

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(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  
6 Judge Chang-ho Chung  
7 Trial Hearing - Courtroom 2  
8 Thursday, 7 July 2016  
9 (The hearing starts in open session at 9.32 a.m.)  
10 THE COURT USHER: All rise.  
11 The International Criminal Court is now in session.  
12 Please be seated.  
13 PRESIDING JUDGE FREMR: Good morning, everybody.  
14 Court officer, please call the case.  
15 THE COURT OFFICER: Thank you, Mr President.  
16 The situation in the Democratic Republic of the Congo, in the case  
17 of The Prosecutor v. Bosco Ntaganda, case reference ICC-01/04-02/06.  
18 We are in open session.  
19 PRESIDING JUDGE FREMR: Thank you, court officer.  
20 Now appearances please in the usual order.  
21 MS SOLANO: Good morning, your Honour. The Prosecution is represented by  
22 Mr James Pace, assistant trial lawyer; Ms Laura Morris, assistant trial lawyer;  
23 Ms Selam Yirgou, case manager; and I am Julieta Solano, trial lawyer.  
24 PRESIDING JUDGE FREMR: Thank you, Ms Solano.  
25 Defence now.

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 MR GOSNELL: Good morning, Mr President. Appearances are the same as  
2 yesterday, with the addition of William St-Michel. Thank you.

3 PRESIDING JUDGE FREMR: Thank you, Mr Gosnell.

4 And Legal Representative of Victims, please.

5 MR ABDOU: Good morning, Mr President. Good morning, your Honours. For  
6 the former child solders, the same as yesterday.

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

8 The appearances haven't changed since yesterday for the victims of the attacks.

9 Thank you.

10 PRESIDING JUDGE FREMR: Thank you, Mr Abdou. Thank you, Ms Grabowski.

11 Good morning, Madam Witness. Can you hear me?

12 WITNESS: DRC-OTP-P-0019 (On former oath)

13 (The witness speaks Swahili)

14 THE WITNESS: (Interpretation) Good morning, I can hear you.

15 PRESIDING JUDGE FREMR: I hope that you are feeling a bit better than yesterday  
16 afternoon.

17 THE WITNESS: Yes.

18 PRESIDING JUDGE FREMR: Madam Witness, the Chamber is aware of the fact that,  
19 especially for you, giving testimony is very tiring. So, as I said yesterday, if you feel  
20 really tired, if you feel need for break, short break, just let us know, raise your hand  
21 and we will try to accommodate your need.

22 Normally, we used to sit for 90 minutes, but if you really would feel that you would  
23 like to get a break, just let us know and I think we will do our best to make it. Do  
24 you understand?

25 THE WITNESS: (Interpretation) Yes.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: All right. Otherwise we will continue with your  
2 examination conducted by the Prosecution.

3 So, Ms Solano, you have the floor. According our measuring you still have at your  
4 disposal 46 minutes.

5 MS SOLANO: Thank you, your Honour.

6 QUESTIONED BY MS SOLANO: (Continuing)

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

8 A. Yes, I can hear you.

9 Q. Madam, yesterday we spoke about the time that you were detained by the UPC  
10 in Sangi, outside of the church. And you told us that when you arrived in Sangi  
11 there was already a group of people who had been detained before you.

12 The question I want to ask you today is whether your group was the last group to be  
13 arrested and brought to this place in Sangi?

14 A. No, my group was not the last group. Others were arrested who came and  
15 found us there.

16 Q. Did you see these people when they were brought?

17 A. I saw them.

18 Q. Who were they?

19 A. They were Lendu.

20 Q. And can you describe what you saw?

21 A. They were brought there and then they were also tied up where we were.

22 Q. Who tied them up?

23 A. UPC soldiers did it.

24 Q. Do you know where these people came from? Do you know where they had  
25 been captured?

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Open Session)

ICC-01/04-02/06

1 A. There were different names, Jeanne, Élise, and the UPC said, "Come, prepare  
2 food for your children." They left this message, but it was a lie. They said, "The  
3 UPC have gone, you can come back. Come and prepare food for your children."  
4 That's what they were saying.

5 Q. Madam, did you mention some names just now?

6 A. They said some names, just seemingly at random, that's what I heard. And  
7 sometime afterwards they came with other people who'd been arrested.

8 Q. Were these names of the prisoners?

9 A. No. These were random names. If you think somebody were to be hidden in  
10 the bush you might think that you were being called to come and make food for your  
11 children, and then you would come forward and then you would be captured and  
12 tied up and put with the others.

13 Q. Madam, and these additional people, these additional people who arrived in  
14 Sangi after you, how were they treated by the UPC soldiers?

15 A. They were whipped. They were tied up.

16 Q. What were they whipped with?

17 A. What were they flogged with? Some were being hit with sticks, others with  
18 their belts, and some were using their rifle butts to hit them.

19 Q. And what happened to this group of people who arrived at Sangi after you?

20 A. Once a large number of people had been collected together, they took some  
21 people, took them into the bush where they abused them. And then there was a lot  
22 of shouting, a lot of confusion. And after that we were taken to Wadza.

23 Q. What do you mean that they were abused?

24 A. They were raped.

25 Q. Were these -- are you now talking about the same group of women who you

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 told us yesterday were raped in the bush, or are you talking about other persons?

2 A. I'm talking about all the \*groups that were there in Sangi. Some had their  
3 genitals cut off and they were hung around their necks like necklaces, some had their  
4 ears cut off and were forced to eat them.

5 Q. Did you witness this?

6 A. I was an actual witness to these events.

7 Q. Madam, who was it that had their genitals cut off and who cut the genitals off?

8 A. The UPC were carrying out these mutilations, cutting off the genitals and  
9 making them into necklaces. And the UPC troops were cutting the ears, making the  
10 Lendu eat these ears.

11 Q. The people who had their genitals cut off, were they men or women?

12 A. They were men who were subjected to these acts.

13 Q. Madam, and what happened to these men after their genitals had been  
14 mutilated?

15 A. After these events they died.

16 Q. How do you know that they died?

17 A. This happened while we were there. I saw it happen. I was there. I saw it  
18 with my own eyes.

19 Q. Did you learn why the UPC did these things? Did the UPC soldiers explain  
20 why they had done this?

21 A. They said that "In three days we are going to exterminate you Lendu."

22 Q. Thank you, madam.

23 MS SOLANO: Your Honour, for the next few questions can we please go into  
24 private session?

25 PRESIDING JUDGE FREMR: Certainly.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Court officer, please move into private session now.

2 (Private session at 9.52 a.m.) \*(Reclassified partially in public)

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

4 PRESIDING JUDGE FREMR: Thank you, court officer.

5 Ms Solano, please proceed.

6 MS SOLANO: Thank you, your Honour.

7 Q. Madam, I'm going to change to a different topic now and I'm going to ask you

8 about the father of (Redacted), your children. I understood from what you said

9 yesterday that you were not together with him at that time that you were raped.

10 Do you remember how long it had been since you had not been with him, since you

11 had been separated from him? How long before your rape?

12 A. I didn't understand that.

13 Q. Let me ask in a different way. Until (Redacted) were killed, who did they

14 live with?

15 A. (Redacted)

16 Q. (Redacted)

17 A. (Redacted)

18 Q. At the time that (Redacted) were killed was their father (Redacted)

19 (Redacted)?

20 A. (Redacted)

21 Q. Madam, I'm going to again move to a different topic. And it is about -- I have

22 some questions about Commander Linganga and Commander Salumu. Madam,

23 while Commander Linganga was raping you, did you see his face?

24 A. I saw it.

25 Q. How much time would you say you spent seeing Commander Linganga while

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 you were detained by the UPC?

2 A. I didn't understand your question.

3 Q. Did you see him a lot while you were detained by the UPC, or did you see him  
4 a little?

5 A. The commander was going away and coming back to give instructions to the  
6 bodyguards. There were a lot of commanders. I didn't know all their names.  
7 When we split into smaller groups, then I heard his name being talked about.

8 Q. When was the last time you saw Commander Linganga?

9 A. The last time I saw him was the day that there were messages coming over the  
10 Motorola saying that Bunia was being attacked. That was the day I wanted to escape  
11 and was -- that's the day I was hit by bullets. That's the last time I saw him.

12 Q. Madam, and Commander Salumu, how many times did you see him?

13 A. I saw him often when he passed by.

14 Q. When he passed by where?

15 A. Well, he used to go around the people, but I can't tell you what he was really  
16 doing when he was moving around.

17 Q. When was the last time that you saw Commander Salumu?

18 A. The last time that I saw him, that was when the commanders were  
19 communicating on the Motorola saying that Bunia had been attacked. That was the  
20 last time that I saw him.

21 Q. Thank you, madam. I'm going to now move to a different topic. I'm going to  
22 ask you again about your medical examinations. And yesterday you confirmed that  
23 you remembered a doctor called Sophie Gromb examining (Redacted). Do you  
24 remember that she took some photographs (Redacted)?

25 A. Yes, she took photographs.

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 MS SOLANO: Your Honours, I will now, I now intend to show the witness two  
2 photographs which are contained in DRC-OTP-2059-0131 at pages 0137 and 0138.

3 That is item 25 on the Prosecution's list of evidence.

4 And I do not want the photos displayed on the screen, because what I propose to do  
5 is follow the same procedure we followed with the previous witness and show the  
6 witness redacted copies of those two pages of that document where only the  
7 photographs are visible and no text is visible.

8 PRESIDING JUDGE FREMR: Defence, any objection?

9 MR GOSNELL: No, Mr President.

10 PRESIDING JUDGE FREMR: Okay, then let's proceed.

11 MS SOLANO: We have printed copies for the witness. I request the usher's  
12 assistance in providing them to her. And if they can be shown to my colleague from  
13 the Defence first, please.

14 MR GOSNELL: I trust the Prosecution. As long as they tell me there's no notation,  
15 that's fine.

16 MS SOLANO: Thank you.

17 Q. Madam, the court usher has just given you two photographs. Can you please  
18 look at them and tell me whether you recognise them.

19 Madam, have you had a chance to look at both photographs?

20 A. Yes.

21 Q. Do you recognise them? Do you know what these photographs show?

22 A. They are -- the two photographs represent (Redacted).

23 MS SOLANO: Your Honour, I seek admission of these photographs in the form that  
24 they have been shown to the witness.

25 PRESIDING JUDGE FREMR: Defence, any objection?

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 MR GOSNELL: No objection, Mr President.

2 PRESIDING JUDGE FREMR: All right, so those two photographs are admitted into  
3 evidence as a further Prosecution exhibit.

4 And I also would like thank to Mr Gosnell for promoting this mutual belief between  
5 parties by his gesture.

6 Now, Ms Solano, you may proceed.

7 MS SOLANO: Thank you, your Honour.

8 Q. Madam, do you remember when the Prosecution investigators interviewed you  
9 for the first time in (Redacted), that they took some photographs of you as well as, as well as  
10 (Redacted)?

11 A. I remember.

12 MS SOLANO: Your Honour, I would now like to show the witness printed copies of  
13 the photographs that are listed at numbers 7 through 19 of the Prosecution's list of  
14 evidence. There are 13 photographs.

15 PRESIDING JUDGE FREMR: Defence, any objection to that?

16 MR GOSNELL: No objection, Mr President.

17 PRESIDING JUDGE FREMR: All right then.

18 MS SOLANO: If the usher can please provide the witness with the photograph.

19 THE COURT OFFICER: Ms Solano, can you please provide us with an ERN number,  
20 please.

21 MS SOLANO: I will.

22 Q. Madam, can you please look through these 13 photographs. And for the  
23 record, I will provide an ERN range, beginning with DRC-OTP-0108-0155, going all  
24 the way through to DRC-OTP-0108-0167. And there are 13 photos in that range,  
25 each of them is one page long.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Have you had a chance to look through the photographs, madam?

2 A. I see them.

3 Q. What do they show? Who is the person shown in these photographs?

4 A. It's me.

5 Q. Can I ask that, with the assistance of the VWU assistant, you look at the first  
6 photograph, which has a number at the bottom that ends in 0155. And what does  
7 that photograph show?

8 A. This photograph represents (Redacted). And that is the  
9 reason why (Redacted).

10 Q. Can you now please turn to the photographs that have the numbers ending in  
11 0162 and 0167. With the assistance of the VWU assistant if necessary, please.  
12 And what do these photos show, madam?

13 A. This photo represents the place where a bullet struck me.

14 MS SOLANO: Your Honour, I seek to tender the 13 photos into evidence.

15 PRESIDING JUDGE FREMR: Defence, any objection?

16 MR GOSNELL: No objection, Mr President.

17 PRESIDING JUDGE FREMR: So those 13 photographs are admitted into evidence as  
18 a further Prosecution exhibit.

19 MS SOLANO:

20 Q. Madam, you told the Court yesterday at the beginning of your testimony that  
21 you (Redacted).

22 After you were injured in 2003, did you continue (Redacted)?

23 A. No. I no longer (Redacted).

24 Q. Why not?

25 A. This is a job that requires physical strength in order to practice it. I can no

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 longer do that because I'm not physically able to do it.

2 Q. After the events that you have described to the Court, in particular your rape  
3 and the death of your children, how did you feel? Did these events have an impact  
4 on your state of mind?

5 A. Before I thought about it a lot, but for the moment I forced myself not to think  
6 about it anymore. I'm resigned to it because there's nothing else I can do. I can't do  
7 anything about it.

8 Q. Madam, do you remember that when the -- when you met the Prosecution  
9 investigators in (Redacted) they took you for some X-rays (Redacted)?

10 A. I remember.

11 Q. Did the Prosecution or anyone else from the Court help you to (Redacted)  
12 (Redacted)?

13 A. I had -- I did some X-rays and afterwards I was operated on -- but I wasn't  
14 operated on.

15 THE INTERPRETER: Corrects the interpreter.

16 MS SOLANO: Thank you, your Honour. I have no more questions.

17 PRESIDING JUDGE FREMR: Thank you very much, Ms Solano. You were pretty  
18 punctual.

19 Now, Madam Witness, so we finish first half of your testimony. You were examined  
20 by Prosecution and now you will be examined by Defence.

21 Madam Witness, allow me to allow you that this Court is governed by principle of  
22 fair trial, which means that both parties are treated equally. And for you it means  
23 that you should respond in the same way as you responded to questions put to you  
24 by Prosecution, so you should respond in the same way questions put to you by  
25 Defence.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 But because we have some problems with transcript that require to make a short  
2 break, and I guess it will be also appreciated by witness, so we will break now for ten  
3 minutes.

4 THE COURT USHER: All rise.

5 (Recess taken at 10.23 a.m.)

6 (Upon resuming in open session at 10.36 a.m.)

7 THE COURT USHER: All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: After short break forced by some technical problems  
10 we faced, we will now continue until 11 o'clock and we will continue with  
11 cross-examination of our witness by Defence.

12 Mr Gosnell, you have the floor. And do you want to proceed in open or in private  
13 session?

14 MR GOSNELL: I'm afraid we'll have to stay in private session for a while,  
15 Mr President.

16 PRESIDING JUDGE FREMR: All right then.

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

18 (Private session at 10.37 a.m.) \*(Reclassified partially in public)

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

20 PRESIDING JUDGE FREMR: Thank you.

21 Mr Gosnell, please proceed.

22 MR GOSNELL: Thank you very much, Mr President.

23 QUESTIONED BY MR GOSNELL:

24 Q. Good morning, Madam Witness.

25 A. Good morning.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Q. My name is Christopher Gosnell. I will be asking you a few questions today  
2 and possibly tomorrow. If anything I say is not clear to you, then please do let me  
3 know and I will try to clarify my question. Do you understand?

4 A. Yes, I can follow you.

5 Q. Thank you. When you fled from Kobu to Gola in advance of the attack that  
6 you've described by the UPC, did you leave quickly?

7 A. Yes.

8 Q. And when you left --

9 THE INTERPRETER: Could Mr Gosnell please allow the interpreter to complete the  
10 interpretation before continuing. Thank you. Request from the Swahili booth.

11 THE WITNESS: (Interpretation) Yes, we left in haste because we were fleeing.

12 MR GOSNELL:

13 Q. And when you left, at the time that you left, did you know that your destination  
14 would be Gola, or did you flee without knowing that that was where you would end  
15 up?

16 A. I fled without having a clear destination in my head and I then found myself in  
17 Gola.

18 Q. At the time of this attack by the UPC on Kobu, did any Hema, did any people of  
19 Hema ethnicity live in Kobu?

20 A. In Kobu there were people from all ethnic groups.

21 Q. The ethnic tensions over the previous years had not caused Hema to flee from  
22 Kobu in large numbers?

23 A. I don't know.

24 Q. Prior to the moment that you fled from Kobu, how long had you lived there?

25 A. I don't remember. (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 Q. (Redacted)

6 A. (Redacted)

7 Q. (Redacted)

8 (Redacted)

9 A. (Redacted)

10 Q. (Redacted)

11 A. (Redacted)

12 Q. Am I right that in 2003 (Redacted)?

13 A. I don't remember.

14 Q. Well, I won't pull up your statement just yet. I will do that shortly, but what

15 you say in your first statement in (Redacted) to the Prosecution is that (Redacted) is, is or was

16 (Redacted). And I'm interested to clarify, was (Redacted) years old in (Redacted)

17 when you gave this statement or was (Redacted) in 2003 at the time of the

18 events? If you can recall approximately.

19 A. I don't remember.

20 Q. (Redacted)

21 A. Yes.

22 Q. And in 2001 and 2002, before this attack by the UPC, were there in fact tensions

23 between Hema and Lendu in Kobu?

24 A. I don't recall (Redacted)

25 Q. (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 A. (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 Q. (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 Q. You do know you were in Kobu in July 2002, don't you? That's something you  
10 remember, isn't it?

11 A. I was there at that time.

12 Q. (Redacted)

13 (Redacted)

14 A. (Redacted)

15 Q. And just so it's clear, you know you were there in July 2002, because that's when  
16 (Redacted) was killed, correct? And you remember the date that that occurred.

17 A. He was killed in Mongbwalu and not in Kobu.

18 Q. Yes, that's, that's understood, Madam Witness. I'm merely clarifying ourselves  
19 in terms of date, timing. And you know, you told us you know you were in Kobu in  
20 July 2002 and what I'm asking you is whether you are able to tell us that you know  
21 you were there in July 2002 because that's when a very memorable event took place,  
22 namely, that (Redacted) was killed, and at that time you were in Kobu. That's right,  
23 isn't it?

24 A. Yes, I was there.

25 Q. (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 A. I don't remember.

3 Q. (Redacted)

4 (Redacted)

5 A. (Redacted)

6 Q. (Redacted)

7 (Redacted)

8 A. (Redacted)

9 Q. (Redacted)

10 A. (Redacted)

11 Q. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 A. (Redacted)

18 Q. (Redacted)

19 (Redacted)

20 A. (Redacted)

21 MR GOSNELL: I do see the clock, Mr President.

22 PRESIDING JUDGE FREMR: So we will now break for 30 minutes, which means  
23 that we are going to reconvene at half past 11.

24 THE COURT USHER: All rise.

25 (Recess taken at 11.02 a.m.)

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 (Upon resuming in open session at 11.31 a.m.)

2 THE COURT USHER: All rise.

3 Please be seated.

4 PRESIDING JUDGE FREMR: So we will continue with cross-examination of our  
5 witness conducted by Defence.

6 I suppose, Mr Gosnell, since you had to break in the mode of private session, I guess  
7 you would like to continue in private as well now?

8 MR GOSNELL: Yes, I believe we need to, Mr President.

9 PRESIDING JUDGE FREMR: All right.

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

11 (Private session at 11.32 a.m.) \*(Reclassified partially in public)

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

13 PRESIDING JUDGE FREMR: Thank you, court officer.

14 Mr Gosnell, you may proceed.

15 MR GOSNELL: Thank you, Mr President.

16 Q. (Redacted)

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE FREMR: Madam Witness, is this question clear to you, or have  
20 you heard the question?

21 THE WITNESS: I haven't understood the question.

22 MR GOSNELL:

23 Q. From your statement in 2009 we know that your eldest child (Redacted)

24 (Redacted). So what I'm --

25 PRESIDING JUDGE FREMR: Ms Solano.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 MS SOLANO: I regret to intervene, your Honour. It's we have no statement from  
2 2009.

3 MR GOSNELL: I meant to say (Redacted).

4 Q. And in that (Redacted) statement you say that the, Madam Witness, the eldest of your  
5 children (Redacted). And so my question is:

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 Q. (Redacted)

10 A. (Redacted)

11 Q. (Redacted)

12 (Redacted)

13 (Redacted)

14 A. (Redacted)

15 Q. (Redacted)

16 (Redacted)

17 A. (Redacted)

18 Q. (Redacted)

19 A. (Redacted)

20 Q. (Redacted)

21 (Redacted)

22 PRESIDING JUDGE FREMR: (Redacted)

23 MS SOLANO: (Redacted)

24 (Redacted)

25 MR GOSNELL:

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 A. (Redacted)

7 Q. (Redacted)

8 A. (Redacted)

9 MR GOSNELL: I'd like to look at a document, and we'll be spending some time with  
10 this document.

11 And what I would like to do, Mr President, to facilitate following is to have the  
12 French version displayed on the screen so the witness can see that because she does  
13 speak a little bit of French, apparently. And if your Honours wish to follow in  
14 English we have a number of binders, and that might facilitate, because we can't show  
15 the English and the French at the same time on the screen. So with your permission,  
16 and if there's no objection, we can distribute the statements. And I'll give you the  
17 references so we can follow along in French and English at the same time.

18 THE COURT OFFICER: Mr Gosnell, we can actually show the two documents on  
19 the screen.

20 MR GOSNELL: I should not have underestimated the Registry. Nonetheless, we  
21 have already prepared the copies, so perhaps both can be displayed and we'll have  
22 the hard copy as well.

23 PRESIDING JUDGE FREMR: Prosecution, any objection to that proposal?

24 MS SOLANO: I believe we are talking about the witness's (Redacted) statement. I have  
25 no objection.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: All right. Then if you prepared those copies, please  
2 provide us with that.

3 MR GOSNELL: Thank you, Mr President. And just for your Honour's information,  
4 there is only an English version of the subsequent statement. So it's in your binder  
5 but there won't be any difficulty following in English and French.

6 THE COURT OFFICER: Could we have the ERN number of the document to be  
7 displayed?

8 MR GOSNELL: Yes, the document to be displayed is DRC-OTP-0108-0142. That's  
9 tab 1. And for the French -- excuse me, for the English that is tab 2, your Honours,  
10 DRC-OTP-0171-1511.

11 Perhaps we could blow it up for the witness. Yes.

12 I don't know if it's possible to show the whole front page. Yes, thank you very  
13 much.

14 Q. Now, Madam Witness, you were shown this document by the Prosecution  
15 during their questions to you. And am I right that this is the front page of your  
16 statement to the Prosecution that you gave to them in (Redacted)?

17 I'm not sure whether the screen is close enough to the witness.

18 PRESIDING JUDGE FREMR: Mr Gosnell, now I was informed that the main  
19 problem is the fact that Madam Witness (Redacted), so it's not  
20 possible, unlike with other witnesses, to get close to.

21 But I guess, now, Madam Witness, can you read what is on the screen? Can you  
22 recognise words?

23 THE WITNESS: (Interpretation) It isn't very visible.

24 PRESIDING JUDGE FREMR: And now it seems to be making it -- our court officer  
25 made it a bit larger. Is it better now? For example, Madam Witness, can you

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 recognise your name at the top of the document?

2 THE WITNESS: (Interpretation) Yes. I see that.

3 PRESIDING JUDGE FREMR: So, Mr Gosnell, please proceed.

4 MR GOSNELL: Thank you, Mr President.

5 Q. And you looked at this document amongst other documents on Friday last and  
6 Monday of this week. That's correct, isn't it? You're familiar with this, you have  
7 looked at it recently.

8 PRESIDING JUDGE FREMR: Ms Solano.

9 MS SOLANO: Your Honour, I believe that the witness preparation note indicates  
10 that the witness went through, she reviewed her materials with the assistance of an  
11 interpreter who read them to her in Swahili.

12 PRESIDING JUDGE FREMR: All right. Noted.

13 MR GOSNELL:

14 Q. Did you lay eyes on this document in the last week?

15 PRESIDING JUDGE FREMR: Madam Witness, what is your response? Madam  
16 Witness, have you heard the question put to you by Mr Gosnell?

17 THE WITNESS: (Interpretation) I haven't understood.

18 MR GOSNELL: Let me proceed a different way, Mr President. If we could just  
19 zoom in a little more from the part of this page underneath "Enquêteurs." Scroll  
20 down a little bit more, please.

21 Q. Madam Witness, we do see your name, it says "(Redacted)". And is it  
22 correct that's your signature? It's very indistinct.

23 If we could just scroll down a little bit more, please. Yes. And underneath your  
24 name you did sign this document in (Redacted); is that correct?

25 A. Yes.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Q. And you appear to have been interviewed by someone named Alice. That that  
2 was a woman, correct?

3 A. It was a woman.

4 Q. And was the interpreter a woman as well?

5 A. It was also a woman.

6 Q. Could we turn please to ERN page 0152, which is page 12 on the document. If  
7 we could just blow up that one paragraph, it says, and I'll read French:

8 (Interpretation) "Attestation of the witness. \*(Redacted)

9 And that again you signed there; is that correct?

10 A. Yes.

11 Q. Then if we could turn to the next page, which is ERN page 0153. Under  
12 paragraph 4 it says:

13 "(Redacted) has acknowledged that the facts and matters set out in her

14 statement, as translated by me, are true to the best of her knowledge and recollection

15 and has accordingly appended her signature where indicated."

16 Now, is that correct that you told the interpreter that what you said in this statement  
17 was true to the best of your knowledge and recollection at that time?

18 PRESIDING JUDGE FREMR: Madam Witness, have you heard the last question?

19 THE WITNESS: (Interpretation) I haven't understood.

20 MR GOSNELL:

21 Q. Did you tell the interpreter that what had been read to you was true?

22 A. I don't remember. I don't remember saying that.

23 Q. Do you remember that the reason that you signed this statement is that you  
24 believed the content of it to be true?

25 A. Yes, it's true.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 MR GOSNELL: Could we have DRC-OTP-2054-0060, please.

2 This is tab 4. If we could just zoom in a little bit more.

3 Q. And this is the front page, Madam Witness, of your second statement to the  
4 Office of the Prosecutor, which according to this you gave (Redacted)

5 (Redacted). And it says here that you met someone named Holo and someone  
6 named Alexander. Am I right that Holo was a woman and Alexander was a man?

7 A. That's true.

8 Q. And if we just scroll down a little more. And before maybe I can ask one  
9 follow-up question to that. It seems there would have been at least one other person  
10 present during that interview, possibly an interpreter. Was that person a man or  
11 was that person a woman, if you can recall?

12 A. It was a man.

13 Q. And it seems from this page that there might have been a fourth person present.  
14 Was that fourth person a man or was that fourth person a woman? Just to clarify,  
15 Madam Witness, it's not written on the page because we can't see it, it's been blocked  
16 out. So I'm just asking whether you can recall from your memory whether the  
17 fourth person was a man or a woman?

18 A. I do not understand your question.

19 Q. Let me just try one more time. And it's totally all right if you don't remember,  
20 Madam Witness, but what I'm asking you is whether you can actually remember that  
21 during this (Redacted) interview, whether there was a fourth person, aside from Holo,  
22 Alexander and the interpreter, whether there was a fourth person and whether that  
23 fourth person was a man or a woman. And if you can't recall, that's completely  
24 okay.

25 A. I don't remember.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Q. And there at the bottom where it says "Signatures" we see your name written,  
2 "(Redacted)" and then to the left we see a signature. That's your signature,  
3 right?

4 Maybe we can even zoom in a little. Do you see that there, just to the left of your  
5 name, is that your signature?

6 A. Yes, it is my signature.

7 Q. Could we please have page 0065.

8 There's a paragraph here just above what I think can safely be said is your signature,  
9 that says, "The statement has been read over to me in Swahili and is true to the best of  
10 my knowledge and recollection." Did you sign the statement, meaning to say that  
11 the statement was true to the best of your knowledge and recollection?

12 A. Yes. I signed it.

13 Q. And if we could just turn back now to page 0062. But before I continue, I just  
14 have to clarify, when you say you signed it, you signed it to indicate that it was true  
15 and correct to the best of your recollection, right?

16 A. I did not quite understand your question.

17 Q. Am I right that you signed it in order to indicate that it was true and correct to  
18 the best of your recollection?

19 A. That's correct.

20 Q. And then here on this page it says, "Clarifications, corrections and additions to  
21 previous statement." And it says, "My statement bearing the number" -- and I won't  
22 read the number, but it does corresponded to your (Redacted) statement -- "was read back to  
23 me in the Swahili language." And then it says, "Regarding that statement, I have  
24 made the clarifications or corrections which are set out below."

25 So am I correct in understanding that what happened during the (Redacted) interview is

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 that you were told about what was in your (Redacted) statement and you made any  
2 corrections or additions that you considered necessary?

3 A. We made a number of corrections because there were a few small mistakes in it.

4 Q. And aside from those corrections, the first statement, you were indicating that  
5 the first statement was correct, correct?

6 A. Yes, it was correct but for a few minor mistakes in it. When they recorded in  
7 writing all the things that I said, a few mistakes slipped in.

8 Q. And then last Friday and then just this last Monday you again had both your  
9 (Redacted) statements read back to you in Swahili. And am I correct that  
10 you once again had the opportunity to tell the Prosecution whether there were any  
11 corrections and that you did make some corrections?

12 A. I made a few corrections to the second statement.

13 Q. Thank you. Now, during your testimony yesterday you were asked the  
14 following question: "Were (Redacted) with you as you fled to Gola?"

15 Do you remember being asked that question? And we'll get to the answer in a little  
16 bit, but just first can I ask, do you remember being asked that question?

17 A. Yes, that question was put to me.

18 Q. And you remember that you answered "Yes," right?

19 A. Yes. I remember that.

20 Q. Are you sure that that answer was correct?

21 A. Yes, it is the truth.

22 Q. You also said that at that time (Redacted) was with you, correct?

23 A. That is correct.

24 Q. Is there anything that sticks out in your memory from this event when you were  
25 fleeing from Kobu to Gola that particularly reminds you that they were with you?

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 A. Each person went on their own way, but we all came together in Gola.

2 Q. You say "Each person went on their own way, but we all came together in Gola."

3 Are you saying that -- can you clarify that, Madam Witness?

4 A. We fled, but each person went in a different direction and then we all got back  
5 together in Gola. We all got back together in Gola.

6 Q. So are you now saying that there was a moment when you were separated from  
7 (Redacted) after you had fled from Kobu?

8 A. This happened when we fled from, from Kobu. At the time we were fleeing  
9 from Kobu we were all together. We were not separated from each other.

10 Q. And approximately how long did it take you to travel together from Kobu to  
11 Gola?

12 A. I don't have a specific answer.

13 Q. Did it take more or less than a day?

14 A. I did not have a watch, so I cannot be specific in my answer.

15 Q. Did you spend the night anywhere along the way to Gola before you arrived at  
16 Gola, or were you able to get to Gola on the same day that you left Kobu?

17 A. We arrived on the same day.

18 Q. And then how many days did you stay in Gola before you went to Sangi?

19 A. I don't know exactly.

20 Q. Can you recall whether you spent more or less than five nights in Gola before  
21 you went to Sangi?

22 A. I have forgotten.

23 Q. Can you give us any estimate at all about the number of days it may have been?  
24 Even a very general approximation.

25 A. I am not able to do that.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Q. Were (Redacted) with you in Gola throughout the time that you were there?

2 A. Yes, they were there.

3 MR GOSNELL: May we have DRC-OTP-0108-0142, please. That's the witness's

4 (Redacted) statement. For your Honours, if you wish to look at it in English it's tab 2.

5 And we will go to paragraph 22. Which in the French is ERN page 0145, page 5 on

6 the document.

7 Q. Madam Witness, I'm going to read to you what you said in your (Redacted) statement.

8 Before I read, can I just ask you, you do read a little bit of French; is that right?

9 A. Yes, I can.

10 Q. So I'll be reading in English, but you also will have it there in French, and of

11 course you'll have an interpretation in Swahili coming through your earphones.

12 And this is what it says:

13 "Sangi is on a hill a few kilometres from Gola. When we got there, we immediately

14 saw that the men who had gone ahead of us had all been arrested and tied up, and

15 were being locked up in a building which houses the Sangi Catholic School and

16 Church. By the time we realised that the meeting was an ambush it was too late because a

17 group of UPC militiamen had surrounded us \*and immediately arrested us. There were a lot

18 of them and they were armed with bayonets, knives and machetes. All of them were wearing

19 green and beige camouflage uniforms, which we call 'camo pattern'.

20 They put us together with some other women, who must have been captured before

21 us, and they took us all to a spot in front of the church inside of which lots of men had

22 already been locked up, as I just explained. The UPC militiamen ordered us to sit on

23 the ground and then surrounded us in order to keep a watch on us more easily. I

24 noticed there were a number of female fighters and children amongst them. I cannot

25 say ... how old they were, but they must still have been in primary school. The

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 women and children were all armed and wore uniforms like those worn by the male  
2 militiamen."

3 And this is the part that's really important, Madam Witness, coming up, but I wanted  
4 to read all that to situate ourselves. And here's what you say about your (Redacted) and  
5 your children, quote:

6 "It was then that I met up with my (Redacted)  
7 (Redacted), and my (Redacted), who told me that they had been captured in  
8 Sangi when they were on their way to Gola (Redacted)."

9 Now that's what you said in (Redacted), which was (Redacted) after this event. You  
10 wouldn't have said that if that wasn't true and correct to the best of your recollection,  
11 would you?

12 A. I have just told you what happened, that's the story of what happened.

13 Q. So it's not true that you met up with your (Redacted) in Sangi,  
14 instead of having fled with them to Gola from Kobu?

15 A. No, that is not untrue.

16 Q. And yesterday during your testimony you also said in response to the question,  
17 quote:

18 "Where was your sister, (Redacted), and where were your children, (Redacted), at the  
19 time while you were detained at Sangi?"

20 Answer: "They were with us, but we were at different places." And then you say:

21 "It was while we were on the way that I saw (Redacted) and my children also carrying  
22 loads."

23 May I ask why you were not close together with (Redacted) at this time?

24 A. Those of us who were taken hostage, there were many of us, many of us were  
25 taken hostage, but we were in the same group. Although we were in different

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 locations, we were all together there.

2 Q. Yes, and I imagine that your children would have wanted to stay close to you,  
3 right?

4 A. At that time, at that time everything was the same, whether you were with your  
5 children or not, we had all been captured and so everything was the same.

6 Q. And you told us yesterday that you were -- you saw your children walking with  
7 a woman named (Redacted) between Sangi and Kobu. How far away were they at this  
8 point in time when you saw them with this other person?

9 A. We were moving along in small groups. And when you found yourself in one  
10 group it was \*impossible to change groups and go to another one. Even if you saw  
11 someone in another group, there was really nothing you could do, nothing.

12 Q. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Do you remember having said that yesterday?

22 A. I stated that.

23 Q. (Redacted)

24 (Redacted)

25 A. (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Q. Yes, I understand that. When I --

2 A. But I couldn't say anything on that subject.

3 Q. (Redacted)

4 A. (Redacted)

5 Q. (Redacted)

6 A. (Redacted)

7 Q. (Redacted)

8 A. (Redacted)

9 (Redacted)

10 Q. If we can look at the end of paragraph 23 of your statement, which is still on the  
11 page in front of us, in French. And in English it's ERN page 1517. You say, after  
12 the part where you say that they were coming to visit you in Gola, after that part, you  
13 say:

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Why did you say something different in (Redacted)?

19 A. In (Redacted) I was asked the question "How many people were killed?" I wasn't  
20 asked the circumstances in which the people were killed. It was later that that  
21 question was put to me in greater detail.

22 Q. And you said yesterday that it was your mother who identified the bodies of  
23 your children and (Redacted), and that they were (Redacted)  
24 (Redacted)?

25 A. Yes.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Q. And you visited that grave; is that correct?

2 A. I went there.

3 Q. And is it still possible to go to that grave today?

4 A. (Redacted)

5 Q. (Redacted) was the area marked in any way as being  
6 a grave?

7 A. At this time it was visible -- at that time it was visible.

8 Q. Are gravesites considered sacred in Lendu culture?

9 A. It wasn't individual graves, this was \*mass graves in which lots of bodies had  
10 been buried.

11 Q. And you're saying that (Redacted)?

12 MS SOLANO: Your Honour.

13 PRESIDING JUDGE FREMR: Yes, Ms Solano.

14 MS SOLANO: It's just because I don't know how this has been interpreted to the  
15 witness, but the witness has not said that (Redacted).

16 PRESIDING JUDGE FREMR: And you have heard what?

17 MS SOLANO: Well, Defence has put it to the witness now, they have said, "And  
18 you're saying that (Redacted)?" And that is not what  
19 the witness has said. So the Defence is putting something to the witness that is not  
20 what she has said.

21 PRESIDING JUDGE FREMR: I'm sorry about that, Mr Gosnell, but please try to  
22 clarify.

23 MR GOSNELL:

24 Q. Were the bodies exhumed, removed, dug up and taken somewhere else (Redacted)  
25 (Redacted)?

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 A. I don't know.

2 Q. In any event, there is no place that you know of now where you can go to visit  
3 the grave; is that correct?

4 A. I don't know anything.

5 Q. And that's because there's a house on the place that you know, the only place  
6 that you know to be the grave of your children; is that right?

7 PRESIDING JUDGE FREMR: Madam Witness, have you heard the question?

8 THE WITNESS: (Interpretation) Yes, I understood it.

9 PRESIDING JUDGE FREMR: And what is your response then?

10 THE WITNESS: (Interpretation) I don't know.

11 MR GOSNELL: Did you or did anyone else protest about (Redacted)

12 (Redacted)?

13 MS SOLANO: Your Honour.

14 PRESIDING JUDGE FREMR: Ms Solano.

15 MS SOLANO: Your Honour, the Defence can correct me, but I don't think that the  
16 fact that (Redacted) is in evidence, so the Defence's question is  
17 implying a fact that is not in evidence. I object to it.

18 PRESIDING JUDGE FREMR: Objection is overruled, because it's even leading a bit.

19 But, you know, if we look at the way how Madam Witness is responding, I see this  
20 way of questioning the only reason to clarify the issue.

21 So please, you may proceed, Mr Gosnell.

22 MR GOSNELL: Thank you, Mr President. I think I have proceeded in a careful  
23 manner.

24 PRESIDING JUDGE FREMR: Now, Witness, it's really -- Madam assistant, please  
25 take headphones out of Madam Witness's ears.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Ms Solano, you may be right that even this question maybe is not fully based on the  
2 evidence we heard so far, but at least it would allow Madam Witness to oppose or to  
3 say no. Because, you know, you could see it as well that sometimes she is simply not  
4 even able to respond to questions at least which seems to me clear and simple. So  
5 even this way of questioning could maybe lead to getting some clarity. So I can't say  
6 anything more. So, you know, leading questions are allowed, even questions maybe  
7 put something which maybe is not fully proved, but why not if it will lead to the end  
8 that Madam Witness will say no, it's not the case? But at least we need to get some  
9 concrete responses from her which so far was really very, very rare.

10 Ms Solano.

11 MS SOLANO: Thank you, your Honour. I did not object on the basis of the  
12 question being leading, I'm objecting on the basis that the Defence is putting to the  
13 witness a suggestion that she hasn't agreed to. The Defence are putting that  
14 suggestion to her as if it were a proven fact and I am worried that this could lead the  
15 witness to error. But if your Honours deem it proper to proceed, we can proceed. I  
16 just put on the record that any response needs to be taken with caution, your Honour.

17 PRESIDING JUDGE FREMR: It's fair. I think we can also recognise whether she  
18 was really led to some false or improper, improper response. But in this way you  
19 can see that the task of Mr Gosnell is really very, very tough and for that reason, I  
20 mean that in this kind of questions with the scrutiny, within the scrutiny of the  
21 Chamber should be allowed.

22 Mr Gosnell, please proceed.

23 MR GOSNELL: Thank you, Mr President. I would just like to say one thing before  
24 the witness puts her earphones back on, and that is, that after the last objection by the  
25 Prosecution I circled back out of abundance, out of abundant care to make sure that

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 every element that I could adduce leading to this question was adduced.

2 Now, it is true that the witness at one point said "I don't know" in response to an

3 element that's required. I accept that, Mr President. But I did everything possible

4 in order to get every fact possible on the record before putting the question in the

5 most non-leading way possible. And once I had exhausted that it's perfectly

6 permissible, in fact I'm going beyond what's required to finally pose the leading

7 question only at the end.

8 And to be very clear, on cross-examination it's not required to have a foundation laid

9 the way it is for direct examination before a question is posed. But to be extra careful,

10 Mr President, I tried to avoid it and it was to respond to the Prosecution's previous

11 objection.

12 PRESIDING JUDGE FREMR: No, no more disputes on that really and it's pretty

13 possible for Madam Witness to say, (Redacted)

14 (Redacted)

15 So in my view it was the only chance how to get some concrete response.

16 So, Mr Gosnell, please proceed.

17 MR GOSNELL: Thanks, Mr President.

18 I believe the earphones.

19 PRESIDING JUDGE FREMR: Please, madam assistant, put the headphones back.

20 Madam Witness, can you hear us again?

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

22 PRESIDING JUDGE FREMR: All right.

23 Mr Gosnell, please proceed.

24 MR GOSNELL:

25 Q. Madam Witness, let me remind you of the question that I asked you before the

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 interruption. And the question was did you or did anyone else protest -- and I'll put  
2 it in more neutral terms: (Redacted)

3 (Redacted)

4 A. I don't know anything about it.

5 Q. All right. I'd like to move to a new subject, Madam Witness.

6 And if we could please have DRC-OTP-0171-1511. I'm sorry, I would like to have  
7 the French version on the screen instead. That is DRC-OTP-0108-0142. And if we  
8 could have ERN page 0145. It's paragraph 20 in the witness's (Redacted) statement, which  
9 for the English is DRC-OTP-0171-1511 at page 1517, which is page 6 of the document.  
10 I should have said 1516, page 5 of the document.

11 And, Madam Witness, yesterday you were testifying about the invitation by the UPC  
12 to a supposed peace or a pacification meeting in Sangi, that's page 32 of the transcript.  
13 Do you remember that this invitation was actually sent to Buli?

14 A. I remember.

15 Q. And you found out about that on a Monday, not a specific date, but you  
16 remember that it was Monday; is that correct?

17 A. Yes, it was a Monday.

18 Q. How do you remember that it was a Monday?

19 A. Those who received the letter said to people that they had to participate in the  
20 pacification meeting in Sangi.

21 Q. Yes, I do understand that. My question is: Particularly in light of what you  
22 have just told us previously today, namely, that you can't even estimate the number  
23 of days that you spent in Gola, how do you remember that it was a Monday that this  
24 invitation arrived in Buli or that you heard about this invitation arriving in Buli?

25 A. When the letter was sent to Buli, when they came to ask us to participate in the

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 pacification meeting in Sangi.

2 Q. And am I right that it was the next day, according to you, that people from the  
3 UPC arrived in Sangi and started calling people verbally to come out of the bushes?

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

5 Q. Was it the day after hearing about the invitation to the pacification meeting that  
6 you heard people from the UPC in Sangi verbally calling people to come down to  
7 Sangi for the pacification meeting?

8 A. The UPC troops launched a call to those who were in the bush to leave the bush.  
9 It wasn't the same day. \*They had arrested people already.

10 Q. Right. It wasn't the same day, it was the next day, correct?

11 A. It was the next day.

12 Q. And about what time -- and just so you understand, Madam Witness, I'm just  
13 trying to establish some kind of a chronology here. At about what time did you  
14 arrive in Sangi on that next day that you've referred to?

15 And maybe I can put it a little bit more simply. First of all, was it in the afternoon?

16 A. I didn't have a watch at that time. I wasn't wearing a watch. I didn't know  
17 what time it was.

18 Q. Was it after or before midday when the sun is at its highest in the sky?

19 A. I no longer know what time it was.

20 MR GOSNELL: Speaking of time, I see we have run out of time, Mr President, for  
21 this session.

22 PRESIDING JUDGE FREMR: All right, let's move into open session now.

23 (Open session at 1.01 p.m.)

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

25 PRESIDING JUDGE FREMR: Thank you, court officer.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Open Session)

ICC-01/04-02/06

1 So, Madam Witness, we will now break for 90 minutes so you will have an  
2 opportunity to take some rest. So we see you again at half past 2.

3 And now please, court officer, you may escort Madam Witness out of the courtroom.

4 (The witness stands down)

5 PRESIDING JUDGE FREMR: And for the sake of planning, I received information  
6 that Mr Gosnell so far used 1 hour 47 minutes, which means he still has at his disposal  
7 2 hours 13 minutes.

8 In the light of the progress you have made, is there any chance that you should finish  
9 this cross-examination today in two hours?

10 MR GOSNELL: I wish I could say yes to that, Mr President, but it's not looking  
11 promising, I'm afraid.

12 PRESIDING JUDGE FREMR: Fully understandable. So we will continue half past  
13 2. We have two hours at our disposal, but having taken into account yesterday's  
14 problems Madam Witness faced, it's possible, depending on her condition, that we  
15 will maybe make a short break within those two hours for 10 minutes. But we will  
16 see.

17 So now court is adjourned, we will continue half past 2.

18 Mr Gosnell.

19 MR GOSNELL: I'm sorry, Mr President. Just for planning purposes, I wonder if  
20 the Prosecution could give us an indication about the timing of the appearance of the  
21 next witness?

22 MS SOLANO: Your Honour, I don't know if there have been further exchanges with  
23 the Chamber this morning. The latest information I had available yesterday was that  
24 we were -- we had assessed that we would most likely need the witness's preparation  
25 to continue into tomorrow and that therefore she would not, according to the

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 normally applicable rules, be available for testimony earlier than planned.

2 PRESIDING JUDGE FREMR: I have to say I am not very happy with that, but I have

3 to confirm, according my recent information, witness, just because of those

4 practicalities connected with preparation of the witness, will not be available on

5 Friday. So at the moment it's most likely that we will have then break and to

6 continue with the next witness on Monday morning.

7 Now court is adjourned.

8 THE COURT USHER: All rise.

9 (Recess taken at 1.05 p.m.)

10 (Upon resuming in open session at 2.32 p.m.)

11 THE COURT USHER: All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: Good afternoon, everybody.

14 Before we invite Madam Witness back into the courtroom, I will deliver one oral

15 ruling and it is oral ruling on the Prosecution request for -- first of all we have to

16 move into private session for that purpose.

17 (Private session at 2.33 p.m.) \*(Reclassified partially in public)

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

19 PRESIDING JUDGE FREMR: Thank you, court officer.

20 So it's oral ruling on the Prosecution request for protective measures for

21 Witness P-769 contained in filing number 1397 and dated 14 June 2016.

22 In its request, the Prosecution seeks in-court protective measures in the form of facial

23 and voice distortion as well as use of a pseudonym for the witness. The Prosecution

24 also seeks the special measure of regular breaks, as necessary, during the witness's

25 testimony.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 On 23 June 2016, in filing number 1419, the Defence filed its response indicating that it  
2 does not oppose the measures requested.

3 On 6 July 2016, the Chamber received the VWU's protective measures assessment,  
4 which recommends granting the protective measures requested, as well as hearing  
5 certain evidence in private session.

6 In ruling on the request, the Chamber incorporates by reference the applicable law set  
7 out in its decision number 824.

8 The Chamber has considered, in particular: First, the alleged security incidents in  
9 relation to this witness, (Redacted)

10 (Redacted)

11 (Redacted); second,

12 the place of residence of the witness and his family and the prevailing security

13 situation there; third, the minimal degree of protection currently provided; and,

14 fourth, the nature of the witness's anticipated testimony. The Chamber has also had

15 particular regard to the VWU's recommendation in respect of the witness's security

16 situation.

17 In light of the above, the Chamber is satisfied that there exists an objectively

18 justifiable risk with respect to the witness's security and well-being warranting the

19 protection of the witness's identity from the public. The Chamber further finds that

20 the in-court protective measures sought to not unduly infringe upon the rights of the

21 accused, given that the accused and the Defence will be able to see the witness give

22 evidence and hear the witness's voice without distortion. Accordingly, pursuant to

23 Rule 87 of the Rules, the Chamber grants the measures of use of a pseudonym for the

24 purposes of the trial and voice and face distortion during testimony.

25 The Chamber shall defer its decision on the special measures request until receipt and

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 consideration of the VWU vulnerability assessment for the witness.

2 Further, the Chamber recalls its obligation to take into account the needs of victims of  
3 sexual violence testifying before the Court. The Chamber accepts that it may prove  
4 warranted to hear such evidence in private session to ensure, in particular, the  
5 witness's dignity and well-being; however, the need for this will be assessed on a  
6 case-by-case basis at the relevant time.

7 Finally, the Chamber orders the filing of a public redacted version of the Defence  
8 response within two weeks.

9 This concludes the Chamber's ruling.

10 Now, court officer, let's return back into open session and we can also bring  
11 Madam Witness back to the courtroom.

12 (Open session at 2.38 p.m.)

13 THE COURT OFFICER: We're back 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 afternoon. Can you hear me?

17 THE WITNESS: (Interpretation) Yes.

18 PRESIDING JUDGE FREMR: Madam Witness, Defence counsel will continue in  
19 your cross-examination, so I know that it is a very tiring exercise, but I would like to  
20 ask you if you as much as possible could concentrate on questions put to you, try to  
21 respond clearly and briefly, which could maybe lead to the termination of your  
22 testimony today. If not, we have still time, we will continue tomorrow, but it  
23 depends how much you will be concentrated and focused on questions put to you.  
24 So please try to do your best.

25 Now, Mr Gosnell, you have the floor. Do you want to proceed in private or in open

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Open Session)

ICC-01/04-02/06

1 session?

2 MR GOSNELL: We can stay in open session for at least a few questions,

3 Mr President.

4 PRESIDING JUDGE FREMR: Very well.

5 MR GOSNELL: And may we please have, and this would not be for broadcast,

6 DRC-OTP-0108-0142. For your Honours, in the English version, that's tab 2,

7 DRC-OTP-0171-1511. And we're looking at paragraph 30, page 7 of the document in

8 English. And in the French it would be ERN page 0148.

9 Q. Now, Madam Witness, while this is coming up on the screen we left off before  
10 lunch and you told us that you could not recall when it was that you arrived in Sangi.  
11 Am I correct that you left Sangi after only one night there.

12 Let me see if I can ask it a different way: Is it right that you left early on the morning  
13 the day after you arrived in Sangi? Perhaps first if you could just tell us if you  
14 remember that.

15 A. Yes, I do remember.

16 Q. And then is it right, and do you remember, that you arrived in Kobu sometime  
17 in the afternoon of that same day that you left Sangi?

18 A. Yes.

19 Q. And then you spent one night only, am I correct, in Kobu before the UPC left for  
20 Bunia; correct?

21 A. We spent the night there, but we were in different houses.

22 Q. Yes. At this point I'm just interested in timing and chronology, so is it correct  
23 that it was the next day after one night there that the UPC forces, according to you,  
24 left Kobu?

25 A. No, not the next day.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Open Session)

ICC-01/04-02/06

1 Q. Then when was it?

2 A. They left after receiving a phone call to the effect that Bunia had been attacked  
3 by Ugandans. First of all, they said that it was the Lendus from Zumbe who had  
4 attacked; whereas it was the Ugandans who had arrived in Bunia.

5 Q. Madam Witness, I'm just asking you now about timing. And my question is  
6 whether the UPC left Kobu after you had spent only one night in Kobu?

7 A. We did not spend the night there. We did not spend one night there.

8 Q. How many nights did you spend there?

9 A. I have forgotten.

10 Q. But you remember that it was more than one night?

11 A. More than one night.

12 Q. Can you recall if it was more than two nights?

13 A. I have forgotten.

14 Q. But you do remember it was more than one night, so to your recollection it was  
15 at least two nights, if not more; is that correct?

16 A. I really don't have a clear recollection.

17 Q. And on the day that you did arrive in Kobu, do you have any general  
18 recollection as to what time of day it was?

19 A. It was in the afternoon.

20 MR GOSNELL: Could we please have DRC-OTP-2054-0060, tab 4. If we could start  
21 with page 0062, paragraph 8.

22 Q. Madam Witness, this is what you said in your (Redacted) statement:

23 "We arrived there sometime in the afternoon."

24 And then if we turn over to paragraph 11, you say:

25 "We were prisoners in the compound where that house was and we could not leave

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Open Session)

ICC-01/04-02/06

1 because we were surrounded by soldiers. We only spent one night there: the  
2 following day the UPC left for Bunia, for the battle."

3 Does that remind you that you spent only one night in Kobu before the departure of  
4 the UPC forces?

5 A. The night we spent was spent at a location from which they took us  
6 subsequently to another house.

7 Q. So are you telling us that there are two houses and two different nights, at least  
8 two different night?

9 A. First of all, they took us to the first house which was full of people and it was  
10 not possible to breathe there, that is when they took us to another house at which we  
11 spent the night, one night.

12 Q. And that one night, was that the only night before the UPC soldiers left?

13 A. Yes.

14 Q. So now just so we're clear, does that mean that you remember now that you  
15 were in Kobu only one night before the UPC soldiers left?

16 A. We spent one night in the house to which they took us because when they took  
17 us to the first house there were too many people there, and then they took us to a  
18 second house where we spent the night. Then the next day they left.

19 Q. Thank you very much for that. So all of the events that you've described as  
20 having taken place in Wadza, which is a part of Kobu, took place between the  
21 afternoon that you arrived and the following day that the UPC soldiers left, correct?

22 A. Yes.

23 MR GOSNELL: We'll need private session, Mr President.

24 PRESIDING JUDGE FREMR: All right.

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

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 (Private session at 2.55 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 Mr Gosnell, please proceed.

5 MR GOSNELL:

6 Q. Yesterday, Madam Witness, you were asked how many times it was that

7 Commander Linganga raped you and you confirmed that he had raped you only once.

8 Now I'd like to read what you said in your statement from (Redacted) and then I'll ask you a  
9 few questions about this portion.

10 Starting; at paragraph 11, you say:

11 "The house was divided and there were a lot of prisoners in there; I do not know  
12 exactly how many. I did not pay much attention to such details because I thought  
13 that I was going to die and such things did not seem important at the time."

14 Then paragraph 12 says:

15 "In the house, some of the women were made to cook food, but I did not cook.

16 Instead, some of the other women and I were made to become the wives of the  
17 commanders and soldiers. What I mean by that is that I was raped in Kobu."

18 Then paragraph 13 says:

19 "Linganga played with us. He took me as his wife. This happened both during the  
20 day and at night. When I say that he played with me and took me as his wife I mean  
21 that Linganga took me and he raped me in that house."

22 And then further down in the paragraph it says:

23 "He raped me more than once."

24 Now, first of all it seems here that you're saying in your (Redacted) statement that he raped  
25 you more than once and now you've told us that it was only once. Do you have any

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 explanation for that discrepancy?

2 A. He raped me once.

3 Q. And in your statement you had also specifically mentioned, and I've just read it,  
4 that this happened both during the day and at night. Is that a mistake in your (Redacted)  
5 statement?

6 A. They moved us from one house to another and we spent the night in another  
7 house. They did that during the day and at night, and then they left the next day.

8 Q. You also said yesterday that the place where you were raped was "a house  
9 (Redacted)" And  
10 that's at 47, line 18.

11 But here we see that you're referring to a house that appears to be divided. So I  
12 suppose that what you're telling us now is that this statement mistakenly only refers  
13 to one house, whereas you're telling us now that in fact you were at two houses  
14 successively; is that right?

15 A. Yes.

16 Q. Were there rapes in both houses, or only one of the two houses?

17 A. In one house.

18 Q. And that's the house that you described as being (Redacted), a simple house;  
19 is that right?

20 A. Yes.

21 Q. Let's look at paragraph 14:

22 "There were other rapes which took place inside that same house where we were  
23 being held. I did not know the other women who were raped. I heard screaming  
24 inside the house."

25 Now, that description suggests to me that what you're describing is rapes are

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 occurring somewhere else in this house that you cannot see, but that you can hear.

2 Do you remember saying that in (Redacted) to the OTP?

3 A. Yes, I did say that.

4 Q. Was that incorrect?

5 A. Yes, it's true. My words were true.

6 Q. Just one final question on this: You've just told us in response to my question

7 whether the rapes were in both houses or only one of the two houses, you said one

8 house, and we know that from your earlier testimony you were raped in what you

9 describe as the simple house, so how can it also be true that there were rapes in the

10 house that (Redacted)?

11 A. (Redacted)

12 (Redacted)

13 Q. At line 18, page 46 of yesterday's transcript, you said, quote:

14 "What they used to do was that they would rape women by even putting sticks into

15 their vaginas. That was a horrible thing to do.

16 Question: Did you see this happen yourself?

17 Answer: Yes, yes, I saw that with my own eyes.

18 Question: Did you see that once or more than once?

19 Answer: It is something that happened often, on a common occurrence."

20 Now, I first just want to clarify your answer there because the question that the

21 Prosecutor asked you was whether you saw it more than one time. So is it correct

22 that you saw it more than one time, or did you only see it with your own eyes one

23 time?

24 A. When they sent us to cook, at that stage, I saw these things.

25 Q. And you did not mention these terrible acts in your (Redacted) statement, did you?

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 A. I didn't understand your question. Please, could you repeat it?

2 Q. This terrible act of sticks being used to rape women this is not mentioned in  
3 your (Redacted) statement. And my question is: Why wouldn't you mention such a  
4 terrible thing in that statement?

5 A. The terrible things I saw were cutting men's genitals off, cutting ears off and  
6 forcing the victims to eat these ears. That's what I described, that's what I put -- I  
7 declared at that time.

8 Q. At page 53 of yesterday's testimony you talked about men being raped by UPC  
9 soldiers. Where did these rapes occur?

10 A. This happened in Sangi and also in Wadza and in Kobu.

11 Q. And just so we're clear, Wadza is a part of Kobu; is that correct?

12 A. Yes.

13 Q. And where in Wadza or Kobu did these male rapes occur specifically, if you can  
14 recall?

15 A. It was where they had taken us near the Hotel Paradiso.

16 Q. (Redacted)

17 (Redacted)

18 A. (Redacted)

19 Q. And you were asked the question at page 53, line 20, quote:

20 "How many Lendu men did you see being raped by the UPC soldiers in the house?"

21 And your answer was:

22 "There were a lot of them."

23 Can you provide us with any further information or clarification as to what you mean  
24 by "a lot of them"?

25 A. There were a lot of them. That happened outside. They made the people go

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 out to this place in order to eliminate them.

2 Q. And when you say "there were a lot of them," were there such a large number  
3 that you were not able to count so as to remember the exact number?

4 A. I am not able to give you an exact figure for the number of people. I witnessed  
5 people being executed on three occasions.

6 Q. Let's just stick with this particular event that we're discussing. And what you  
7 also said at page 53, line 15 of the transcript, yesterday, and before and just after, is  
8 that these rapes took place with penises and sticks.

9 Were there any other instruments used to commit rape?

10 A. I've forgotten.

11 Q. If we could please turn to the next page of the document on the screen,  
12 paragraph 16.

13 "During that time, while I was in the house where I was raped, I saw a large group of  
14 UPC soldiers rape three Lendu men who had been arrested."

15 Do you remember having said it was three rather than saying it was a large group?

16 A. There were a lot of soldiers, yes.

17 Q. But according to you in (Redacted) only three victims, not a large number of victims.  
18 Do you remember whether you said that or perhaps it's a misrecollection?

19 A. The three people were the ones who were killed before me. Other than them,  
20 there were also other people, a lot of people.

21 Q. Now, yesterday at page 58, line 20, you were asked where you went after you  
22 were detained at the house in Kobu. You said you heard a call over a Motorola \*in  
23 Bunia, you talk about an impending attack in Bunia, and then you say this, and this is  
24 the important bit, quote:

25 "... the person who raped me told me to -- or told us to flee."

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 What was the name of the person who raped you who told you to flee?

2 A. It was Linganga.

3 Q. And did Mr Linganga say to you, after having abused you and then having told  
4 you that you were a beast, why he was encouraging you to escape?

5 A. He told me to flee and he continued, he went to other houses, but I don't know  
6 what happened in the other places that he went.

7 Q. Was he the only commander who told you to flee, or were there any other  
8 commanders who told you to flee?

9 And maybe you can't remember, Madam Witness, and that's fine too.

10 A. I have nothing further to add.

11 MR GOSNELL: Could we please have DRC-OTP-0108-0142. For your Honours,  
12 this is English DRC-OTP-0171-1511. In the French we will go to, please, ERN page  
13 0149, paragraph 36, which in the English is ERN 1520.

14 Q. Here is a passage from your statement in (Redacted). And you appear to be  
15 describing the same incident, and you say in particular, and I quote:

16 "So when I heard what the commander said I immediately knew that this was the end  
17 for us, and that we were going to be killed. So I was then surprised to hear the  
18 commander say to the other militiaman that he personally did not agree with the  
19 order just received from Lubanga and that he could not see why they had to kill  
20 people who had done nothing wrong." I then turned to us -- "He then turned to us  
21 women and urged us to run away."

22 Was that a reference to Linganga? Is that what Linganga said?

23 A. I didn't understand your question.

24 Q. This event that I have just read you a description of, which is from your  
25 statement of (Redacted), is it correct that that commander to whom there is reference is that

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Linganga?

2 A. I don't understand.

3 PRESIDING JUDGE FREMR: I'm afraid, Mr Gosnell, that your reference is too  
4 extensive for this witness.

5 MR GOSNELL: Yes, Mr President. Maybe I can try to jog the witness's memory a  
6 little bit.

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 A. Yes, that's what I stated.

12 Q. And in fact it's correct, isn't it, that throughout this statement in (Redacted) you refer  
13 to commanders? For example, at paragraph 33, you refer to a militiaman carrying a  
14 Motorola radio whom you identified as the commander.

15 And then at paragraph 34 you refer to "the commander who had spoken to the  
16 militiamen the previous day."

17 And then we have this reference to the commander telling you to flee.

18 My question is simply this: Did the investigators ask you, did Alice ask you about  
19 the identity of these commanders or this commander?

20 A. No, she did not ask for the names the first time. It was at the second time that  
21 \*they mentioned the name and then I explained what had happened.

22 Q. And you've told us during your testimony that you also know the name Salumu  
23 as the other commander whose name you're able to remember. Now, I just want to  
24 be clear about this: You don't allege that Salumu raped you and you don't know that  
25 he raped anyone else; is that right?

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 A. I don't know.

2 Q. So you don't know whether he raped anyone; is that what you're saying?

3 A. I gave a statement based on what I witnessed with my own eyes.

4 Q. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 A. (Redacted)

10 Q. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 A. (Redacted)

15 (Redacted)

16 PRESIDING JUDGE FREMR: Madam Witness, you seem to me a bit tired and you

17 are still expected to testify for one hour. I would propose you to now take a break

18 for 10 minutes and I hope that it would help you to pull together and then to continue

19 for the remaining 50 minutes. Would it be okay with you?

20 THE WITNESS: (Interpretation) I will try to.

21 PRESIDING JUDGE FREMR: All right.

22 So we break now for 10 minutes and then we will hopefully continue.

23 THE COURT USHER: All rise.

24 (Recess taken at 3.32 p.m.)

25 (Upon resuming in private session at 3.48 p.m.) \* Reclassified partially in public

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 THE COURT USHER: All rise.

2 Please be seated.

3 PRESIDING JUDGE FREMR: Hold on. Court officer, hold on for a moment. I

4 will just make a comment, it will be better made without headphones on

5 Madam Witness's ears.

6 So, Mr Gosnell, you still have, as concerning allotted time, 1 hour 23 minutes. We

7 have for today last 40 minutes. Please think about possibility to finish today because

8 in the light of the outcome of this cross-examination, it's not your fault. And I also

9 got a message from the psychologist from VWU that she had talked with

10 Madam Witness during the break, she feels tired, but she was willing to continue

11 until half past 4, but she also expressed her view that she's tired because some

12 questions are too complex, too long for her. So, I don't know, it's up to you,

13 Mr Gosnell, but I am just encouraging you mostly put as simple, as brief questions as

14 possible, which I guess will facilitate your role.

15 Do you think there is any, but don't take it as any pressure, any chance that you

16 would finish by 4.30?

17 MR GOSNELL: I wish I could say yes, Mr President, but as you've seen, there have

18 been a lot of pauses. It really does take time.

19 PRESIDING JUDGE FREMR: All right. I will ask you again 10 minutes before this

20 end and we will see, but if not, it's your right, we will proceed till tomorrow.

21 Now please put headphones back.

22 So, Madam Witness, I appreciate that you are still cooperating with us. I was told

23 that you are still strong enough to continue till half past 4, which is next 40 minutes.

24 So I believe you will make it, and then you will have a chance to rest again.

25 So now, Mr Gosnell, you have the floor.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 MR GOSNELL:

2 Q. Madam Witness, the last thing that you said before we had a little break was:

3 "I gave the names of those that I knew. For the others I didn't know their names."

4 Did you give all the names that you knew in (Redacted)? In other words, all the names that  
5 you could remember in (Redacted) during that interview, did you provide them to the  
6 Prosecution?

7 MS SOLANO: Your Honour.

8 PRESIDING JUDGE FREMR: Ms Solano.

9 MS SOLANO: Your Honour, the witness was asked earlier whether she was asked  
10 for names during the (Redacted) interview and she said that she was not. So I'm not sure  
11 this is a fair question to ask her about the names that she could remember because it's  
12 not in the nature of an interview necessarily for the witness to volunteer answers to  
13 questions that have not been asked. For that reason I object to the question.

14 PRESIDING JUDGE FREMR: Mr Gosnell, maybe rephrase a bit.

15 MR GOSNELL: I'm just asking for a clarification of the witness's answer, that's all.

16 Q. So, Madam Witness, when you left the courtroom you said:

17 "I gave the names of that those I knew. For the others I didn't know their names."

18 What were you referring to when you said that? Can you explain a bit more so we  
19 can understand?

20 A. This is what I meant: There were many commanders and I do not know the  
21 names of the other commanders.

22 Q. Can you help us understand how it could be that you would remember the  
23 names Salumu and Linganga in (Redacted), but you apparently did not mention those  
24 names or remember those names in (Redacted) when you gave your statement then? Can  
25 you help us understand how that could have happened?

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 A. In (Redacted) I did not mention those names because they did not ask me the question.  
2 Now, in (Redacted), I was ashamed of talking about rape. However, in (Redacted) I had the  
3 courage to mention it somewhat. So talking about the rape was a difficulty for me,  
4 but I made the necessary effort to talk about it.

5 Q. Yes, I understand that. But, for example, Commander Salumu was not  
6 involved in the rapes, so how is it that you remembered his name in (Redacted) and  
7 mentioned it in that statement, but you didn't mention it in the (Redacted) statement?

8 A. I have not understood your question.

9 Q. Between (Redacted), did you speak with anyone about the identity of any  
10 UPC commanders, either in Sangi or Kobu?

11 A. I still don't understand your question.

12 Q. Between the time that you gave your first interview to the OTP and your second  
13 interview, did anybody mention to you or talk to you about Salumu and Linganga  
14 being UPC commanders who were present in Sangi and Kobu?

15 A. No.

16 Q. Do you know anyone else who is supposed to be a witness in this case, without  
17 mentioning any names?

18 A. No, I don't know.

19 Q. Did you ever go to meetings with other individuals on the understanding that  
20 the meeting concerned potential appearance as a witness at the ICC?

21 A. No, I did not meet anyone else.

22 MR GOSNELL: I'd like to bring up a document, but when I brought up a similar  
23 document for a previous witness there was an objection to showing it to the witness,  
24 so I don't know whether that objection is going to stand or be made again. It would  
25 be tab 55, but I just want to give everyone a chance. If there is an objection from the

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 Prosecution to showing it to the witness, then we can turn off the screen.

2 MS SOLANO: Could I have the ERN, please?

3 MR GOSNELL: It's DRC-OTP-2092-0325, but I'd say the Registry should just delay  
4 in bringing it up.

5 PRESIDING JUDGE FREMR: Could you also remind us what kind of document it  
6 was.

7 MR GOSNELL: Yes, Mr President. I showed about three or four of these before  
8 and it concerns certain lists that were made and signed by various individuals in  
9 group meetings.

10 PRESIDING JUDGE FREMR: Now I was told there was also a possibility used in the  
11 past that we can switch off screen of Madam Witness and discuss objection issue, if  
12 any, with document on our screens.

13 Anyway, Ms Solano seems to be ready to respond, or do you want us to publish those  
14 documents on your screen or are you ready to respond?

15 MS SOLANO: Your Honour, I have a copy of the document through my own means.  
16 I just want to query whether showing this document to the witness is consistent with  
17 the Chamber's order that the questioning to the witness be adapted to her capabilities.  
18 The document, as your Honours might already see in front of you, is full of numbers  
19 that relate to individuals and I wonder whether it wouldn't be more appropriate with  
20 this witness to simply ask questions rather than to put a document that among other  
21 things is in a language that she does not understand.

22 PRESIDING JUDGE FREMR: Mr Gosnell?

23 MR GOSNELL: I have no objection to just putting questions, Mr President, but I  
24 would like the document -- the documents to be on the screen for us to have the  
25 benefit of as I go through these questions.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: I think it's fine, yes. And I fully share the view  
2 expressed now by Ms Solano because I think, I agree it would be more efficient to do  
3 it in this way.

4 MR GOSNELL: Yes, that's perfectly fine, Mr President.

5 Q. Madam Witness, did you go to a meeting in (Redacted) with at least five other  
6 individuals and did you sign a -- any kind of a list indicating that you were present at  
7 such a meeting?

8 A. I've forgotten.

9 MR GOSNELL: Is there any objection to me using the name of the intermediary?

10 PRESIDING JUDGE FREMR: Ms Solano.

11 MS SOLANO: No, your Honour. As we've been directed to disclose it and we've  
12 disclosed it, I have no objection.

13 PRESIDING JUDGE FREMR: Very well.

14 MR GOSNELL:

15 Q. Madam Witness, do you know somebody named (Redacted)?

16 A. I know him.

17 Q. And what's his last name? Do you know his last name?

18 A. His other name is (Redacted).

19 Q. And what is your relationship with him?

20 A. (Redacted)

21 Q. Did you ever meet with him and other witnesses in this case?

22 A. He went with us when we met in (Redacted).

23 Q. You mean he went with you to meet with the investigators of the Office of the  
24 Prosecutor in (Redacted)?

25 A. Yes.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Q. And after that did you continue to have meetings with him?

2 A. No.

3 Q. Have you ever heard of something called a listes des présence? Does that  
4 mean anything to you?

5 A. I don't remember.

6 Q. The information that I have is that someone else gave their telephone number as  
7 being the way to contact you either to (Redacted) or to somebody in the Court. Do you  
8 know anything at all about that?

9 MS SOLANO: Your Honour.

10 PRESIDING JUDGE FREMR: Ms Solano.

11 MS SOLANO: Your Honour, if the Defence gives a basis for this last question using  
12 the investigation note that we have in front of us, in particular the last sentence in it, it  
13 refers to a different individual, but if this is not the basis on which the Defence is  
14 putting this question, I'm sure my colleague will clarify.

15 PRESIDING JUDGE FREMR: Mr Gosnell.

16 MR GOSNELL: Well, I didn't say that they had given (Redacted) number. That  
17 wasn't my question.

18 PRESIDING JUDGE FREMR: All right then.

19 MS SOLANO: Your Honour.

20 PRESIDING JUDGE FREMR: Ms Solano.

21 MS SOLANO: I did not say -- I did not mention (Redacted) in my -- in my question, but  
22 the Defence has requested to put on the screen a document in front of us that contains  
23 some information in the last sentence that is pretty similar to the information that the  
24 Defence have just put to the witness and I just want to make sure that there is no  
25 confusion between what has been -- well, to the information made available to

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 Defence, which, as far as I'm aware, comes from the Prosecution and not from other  
2 sources.

3 PRESIDING JUDGE FREMR: Now I see.

4 Mr Gosnell.

5 MR GOSNELL: Yeah, the basis for my question is the last sentence and I'm trying to  
6 ask it as generically as possible while also giving the witness an idea of what I am  
7 trying to get at. So let me repose it. Perhaps I didn't pose it perfectly.

8 Q. Madam Witness, do you know about anyone coming to you to tell you that they  
9 had been contacted by the Court and saying that they wanted to speak with you?

10 Has that ever happened between (Redacted)?

11 A. I don't recall.

12 Q. Do you have your own telephone?

13 A. Yes, I have a mobile.

14 Q. How long have you had that phone?

15 A. I don't have it with me now.

16 Q. Yes, I understand that, Madam Witness. I'm just wondering do you remember  
17 when you first got it, approximately what year?

18 A. I don't recall the date.

19 Q. Did (Redacted) ever give you any advice or reminders about what to say during  
20 your interviews with the OTP?

21 A. No.

22 MR GOSNELL: Could we have tab 73, please. And I have a blown up hard copy  
23 that may assist the witness.

24 MS SOLANO: Your Honour, I have an objection to the use of this document and I  
25 want to make sure it's not displayed on the witness's screen.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: All right.

2 MS SOLANO: And I think I need the witness's headphones to be removed please.

3 PRESIDING JUDGE FREMR: Madam assistant, may I ask you to take headphones  
4 off. Thank you.

5 MS SOLANO: Thank you, your Honour. Your Honour, I presume that the reason  
6 the Defence are showing this photo board is because they're going to ask the witness  
7 whether she can identify anybody on it and I presume that that will be two UPC  
8 commanders that the witness has mentioned having seen herself. And I object to the  
9 use of the photo board because whatever evidence the witness gives is going to have  
10 very low probative value given that she will be going on the basis of her having seen  
11 these individuals for a very brief period of time about 13 years ago.

12 And in my submission, the Chamber ought to weigh the very low probative value  
13 against the potential to re-traumatise this witness by asking her to look for the  
14 identity potentially of her -- or, the person she says raped her, in particular given that  
15 the Chamber has ordered that the questions for this witness be adapted to her  
16 situation.

17 I more want to note, your Honours, that the photo board contains some photographs  
18 of individuals who are Hollywood actors or who are accused persons in other cases  
19 and they're quite prominent, some as -- including a photograph of the leader of the  
20 LRA. And I submit, your Honours, that it is unfair to the witness to show her a  
21 photo board that includes these photographs because she may well have seen such  
22 photographs before and she might be led to confusion by seeing them here.

23 So for all of these reasons, your Honour, I -- and for the additional reason that  
24 photograph 11, which I believe is one of the photographs that -- of one of the  
25 commanders that the witness says she saw is of poor quality, it's not very sharp, and

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 the other photograph, number 5, which is the photograph of the other commander  
2 which she says she has seen, the individual is wearing a hat, so again not very easy to  
3 identify somebody. So for all of these reason, your Honours, I object to the use of the  
4 photo board.

5 PRESIDING JUDGE FREMR: Mr Gosnell, your comment to that objection?

6 MR GOSNELL: I think all of those points go to weight with the exception of the  
7 re-traumatisation point. All I can say is that I don't -- I honestly am not in a position  
8 to make submissions to your Honours as to the danger of that, so I simply cannot  
9 make a submission on that I don't think.

10 The other weaknesses are weaknesses that are associated with every photo board.

11 We got the best photo we could for the person in number 11. I'm not sure about  
12 number 5. But I do believe we made our best effort to get a good photo of number  
13 11.

14 PRESIDING JUDGE FREMR: I'm sorry to interrupt you. I still don't have any  
15 picture on my screen. Is it already available, or?

16 THE COURT OFFICER: Would you like us to publish the document?

17 MR GOSNELL: Not to the witness.

18 PRESIDING JUDGE FREMR: Just at the moment for the Chamber because we are  
19 talking about number 5, number 11.

20 THE COURT OFFICER: Her monitor is off.

21 MR GOSNELL: And one point -- one further point, Mr President, in deference to the  
22 point about the potential for re-traumatisation, we could always remove the photo of  
23 the person who is alleged to have raped the witness and just leave the other photo of  
24 the person, the commander who did not rape the witness since that would  
25 substantially reduce that risk.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: Now I have photos on my screen. Give us a second,  
2 we will briefly deliberate.

3 (Trial Chamber confers)

4 PRESIDING JUDGE FREMR: So after a brief silent deliberation our ruling is that the  
5 objection is overruled.

6 Two main points: The risk of re-traumatisation in our view, the short sight on even  
7 face of potential perpetrator of rape shouldn't have such a consequence. Moreover,  
8 in my view, in any legal system it's part of the proceedings concerning rape that the  
9 victim is expected to identify perpetrator.

10 And the second issue, as to the weaknesses of the -- as concerns potential probative  
11 value of this photo board, we are professional Judges and we will very thoroughly  
12 consider all parts of or aspects of objection made by Ms Solano, but we still believe  
13 that it could have some probative potential, so that is why we overruled the objection.  
14 So, Mr Gosnell, you may proceed.

15 And we will now -- also we could also now switch on the screen of Madam Witness.

16 MR GOSNELL: I also have blown up hard copies that may be useful for the witness,  
17 so we could supply a copy for -- one copy for your Honours. I'm sorry we don't  
18 have -- we don't seem to have enough but we --

19 PRESIDING JUDGE FREMR: I think we are fine with pictures. Do you think that  
20 the quality of the hard copies is better than --

21 MR GOSNELL: Yes, indeed it is, Mr President.

22 PRESIDING JUDGE FREMR: Okay. Then at least for Madam Witness please  
23 provide her with that.

24 MR GOSNELL: And I hope the witness is not able to understand numbers in  
25 English since we've just been mentioning quite a few numbers.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: I wouldn't overrate Madam Witness.

2 And as concerns timing, I guess it will be the last point before our break, so I just  
3 remind, so there is no chance that you would finish by then? Okay, let's proceed.

4 MR GOSNELL:

5 Q. And now, Madam Witness, you have some photographs in front of you.

6 Could you tell us which of these photographs represents Commander Salumu? And  
7 if you can't, then that's also fine too.

8 A. It's been a long time. I can't identify his face on this photo board.

9 Q. And how about Commander Linganga?

10 A. We were afraid to look them in the eye, so it's very difficult to remember their  
11 faces. We were afraid.

12 Q. Thank you, Madam Witness.

13 MR GOSNELL: I'm done with that document. It can be retrieved from the witness.

14 PRESIDING JUDGE FREMR: All right. So we will break the testimony.

15 Do you want to tender this document or not, Mr Gosnell?

16 MR GOSNELL: Yes, I do think that would be the right thing to do, Mr President.  
17 Thank you.

18 PRESIDING JUDGE FREMR: Ms Solano.

19 MS SOLANO: Your Honour, I request that the paper copy that was shown to the  
20 witness be tendered rather than the image in Ringtail since the paper copy is better  
21 quality.

22 PRESIDING JUDGE FREMR: All right.

23 So the paper copy presented by the Defence to the witness is admitted into evidence  
24 as a further Defence exhibit.

25 Now, Madam Witness, thank you very much. Your testimony for today is

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 concluded. You were very brave. Thank you very much for that. And I can just  
2 inform you that for tomorrow, the Defence still have 1 hour and a few minutes, yes, 1  
3 hour and 3 minutes I was now told, if I am reading it well. So it shouldn't be a long,  
4 long day for you tomorrow. We will see. So thank you very much. Now you can  
5 again take some rest. And as usually, I have to instruct you that you must not  
6 discuss in the meantime till tomorrow, you must not discuss this testimony with  
7 anybody else. Do you understand?

8 THE WITNESS: Ndiyo.

9 PRESIDING JUDGE FREMR: Very well, Madam Witness. Have a nice evening and  
10 I see you tomorrow.

11 Now please take Madam Witness out of the courtroom.

12 And we can move into open session.

13 (The witness stands down)

14 PRESIDING JUDGE FREMR: Now, Mr Gosnell, you may proceed.

15 MR GOSNELL: I --

16 PRESIDING JUDGE FREMR: No, no, not yet, not yet. Sorry, we are still --

17 (Open session at 4.26 p.m.)

18 THE COURT OFFICER: We are now in open session.

19 PRESIDING JUDGE FREMR: Okay.

20 Please proceed.

21 MR GOSNELL: Mr President, I am -- I am not sure what would be the proper  
22 procedure for seeking the admission of the four investigation notes that are all in  
23 form identical to the last one that I showed. I'm not sure whether it's appropriate in  
24 light of the fact that the witness of course cannot give any personal information about  
25 this document, whether to do it now or to seek its admission by some other means. I

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0019

1 do think it's important for your Honours to have it, but it's a question of procedure  
2 and efficiency and timing.

3 PRESIDING JUDGE FREMR: You know, if we look at our decision on conduct of  
4 proceedings and to the conditions of admission of evidence, I am not very optimistic  
5 because the witness in fact has no idea about this document.

6 MR GOSNELL: Well, that may be and that may be a very good reason not to admit  
7 the document through this particular witness, but there will be a time when of course  
8 this document will be highly relevant for your Honours' assessment of the witness's  
9 credibility. I assume the Prosecution will admit that this document has the  
10 minimum threshold of reliability to be worthy of evidence before your Honours. So  
11 if it's something to be left to a Bar table motion, then so be it, but I just thought I  
12 should seek guidance now.

13 PRESIDING JUDGE FREMR: Ms Solano, any comment from your part to the  
14 potential admission of those notes?

15 MS SOLANO: Your Honour, if the Defence do not find a suitable witness for whom  
16 to admit these documents, of course it's open to them to seek to admit them as part of  
17 a Bar table motion. In that case we will respond when and if that happens. I just  
18 want to note that for the Prosecution's part we have not seen anything in the  
19 cross-examination so far in relation to this document to bear on an assessment of this  
20 witness's credibility. She was asked a number of questions, she readily provided the  
21 full identity of the intermediary. She accepted that she met with him, she just didn't  
22 remember the further details that the Defence put to her.

23 PRESIDING JUDGE FREMR: Yes, I can just -- it's even from my part a bit premature  
24 and unofficial that Bar table seems to me as a most likely way how this document  
25 may be admitted if ever.

Trial Hearing  
WITNESS: DRC-OTP-P-0019

(Open Session)

ICC-01/04-02/06

1 Now, if there are no requests for the floor, I have one question targeting Mr St-Michel.

2 Mr St-Michel, as far as I am informed you are going to leave the Defence team, so

3 today is your last day before us, isn't it?

4 MR ST-MICHEL: This is indeed the case, Mr President.

5 PRESIDING JUDGE FREMR: All right. In such a case I would like on behalf of this

6 Chamber, I would like to say good-bye. You spent quite a long time with us and just

7 my personal view that, in my observation, you made great professional progress

8 because if I remember your participation, opening statements, and if I compare it with

9 cross-examination you led last week, which in my view was conducted in a highly

10 professional manner, so as I said, you made great professional progress.

11 So on behalf of this Chamber, we are saying to you good-bye, and we wish you all the

12 best both in your professional further career and your personal life.

13 MR ST-MICHEL: Thank you very much, Mr President, for your kind words. It has

14 been a real pleasure and privilege to be involved in this case and I will truly miss

15 being in this courtroom. Thank you very much.

16 PRESIDING JUDGE FREMR: You are welcome.

17 Now we adjourn and we will continue tomorrow 9.30.

18 THE COURT USHER: All rise.

19 (The hearing ends in open session at 4.30 p.m.)

20 RECLASSIFICATION REPORT

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

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