open session.

12 (The witness stands down)

13 (Open session at 4.04 p.m.)

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

15 PRESIDING JUDGE FREMR: So just for the record, because our witness was
16 obviously not fit enough to continue in giving her testimony today we had to break a
17 bit earlier, but we will adjourn now and we will resume tomorrow 9.30 with the rest
18 of examination-in-chief conducted by Prosecution.

19 Are there any further requests for the floor? No.

20 Okay, so now Court is adjourned.

21 (Trial Chamber confers)

22 PRESIDING JUDGE FREMR: So we consulted something, but by the way no
23 changes. We adjourn. Tomorrow 9.30.

24 THE COURT USHER: All rise.

25 (The hearing ends in open session at 4.05 p.m.)

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1 RECLASSIFICATION REPORT

2 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,

3 the public reclassified and lesser redacted version of this transcript is filed in the case.