

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 3
8 Tuesday, 11 October 2016
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: [9:33:53] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:34:24] Defence, please, I would like to see your face.
14 Yes, thank you.
15 So good morning.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:34:39] Thank you, Mr President.
18 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
19 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
20 We are in open session.
21 PRESIDING JUDGE FREMR: [9:34:55] Thank you, court officer.
22 Now appearances in habitual order.
23 MR IVERSON: [9:35:02] Good morning, your Honours. Appearing today for the
24 Prosecution are Kristy Sim; Selam Yirgou; Nicole Samson; and myself, Eric Iverson.
25 PRESIDING JUDGE FREMR: [9:35:11] Thank you, Mr Iverson.

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1 Defence please.

2 MR GOSNELL: [9:35:15] No changes from yesterday afternoon, Mr President. Thank
3 you.

4 PRESIDING JUDGE FREMR: [9:35:19] Thank you, Mr Gosnell.

5 Legal Representatives for Victims.

6 MS PELLET: [9:35:27] (Interpretation) Thank you, your Honour. The former child
7 soldiers are represented by myself, Sarah Pellet, counsel with the Office of Public Counsel
8 for Victims.

9 MR SUPRUN: [9:35:38] (Interpretation) Good morning, your Honour, your Honours.
10 The victims of the attacks are represented by the Office of Public Counsel for Victims,
11 Anne Grabowski, associate lawyer, and myself, Dmytro Suprun, counsel.

12 PRESIDING JUDGE FREMR: [9:35:48] Thank you, Mr Suprun.

13 Good morning, Mr Witness. Are you feeling okay to testify?

14 WITNESS: DRC-OTP-P-0792 (On former oath)

15 (The witness speaks French)

16 THE WITNESS: [9:35:57] (Interpretation) Yes, good morning. Good morning,
17 your Honour. I feel well.

18 PRESIDING JUDGE FREMR: [9:36:01] Very well. Mr Witness, again it is my duty
19 first to remind you that you are still under oath, which means that you have to speak truth
20 and nothing but the truth.

21 And second reminder, which is, I would say almost useless in your case, just to remind
22 you that you should speak slowly, you should keep pauses between your answer and
23 question put to you, but I can say that yesterday you did it perfectly, so please just
24 continue testifying in a way you did it yesterday.

25 And now Mr Gosnell will continue in cross-examination of our witness. If my counting

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1 or measuring is well, you still have something about 90 minutes, you indicated that you
2 might need now, so in such a case before the end of this session make your request and I
3 can say that the Chamber will be open to consider such a request.

4 MR GOSNELL: [9:37:06] Thank you, Mr President.

5 QUESTIONED BY MR GOSNELL: (Continuing)

6 Q. [9:37:09] Good morning, Mr Witness. I'd like to return to something that you said
7 yesterday, and it is at page 88 of yesterday's transcript. And you said, and I quote:
8 "By 11.30 all of the bodies were buried. So I didn't really have an opportunity to see
9 other bodies."

10 And then a little bit further down you say:

11 "Of course I recall that there was indeed (Redacted)" --

12 PRESIDING JUDGE FREMR: [9:37:59] Sorry, Mr Gosnell, I think we would rather
13 move into private session.

14 MR GOSNELL: [9:38:04] Well, as long as there's no -- well, now I think we should,
15 Mr President, yes, indeed.

16 PRESIDING JUDGE FREMR: [9:38:10] Let's move into private session.

17 (Private session at 9.38 a.m.) *(Reclassified partially in public)

18 THE COURT OFFICER: [9:38:14] We are in private session, Mr President.

19 PRESIDING JUDGE FREMR: [9:38:27] And please redact just the last word of
20 Mr Gosnell's question.

21 Mr Gosnell please proceed.

22 MR GOSNELL: [9:38:35]

23 Q. [9:38:35] And, Mr Witness, then what you then say further is:

24 "Of course I recall that there was indeed (Redacted) with this other woman in that
25 particular grave. And other bodies were buried elsewhere."

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1 Now, I'm interested in the words "I didn't really have an opportunity to see other bodies."
2 Other than the bodies of (Redacted) and the woman whom you say you buried with him,
3 did you see any other bodies with your own eyes?

4 A. [9:39:26] No. I can tell you that what I said was what I saw. I saw the bodies
5 that I was able to see. I saw the mother and (Redacted). I came to see my family, but
6 there was this mother next to (Redacted) who I also saw.

7 Q. [9:39:53] And you've explained yesterday that you arrived after many of the other
8 bodies had been buried, and we understand that, and what I am seeking --

9 A. [9:40:07] Yes.

10 Q. [9:40:08] -- what I am seeking clarification of is that the only bodies of deceased
11 persons that you saw with your own eyes on that day were those of (Redacted) and the
12 woman whom you buried with him?

13 A. [9:40:36] If I said that that's because I was concentrated on the bodies of (Redacted)
14 and there was a mother close by. I think that seven graves -- or, these graves can't go
15 over the space in this room here. So the graves were close to each other. So at the time I
16 was dealing with (Redacted)'s grave at the time. I couldn't have time to see other bodies,
17 I was concerned with my family, and that is how I wasn't able to see other bodies. Of
18 course, I arrived when other bodies had already been buried.

19 Q. [9:41:12] So you didn't see other bodies with your own eyes other than (Redacted)
20 and the woman whom you buried with him, correct?

21 A. [9:41:26] That's it. That's what I'm saying. So we came, we were very emotional.
22 We had to focus on your family. That was it. Of course the others were next to me,
23 they were burying their families. I wasn't occupied with that. I was -- we had to go
24 quickly.

25 Q. [9:41:48] Now, at paragraph 74 of the statement that you gave (Redacted), and I

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1 understand that a hard copy has been distributed, you say, quote:

2 "I believe the killings took place on the Thursday morning."

3 And then at paragraph 81 of your statement you say:

4 "When I went to Kobu on the Friday morning, I saw that the dead bodies were all in one
5 place."

6 Now, does that accurately reflect your recollection that you believe that the killings
7 occurred on Thursday morning and that then you arrived in Kobu on Friday morning?

8 A. [9:42:55] Well, for clarity, if I remember well, I don't know if this text was correctly
9 written. It's in English. I recognize the events, how they happened. We sent the letter
10 for a meeting on the Sunday, and on the Tuesday the rendezvous took place in Sangi, and
11 they'd caught the people and taken there to Kobu.

12 Now, on the Wednesday that was when they were searching the bush to find other people.
13 And they managed to catch certain people who they took to Kobu. I think that was the
14 Wednesday. To be correct, the people who were caught on a Tuesday in Sangi, and in
15 the search on Wednesday, they were taken to Kobu. And if the bodies were found, if I
16 speak about the Friday, that is a long-term story, but that's what I know, at least. That's
17 the chain of events that I know; Tuesday, rendezvous in Sangi, a meeting, Wednesday,
18 searching the bush. And we were in Kobu and found the bodies. That must have been
19 on Friday. If there are mistakes that's because it happened a long time ago, but that's the
20 chain of events when I review what happened.

21 Q. [9:44:54] In your statement you specify that you believe that the killings took place
22 on the Thursday morning. Where did you get that information, from whom?

23 A. [9:45:13] As I explained the events to you, people were caught on Tuesday. On
24 Wednesday, the bodies were found in Kobu. Firstly, in the evening, one evening, they
25 found the bodies in an evening and we went to bury them in the morning.

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1 Q. [9:45:36] Mr Witness, I will ask you please to focus on my --

2 A. [9:45:42] Yes.

3 Q. [9:45:43] -- question because this will go much more quickly and easily if you listen
4 very --

5 A. [9:45:52] Yes.

6 Q. [9:45:53] -- carefully to the precise question because the only question that I have
7 asked you now is from whom, from what person did you learn or did you obtain
8 information that the killings occurred on Thursday morning?

9 A. [9:46:19] Well, the person who told me -- I said that my son went. I spoke about
10 an old person who alerted the village, but when I was in the bush he was the one who told
11 me, who brought the message about Kobu. (Redacted)
12 (Redacted)

13 Q. [9:46:49] (Redacted)

14 A. [9:47:01] (Redacted)

15 Q. [9:47:11] And this particular sequence of days, Tuesday, Wednesday, Thursday,
16 Friday, how were you able to recall these particular days of the week as being the days in
17 which these events occurred?

18 A. [9:47:40] I lived through that situation. And that's how I can think of it, how it
19 happened.

20 Q. [9:47:48] Now, you also testified yesterday, and I will quote what you said, at
21 page 88, line 9 onwards, quote:

22 "Of course I recall that there was indeed (Redacted) with this other woman in that
23 particular grave. And other bodies were buried elsewhere."

24 "We buried them together and I saw the woman, I saw ... the woman's body. As I said,
25 we were mourning, we were crying, there were people there for that woman, we were

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1 there for (Redacted). All I noted was that it was a woman and that we were obliged to
2 bury them together, the woman and (Redacted). The grave was not deep. It was
3 perhaps 1 metre 30 centimetres deep ..."

4 Now, may I ask why it was, particularly in light of the fact that apparently the family
5 members of the woman were also present there, why was it that it was decided that (Redacted)
6 and the woman should be buried in the same grave?

7 A. [9:49:37] Why? It was just too much for us to see all the different bodies there.
8 We had to bury them together. There wasn't time. We had fears. We had fears for our
9 security. So we had to bury them quickly. And the people who buried the mother, did
10 I say that it was the family? I spoke about people who came, but whether it was actual
11 relatives or not, I buried (Redacted). So the people who buried with her, we didn't
12 who -- we didn't even know who we were with, we just saw that you had to bury the
13 bodies. That was the situation. So we buried the two bodies there. It wasn't just in
14 that hole, there were other holes as well where other people were buried alongside each
15 other in the same field.

16 Q. [9:50:38] And this particular detail that the grave was 1 metre and 30 centimetres
17 deep, how are you able to make that particular estimation of depth?

18 A. [9:50:58] Well, it's an estimate, which I still have today. It's approximate. And
19 this is an approximation that I'm giving here under those circumstances, but I do
20 remember that it was something like that. It wasn't very deep.

21 Q. [9:51:24] (Redacted)

22 A. [9:51:39] (Redacted)

23 Q. [9:51:41] (Redacted)

24 A. [9:51:52] (Redacted)

25 Q. [9:51:59] (Redacted)

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- 1 A. [9:52:03] Yes.
- 2 Q. [9:52:05] (Redacted)
- 3 (Redacted)
- 4 A. [9:52:25] (Redacted)
- 5 Q. [9:52:27] (Redacted)
- 6 (Redacted)
- 7 A. [9:52:48] (Redacted)
- 8 Q. [9:52:51] (Redacted)
- 9 (Redacted)
- 10 A. [9:53:03] (Redacted)
- 11 (Redacted)
- 12 Q. [9:53:11] (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 A. [9:53:51] (Redacted)
- 17 Q. [9:53:52] (Redacted)
- 18 (Redacted)
- 19 A. [9:54:05] (Redacted)
- 20 Q. [9:54:07] (Redacted)
- 21 A. [9:54:15] (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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- 1 Q. [9:54:44] (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 A. [9:55:20] (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 Q. [9:55:43] (Redacted)
- 9 (Redacted)
- 10 A. [9:56:04] (Redacted)
- 11 (Redacted)
- 12 Q. [9:56:25] (Redacted)
- 13 A. [9:56:39] (Redacted)
- 14 Q. [9:56:49] (Redacted)
- 15 (Redacted)
- 16 A. [9:57:08] (Redacted)
- 17 Q. [9:57:10] (Redacted)
- 18 (Redacted)
- 19 A. [9:57:21] Yes.
- 20 Q. [9:57:21] -- to that time?
- 21 A. [9:57:23] Right, okay. Before these events. Well, he left Mongbwalu to join me in
- 22 Kobu. He left Mongbwalu fleeing the war. Well, that's how I was able to take him back
- 23 into the family. And he moved and we had to bring him in. He was in Mongbwalu
- 24 before that.
- 25 Q. [9:57:45] And then he stayed with you in Kobu?

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1 A. [9:57:54] He wasn't at my house. We were with him in the bush. We had fled
2 Kobu.

3 Q. [9:58:04] And is (Redacted) a common name, or is it an uncommon name?

4 A. [9:58:15] Well, it's a common name.

5 MR GOSNELL: [9:58:23] I'd like now please to have DRC-OTP-0072-0476, this is tab 13.

6 Q. [9:59:21] Now, Mr Witness, coming up on screen is one of the photographs that
7 you were shown yesterday by the Prosecution. I'm still waiting for it to come up but I'm
8 sure it will arrive shortly.

9 THE COURT OFFICER: [9:59:36] Just to confirm that you would like the picture to be
10 displayed without annotations?

11 MR GOSNELL: [9:59:43] Yes, that's correct. Thank you.

12 Q. [9:59:48] And when you were shown this photograph, you made the following
13 comments, that I will now remind you of, and I quote:

14 "I had the opportunity to see this photograph with friends (Redacted)

15 (Redacted) and it captures what had happened."

16 That's at line 10 of page 91.

17 And then a little bit further down, line 18 and following:

18 "And I, myself, didn't see it, but friends had these photos in Bunia. And I'm referring
19 now to March 2003."

20 Now, if I understand correctly, the friends to whom you were referring who had these
21 photos, were (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [10:01:30] And did they have physical copies of these photographs at that time; in
2 other words, did they have these photographs in their hands and were they passed
3 around?

4 A. [10:02:10] Well, I think I spoke too -- too quickly. You see, (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted) I saw things

8 later on, but I think I'm mixing up seeing the film because on that day (Redacted)

9 (Redacted) So I'm a little bit confused on that aspect. Anyway, I do recall that that's
10 what he was seeking to do.

11 Q. [10:03:01] Now that you've clarified that in your memory, can you now tell us
12 when it was that you did first see these photographs?

13 A. [10:03:46] Well, if I remember correctly, the first time I saw the photographs was
14 when a (Redacted)

15 (Redacted)

16 (Redacted) that I saw those images

17 for the first time, the images which had been developed. Therefore, there was a young
18 man from our community who used to live in Bunia. And upon our return, he had

19 (Redacted) And I think (Redacted) may have

20 handed it to him and then when he came back to the field, to the place of the massacre

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [10:05:12] I'm not sure that I'm entirely clear, Mr Witness, of the relationship

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1 between the video that you're describing and the photographs, so let's leave to one side
2 just for one moment the issue of the video and let me ask you if we can just focus on the
3 photograph. Can you remember when it was that you first saw this and the other
4 photographs that are related to this photograph?

5 A. [10:06:07] Well, if I remember correctly, the opportunity to see those clear images,
6 as such, occurred during the interview here.

7 Q. [10:06:25] Was the interview here, or was the interview actually in Bunia where
8 you saw these photographs during the interview with the Office of the Prosecutor
9 (Redacted)

10 A. [10:06:45] I referring to our meeting in (Redacted)

11 MR GOSNELL: [10:06:50] May we have --

12 Q. [10:06:52] And just to be clear for the record, you saw not only this photograph
13 during that interview, but you saw other photographs also, possibly or purportedly, of the
14 Kobu massacre, correct?

15 A. [10:07:19] Yes, there were other photographs, other images apart from this one.

16 MR GOSNELL: [10:07:26] May we have please DRC-OTP-2058-0164, which is tab 5.

17 Q. [10:08:23] Now, Mr Witness, in your statement, at paragraph 99, you say that this
18 notebook, which we're going to start looking at, was written by you and that these were
19 notes of your own recollection of events and dates without being prompted by any person;
20 is that correct, is that what this notebook is?

21 A. [10:09:11] Well, I see the image. Yes, I had a notebook of this type and I used to
22 work with it. Yes, a book of this type.

23 MR GOSNELL: [10:09:23] Let's turn the page to 0165. And if I'm not mistaken that
24 says "Annex D".

25 And then if we can turn to the next page, please.

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1 There are some blank spots here, but it appears to be some kind of itinerary or description
2 of events.

3 And then if we could just go to the next page and we'll stop there for a moment.

4 And at the top of the page next to 2.2 it says, in French:

5 (Interpretation) "Workshop first day" --

6 Q. (Speaks English) (Overlapping speakers) date. Perhaps you can tell us what that
7 says.

8 A. [10:10:51] That is one of the dates on which we met in (Redacted)

9 Q. [10:10:56] This is your handwriting?

10 A. [10:11:01] Yes.

11 MR GOSNELL: [10:11:11] And now I would like to move to page 0183 please.

12 Q. [10:11:43] This is point 5 in your notebook. And you say:

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Speaks English)(Overlapping speakers)

23 THE INTERPRETER: [10:13:11] Mr President, when counsel switches quickly between
24 languages the microphones are blocked and we are not able to capture everything.

25 PRESIDING JUDGE FREMR: [10:13:21] Yes, well noted by Mr Gosnell.

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1 MR GOSNELL: [10:13:26] I apologise, so just let me repeat my question then in
2 English.

3 Q. [10:13:35] Which is: Have I read that correctly from your notes?

4 A. [10:13:45] Yes, he's the one indeed.

5 Q. [10:13:48] Are these notes reflecting subjects discussed at some kind of a meeting?

6 A. [10:14:04] Yes, that's correct.

7 THE INTERPRETER: [10:14:05] In the previous answer the witness said it's well read,
8 not it's him. Thank you.

9 MR GOSNELL: [10:14:13]

10 Q. [10:14:13] And who was at the meeting reflected in these notes?

11 A. [10:14:32] Well, there were (Redacted) who were there with us to discuss this
12 matter. And as you can see up above, those who were present at the table are mentioned
13 there in attendance.

14 Q. [10:14:50] Let's go back then to the previous page. And so it's the five individuals
15 from 1 through 5 who are present at the meeting?

16 MR GOSNELL: I'm sorry, I think I -- I think we have to go back to the page, the next
17 page again please.

18 Q. So it's those five individuals listed as being presents who were at the meeting?

19 A. [10:15:37] Yes.

20 Q. [10:15:39] Why did you consider it --

21 A. Yes.

22 Q. -- (Overlapping speakers) notes of the meeting?

23 A. [10:15:55] Well, if I had this document -- well, I used it, this book, because I had no
24 other material to work with. And that's -- that's how you end up with this material in
25 this book.

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1 Q. [10:16:08] Why the need to take notes at all though, Mr Witness? Why was it
2 necessary to take notes?

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

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [10:17:02] And the delegation to which you are referring is from the ICC; is that
9 correct?

10 A. [10:17:14] Yes, of course.

11 MR GOSNELL: [10:17:17] Let's go back a few pages to 0180 please.

12 Q. Here we see a map and some words. Is that your handwriting?

13 A. [10:17:55] Yes, indeed, it is my handwriting.

14 Q. [10:17:58] And the information about the location of the tombe commune comes
15 from you or from others?

16 A. [10:18:18] Right there, that -- that grave, even from here I can see where the grave
17 was, so I'm the one who did this.

18 Q. [10:18:28] And within the area indicated as the tombe commune is that where
19 (Redacted) said there were 49 bodies?

20 A. [10:18:48] Are you talking about (Redacted)

21 Q. [10:18:53] Well, just to be clear, I am referring to the name.

22 MR GOSNELL: And perhaps we should now go back to it to ensure there is no
23 confusion at all. So it's page 0184.

24 Q. You see, Mr Witness, if you look at the top, to the far right where it says:

25 "49 corps d'aprs (Redacted)."

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1 A. [10:19:40] Yes, I can see that. Well, this is what that young man told us and I took
2 it down. He had counted 49 bodies. Now, he is the one who told the story and I simply
3 took down what he said.

4 MR GOSNELL: [10:20:03] Now, please, may we go back to 0180.

5 Q. And my question before I switched pages was whether or not the place indicated as
6 the tombe commune is where (Redacted) said there were 49 bodies?

7 A. [10:20:46] What he said is that he arrived at the site when things were still fresh
8 and that those were the numbers he came up with. That's what he counted and that's
9 what he told us.

10 MR GOSNELL: May we go back now please to 0174 of this document.

11 Q. [10:21:26] Now, what this says at 3.3.4, in French -- well, perhaps I can ask you to
12 read it since it's your handwriting and some of it is not 100 percent clear. What does it
13 say next to 3.3.4?

14 A. [10:21:46] Very well. We have here a list of the victims of the war.

15 Q. [10:21:58] Well, to be precise, what I think it says is, and I quote:

16 (Interpretation) "Victims of the war *oriented by myself and persons of" --

17 (Speaks English) (Overlapping speakers)?

18 A. [10:22:27] Yes, that's what's written.

19 Q. [10:22:29] The name that's blanked out here is (Redacted), isn't it?

20 A. [10:22:39] Yes.

21 Q. [10:22:43] And when you use the word "orienté" what do you mean?

22 A. [10:23:01] I collaborated with that person whose name is redacted there. He came
23 to our environment to verify the victims. And I who was within the community, I was
24 able to identify such-and-such and such a person, so orienté, as used oriented, is in that
25 sense, namely, to take this material to him.

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1 Q. [10:23:38] Does that mean that you introduced all the people on this list to (Redacted)?

2 A. [10:23:55] Yes.

3 Q. [10:23:56] And did you talk to these people before introducing them to (Redacted)?

4 A. [10:24:11] I contacted them, and they came through me and then (Redacted) took
5 them over from me.

6 Q. [10:24:18] Did you discuss the sequence of events that had occurred in
7 February 2003 with them before introducing them to (Redacted)?

8 A. [10:24:37] Yes, of course. They explained their circumstances to me, there were
9 some that I was familiar with, and then we would cross-check. Let us take, for example,
10 the two or three on the list, these are people whom I knew or whom I met. Now, since
11 the request was made for victims to be introduced, that is what we did.

12 Q. [10:25:00] Did you discuss with them, for example, the number of victims who
13 were buried in the mass grave according to the information given to you by (Redacted)?

14 A. [10:25:30] Well, when it comes to these victims here, the victims on this list, this is
15 something else. These are people who are alive but who are victims. Now, when it
16 comes to the (Redacted) case that's something else as well.

17 Q. [10:25:50] That's well understood, Mr Witness, that it's a different case. I'm just
18 asking you about the information. And the question is whether the information that
19 there were 49 bodies in the mass grave was shared by you with the individuals on this
20 list?

21 A. [10:26:27] Well, I don't think we had much discussion. You see, (Redacted) stated
22 that he was recently and freshly at the site of the tragic events. And he had said he had
23 counted a number of bodies and counted a certain number at different other sites. So he
24 mentioned all of these, according to his story. So we took that into consideration
25 believing that that was what he had done. However, the reality is that he's the one who

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1 told us the story, in those terms.

2 Q. [10:27:13] Let's look for just a moment at this list which appears on this page and
3 the next page. Can you first of all tell us the name, the family name of person number 1?

4 A. [10:27:36] It's a girl, a mother. Her name is (Redacted). Well, she -- she was a
5 victim, (Redacted) on the day the Kobu market was
6 attacked. (Redacted) rather. So this is one of the situations that I took into
7 consideration when introducing the victims.

8 Q. [10:28:17] Her family name is (Redacted); is that correct?

9 A. [10:28:27] No, I do not know her family name. I only know her by the name of
10 (Redacted).

11 Q. [10:28:35] Who is (Redacted)?

12 A. [10:28:43] He was one of inhabitants of the area over there who was also a victim.
13 His wife and child were also caught up in the situation which I have been talking to you
14 about, those events that happened there.

15 Q. [10:29:10] (Overlapping speakers) give us this person's name?

16 A. [10:29:17] Well, I did not -- anyway, these are things that we experienced in our
17 neighbourhood and I handed them over to (Redacted). I didn't have to verify too much,
18 but these are things that we experienced in our area. It was not for me to verify and
19 cross-check all those details. I think that they worked more closely with (Redacted) or
20 (Redacted), but they were victims all in all.

21 PRESIDING JUDGE FREMR: [10:29:49] Mr Iverson.

22 MR IVERSON: [10:29:50] In order to facilitate the job of Defence counsel, I just wanted
23 to point out that in incrim package 98, disclosed on 5 October 2016, some of the redactions
24 that Defence counsel is referring to have actually been lifted, so I just want to point that
25 out. I don't know if he's using the most current version available to the Defence. And it

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1 would be in eCourt I understand.

2 PRESIDING JUDGE FREMR: [10:30:23] Thank you. It looks helpful.

3 Mr Gosnell. Probably too late for Mr Gosnell.

4 THE COURT OFFICER: [10:30:29] I'm sorry to interrupt, but I can see under eCourt
5 that that package hasn't been released to any of the parties or participants.

6 MR GOSNELL: [10:30:39] Mr President, this is what happens when things of this
7 nature get disclosed on 5 October *2016 instead of when they're supposed to be disclosed.

8 PRESIDING JUDGE FREMR: [10:30:53] So Mr Iverson he opened Pandora's box.

9 MR IVERSON: [10:30:57] I think I may have. I was trying to be helpful. No good
10 deed goes unpunished. Well, I can't speak to -- if that is the case, then I stand corrected.

11 PRESIDING JUDGE FREMR: [10:31:07] All right.

12 Mr Gosnell, please proceed.

13 MR GOSNELL: [10:31:10] We'll be happy to receive a version by email, however, if the
14 Prosecution is willing to do that.

15 THE COURT OFFICER: [10:31:19] I could release it now to the parties and participants.

16 MR IVERSON: [10:31:25] Yes, please do so. Thank you. I appreciate it.

17 MR GOSNELL: [10:31:34]

18 Q. [10:31:34] Well, Mr Witness, you -- as in the first question I asked, you gave a long
19 response but not an answer. Who is (Redacted)?

20 A. [10:32:04] I said that (Redacted) was an inhabitant who was with us, but during the
21 war he lost his wife and his child.

22 Q. [10:32:21] (Overlapping speakers) give us his name?

23 A. [10:32:23] Well, we called him (Redacted).

24 MR GOSNELL: [10:32:29] Can we turn the page, please, on this document.

25 Q. [10:32:47] Mr Witness, we can take a shortcut so I don't have to ask you about each

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1 and every one of these. Can you please give us the names of any and all of the people
2 whom you remember being referred to on this page, the full names?

3 A. [10:33:14] Well, it would be difficult for me to give you the full names as you see it
4 there on the paper. This is work that I did. I located the people. These are real victims
5 that I sent to this person. These are real victims. These aren't just people who I
6 gathered like that. No, I went to find them. I went a lot of distance to go and find them.
7 These are people who I wasn't able to identify too well because it wasn't my job to identify
8 them. I just saw how vulnerable they were and introduced them and that was it.

9 Q. [10:33:52] Did you, subsequent to identifying these individuals for (Redacted),
10 meet with these individuals to facilitate contacts with (Redacted), with the Court or with
11 anyone else?

12 A. [10:34:17] These people recognized me as a focal point, so when there was a need
13 I'd transmitted the message and that went through.

14 Q. [10:34:28] And did you ever attend any meetings with these individuals together?

15 A. [10:34:43] A meeting together? No. They came according to needs and went
16 through to (Redacted). I didn't have other meetings with them.

17 Q. [10:34:53] Did (Redacted) have any role at all in facilitating contacts between these
18 individuals and (Redacted)?

19 A. [10:35:11] Firstly, (Redacted) he played the role, he was the person who put me in
20 contact with (Redacted). He was the person who was (Redacted) And he made the
21 contact, relation between me and (Redacted). That was it.

22 Q. [10:35:31] And what was the relationship between (Redacted) as best you were
23 able to observe?

24 A. [10:35:47] Well, they were living far from me (Redacted). And they knew each
25 other. (Redacted) 's from my community. He was interested in getting to know (Redacted)

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1 because (Redacted) was interested, he was concerned with *the problems of victims.

2 And that's how they came into relation with each other.

3 Q. [10:36:15] And when did Mr (Redacted) first introduce you to (Redacted)?

4 A. [10:36:34] Can I remember -- if I can remember the time, well, it's after these events,
5 but as for the precise moment I wouldn't be able to tell you that. When he put me in
6 contact with (Redacted), it was very quickly afterwards we started with the work and I
7 was able to send the victims to (Redacted). I'm sure that can be found in terms of
8 meetings with victims.

9 Q. [10:36:59] Now this document on the page that we're looking at, and this list dates
10 from (Redacted), can I confirm that you had already met with these individuals and
11 already oriented them, as you say in the previous page, (Redacted)?

12 A. [10:37:32] Yes, all this, well, this was a reminder that I made in the agenda because
13 when you work face-to-face that was a bit too difficult, so I went back home and I went to
14 check who I dealt with and that's how I produced the list. But these are things that
15 happened soon after the events with (Redacted).

16 Q. [10:37:50] And soon after the events with (Redacted) when you met these various
17 individuals, did you provide them with information such as the names of military
18 operations that perhaps they did not themselves know?

19 A. [10:38:17] The names of military operations, that wasn't -- that was everybody who
20 knew these names. It was common knowledge. If I remember well, these names
21 remained in *our heads. There are two names, there's effacer le tableau, shika na
22 mukono. Those are the two names in the war, terrible names.

23 Q. [10:38:40] Did you have to provide individuals with information about the days of
24 the week on which certain events happened?

25 A. [10:38:58] To these people? Well, I didn't speak a lot with these people. These

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1 were victims. They didn't even know if they could be supported. So sometimes they
2 were asked to introduce them. We didn't check a lot of things with them.

3 Q. [10:39:14] Now, I understand that earlier you answered my question about when
4 you had first seen the photographs of the Kobu massacre, I understood you to say that
5 that was during the meeting with the Office of the Prosecutor investigators. Is it possible
6 that at any time prior to that date you had copies of these photographs in your hand that
7 you showed to any of these individuals on this list?

8 A. [10:39:58] Such work I didn't do. Showing pictures to people, I didn't do that.

9 Q. [10:40:04] Do you know whether (Redacted) did that?

10 A. [10:40:12] I know nothing about that.

11 Q. [10:40:16] Do you know anything about meetings that (Redacted) had with these
12 individuals in Kobu to discuss their meetings with (Redacted) or with the Court?

13 A. [10:40:40] (Redacted) with these people in Kobu? I didn't know. I was the
14 person who was there and I made the relations between these people and (Redacted) was
15 living in (Redacted).

16 Q. [10:40:57] Now, at paragraph 67 of your statement you say --

17 MR GOSNELL: Well, before we -- before I move away from this document, Mr President,
18 I would request that it be admitted in its entirety?

19 PRESIDING JUDGE FREMR: [10:41:15] Mr Iverson.

20 MR IVERSON: [10:41:17] No objection.

21 PRESIDING JUDGE FREMR: [10:41:19] So document specified by Mr Gosnell, used
22 with the witness, is admitted into evidence as a further Defence exhibit.

23 THE COURT OFFICER: [10:41:33] Just for clarification, is it the third redacted version,
24 the one that has been disclosed on 5 October?

25 MR GOSNELL: [10:41:43] Subject to the Defence having an opportunity to review the

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1 unredacted, the lesser redacted version, that would probably be the preference, but I
2 would like to be able to review the lesser redacted version before committing to that.

3 PRESIDING JUDGE FREMR: [10:41:56] All right.

4 MR GOSNELL: [10:42:02] I'm done with this document for now.

5 PRESIDING JUDGE FREMR: [10:42:05] Mr Iverson.

6 MR IVERSON: [10:42:07] And the Prosecution has no objection to the latest lesser
7 redacted version, of course, but a courtesy copy was sent on 5 October to the Defence so
8 they should be in possession of that already.

9 PRESIDING JUDGE FREMR: [10:42:23] Noted.

10 MR GOSNELL: [10:42:26]

11 Q. [10:42:26] Paragraph 67 of your statement, Mr Witness, reads as follows, quote:

12 "I had previously believed" -- and to be clear, I'll break the quote and clarify that you were
13 referring to the pacification meeting in the following passage, and here's what you say
14 about that, quote:

15 "I had previously believed that this happened on Tuesday, 4 March 2003, however having
16 now seen documents shown to me by investigators that appeared to be copies of a letter
17 from Salumu, I now know that this date was incorrect, however, I am convinced that the
18 day people went to the pacification meeting was a Tuesday."

19 Now, during your testimony, at pages 62 and 66, you again identify Tuesday as being the
20 day of the pacification meeting. And I've asked you a general question about days of the
21 week, now I'd like to ask you a specific question: Is there anything specific about the
22 events of the pacification meeting that assists you in knowing that it was a Tuesday?

23 A. [10:44:13] What I remembered was Tuesday, that the meeting took place in Sangi.

24 Q. [10:44:25] And looking at this passage you give this very specific date as to when
25 you thought, before the interview with the OTP, when you thought the pacification

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1 meeting had occurred. Can you tell us, if you can recall, how it was that you had this
2 belief that the pacification meeting had occurred on this exact date of 4 March 2003?

3 A. [10:45:08] Well, that's a question of reviewing the calendar, which was opposite us
4 at the time, with regards to the dates because I saw that -- well, the last letter that came
5 was on the Sunday, and it was on the Tuesday that there was the meeting, so when we
6 speak about the 4th or other date it confuses me because I don't have a calendar in front of
7 me where I can look at the date 2003. I didn't have that. So I was just working in my
8 head and that's perhaps what complicated things for me, but I do remember that it was a
9 certain Tuesday having received the second letter from Commander Salumu.

10 Q. [10:46:00] I understand you saying that you have a recollection that the invitation
11 was to a meeting on a Tuesday. You've made that clear. I'm not sure that I understand
12 how you had this firm belief, or this belief that it was 4 March 2003. Can you explain a
13 little bit further why you had that date in your mind as the day of this meeting?

14 PRESIDING JUDGE FREMR: [10:46:38] Mr Iverson.

15 MR IVERSON: [10:46:39] That's the same question that he just asked. It's asked and
16 answered.

17 PRESIDING JUDGE FREMR: [10:46:46] Mr Gosnell.

18 MR GOSNELL: [10:46:48] It was asked, but it was not answered, Mr President. At
19 least not in a way that I can fully understand. Perhaps everyone else in the room does
20 and in which case I'll move on.

21 PRESIDING JUDGE FREMR: [10:46:59] Yes, please.

22 MR GOSNELL: [10:47:08]

23 Q. [10:47:08] Did (Redacted) have any particular role or function (Redacted)
24 (Redacted)

25 A. [10:47:29] He had no particular function.

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1 Q. [10:47:32] How old was he at that time?

2 A. [10:47:38] Well, I couldn't tell you precisely. He was a young man. He wasn't
3 over (Redacted) years old.

4 Q. [10:47:55] Was he engaging at all in the fighting with Lendu fighters and Lendu
5 militia?

6 A. [10:48:08] No.

7 Q. [10:48:13] Was he an elder?

8 A. [10:48:22] No. I said that he had no function, Mr (Redacted).

9 Q. [10:48:35] And he was with you, am I correct, in Buli seeking refuge from Kobu?

10 A. [10:48:52] He wasn't with me in Kobu. He found me in Buli. We were together
11 there taking refuge.

12 Q. [10:49:09] And did you speak to him about the potential of going to the so-called
13 pacification meeting?

14 A. [10:49:29] I spoke to everybody around me the day before. He was there with the
15 others, *in my house. And everybody followed what I was saying.

16 Q. [10:49:41] And what you were saying was based, am I correct, on information that
17 you had received from Gutsi?

18 A. [10:49:56] Yes, we had information from there.

19 Q. [10:49:59] And the information that you had was that the pacification meeting was
20 not for pacification, but that it was a trap, correct?

21 A. [10:50:14] Yes.

22 Q. [10:50:16] And you told (Redacted) this, correct?

23 A. [10:50:23] (Redacted) listened, just as everybody else did, who was with the family there.

24 Q. [10:50:32] And am I correct that the invitation from Salumu, as you understood it,
25 was for Lendu elders or notables to come to this meeting?

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1 A. [10:50:53] It was primarily that, yes.

2 Q. [10:50:58] Why under those circumstances would (Redacted) -- well, first of all, can
3 I ask you did (Redacted) talk to you or tell you why he felt compelled as a (Redacted) year
4 old man to go to this meeting in respect of which you had warned him that it was a trap?

5 A. [10:51:33] I wasn't concentrating on saying that just to (Redacted). I spoke to the
6 family. I said to -- "Don't go there." Now, if (Redacted) went there I don't know his
7 motive. What he said that it was that he loved peace, he loved peace. And that's what
8 attracted him. He wanted peace. And that is what attracted him to go there.

9 Q. [10:52:14] Couldn't he have stayed in Buli and waited for the results of this
10 pacification meeting just as well if he wanted peace?

11 A. [10:52:36] It was also that as well what I wanted, but he left. That's what I wanted,
12 but he left without waiting. He was thirsty despite what I said. He was hungry for
13 peace.

14 Q. [10:52:58] Did many other young men of about his age also go to this meeting?

15 A. [10:53:13] The people wanted to go and they went there, but most people came
16 back halfway.

17 MR GOSNELL: [10:53:27] May we have 0077-0002, please, which is tab 9.

18 PRESIDING JUDGE FREMR: [10:53:56] And Mr Gosnell, for the sake of planning, how
19 much time you think you will need to complete your cross-examination?

20 MR GOSNELL: [10:54:04] Very little more time, Mr President, but I would ask the
21 Court's indulgence to be able to consult with my client over the break because I haven't
22 really had a full opportunity to do that. So before closing my cross-examination I would
23 like to have that.

24 PRESIDING JUDGE FREMR: [10:54:19] All right. So we will break at 11 and we will
25 give you some time to consult Mr Ntaganda. All right.

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1 MR GOSNELL: [10:54:28] Thank you, Mr President.

2 Q. [10:54:30] Mr Witness, you were shown this document during your direct
3 examination and I would like to clarify one or two points about its origin. Am I correct
4 that this document was in fact written (Redacted)?

5 A. [10:55:04] (Redacted)? No.

6 Q. [10:55:16] Then can you tell us with whom it was written, if there is a name of a
7 person whom you recall?

8 A. [10:55:39] I'm not referring to other meetings, other than those held in Bunia to
9 produce such documents.

10 Q. [10:55:48] We could turn to the end of this document, Mr Witness, where your
11 signature appears, if you think that would help, but you may recall that yesterday the
12 Prosecution showed that to you. Do you recognize the document on the screen in front
13 of you?

14 A. [10:56:05] By my signature I recognize the document.

15 Q. [10:56:12] And are you in a position to tell us with whom it was created?

16 A. [10:56:30] I said that I didn't have a meeting, apart from -- what I had is the
17 interview, to such -- to sign such a document.

18 Q. [10:56:51] You don't recall, sir, that this document was created significantly before
19 your interview with the OTP (Redacted)?

20 A. [10:57:15] I don't remember well.

21 MR GOSNELL: [10:57:17] May we go, please, to page 0005.

22 Q. And there are just a couple of details, Mr Witness, I'd like to go over with you in this
23 document. And if we could focus in on the lines that are scrunched together.

24 Mr Witness, there's a line here which, as I read it, says in French as follows:

25 (Interpretation) "It would be interesting to also contact the Commander Idi

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1 FNI/Mongbwalu and Commander FNI, the -- Tchadien, FNI commander. They are all in
2 Mongbwalu on the subject of Motorola listening in or tapping."

3 (Speaks English) (Overlapping speakers) ring a bell as something that you said during this
4 interview?

5 A. [10:58:37] I'm sorry?

6 Q. [10:58:40] Did you say that there was a Commander Idi and a
7 Commander Tchadien who were responsible for listening to the Motorola messages?

8 A. [10:59:01] Well, there's a problem of listening into the Motorola. That was what
9 meant that I refused to -- all members of my family to go to the meeting because we had
10 the meeting from Gutsi -- we had the message from Gutsi. People were delegated to say
11 to go to Buli, but to say that this meeting was not an interesting pacification meeting as
12 such. That was the message. According to what we were said, they heard it on the
13 Motorola. So the idea was not to go there.

14 Q. [10:59:37] Were Idi and Tchadien the ones responsible for operating and
15 monitoring this Motorola radio to which you've referred?

16 A. [10:59:55] As its written here, it should be those people who had their Motorola
17 there, I think. It would be interesting to contact them. I think that's what was said.
18 But to the best of my knowledge, I refused people from my family to go because we heard
19 or we followed the message and the point was not to go to the meeting.

20 MR GOSNELL: [11:00:24] Mr President, I do see the clock now and I can assure you I
21 will be done in short order after the break.

22 PRESIDING JUDGE FREMR: [11:00:31] It's fine.

23 So now let's move into open session.

24 (Open session at 11.00 a.m.)

25 THE COURT OFFICER: [11:00:36] We are in open session, Mr President.

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- 1 PRESIDING JUDGE FREMR: [11:00:54] Thank you, court officer.
- 2 So now we break and we will resume at 11.30, and then we will complete the testimony of
- 3 this witness.
- 4 So you will be back 11.30.
- 5 THE COURT USHER: [11:01:12] All rise.
- 6 (Recess taken at 11.01 a.m.)
- 7 (Upon resuming in open session at 11.31 a.m.)
- 8 THE COURT USHER: [11:31:25] All rise.
- 9 Please be seated.
- 10 PRESIDING JUDGE FREMR: [11:31:58] We will directly proceed with
- 11 cross-examination of our witness.
- 12 Mr Gosnell, do you want to remain in open or are you forced to move into private
- 13 session?
- 14 MR GOSNELL: [11:32:14] I think we can remain in open for at least one or two
- 15 questions, Mr President.
- 16 PRESIDING JUDGE FREMR: [11:32:19] All right.
- 17 MR GOSNELL: [11:32:21] May we not for broadcast have the document that was just
- 18 on the screen again on the screen, 0077-0002. If we could turn please to page 0004.
- 19 Q. About a third of the way up the page from the bottom, above the name that is
- 20 underlined, there is a phrase, Mr Witness, that appears in quotation marks, and this
- 21 phrase is purporting to be the message that was intercepted in Gutsi from the monitoring
- 22 of the Motorola communications. And the words that are recorded here, as you having
- 23 been provided, are the following, and I quote:
- 24 "(Interpretation) "Try to gazotter them and wisely attract them, and once they are
- 25 gathered we will know what to do with them."

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1 (Speaks English) Now, there is a word in here that is difficult for the French translators
2 to translate and it's the word, Mr Witness, "gazotter". Do you know what that word
3 means? Can you explain to us what it means?

4 A. [11:34:29] The author of the document -- well, I didn't pay attention to that word.
5 It is a good thing that you point it out. However, the idea remains the same.
6 The message, generally speaking, is about trying to cajole people into entering into the
7 compound. That's the meaning, I believe. And it's only my opinion. That's how I
8 understand it.

9 Because what actually happened or what we experienced is that people were expected to
10 be there and that they would be kind and gentle to them, to those who showed up. And
11 that's -- that's what I understand that word to mean. Yes, that's it.

12 PRESIDING JUDGE FREMR: [11:35:38] Mr Gosnell, sorry to interrupt you. Could
13 you kindly spell this word for our transcript because at least in the English version there is
14 many letters missing.

15 MR GOSNELL: [11:35:50] Yes, Mr President. As best I can read it, I believe that it is
16 G-A-Z-O-T-T-E-R.

17 PRESIDING JUDGE FREMR: [11:36:03] Thank you. My reading is the same. Please
18 proceed.

19 MR GOSNELL: [11:36:08]

20 Q. [11:36:08] Was the message that was overheard by the people at Gutsi on the
21 Motorola, as conveyed to you by those people, was the message that the people who came
22 to the meeting should be killed, or was the message that the people who came to the
23 meeting should be arrested and detained?

24 A. [11:36:40] Well, we were able to follow the story, but on that day itself, now, the
25 message that we're talking about today, on the eve of the events when the message was

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1 delivered to us, and I said this before, that I told my family members that we had received
2 the message and I told them not to go there. We had been told not to go to the meeting
3 because it was not intended for pacification. So this message was frightening. And
4 because I was trembling, I told my family not to attend. And this is exactly what we
5 experienced following the message.

6 Q. [11:37:26] Yes, I understand that. And now all I'm asking you about is the content
7 of the message as you received it from Gutsi. And can you tell us that you recall whether
8 the message was that people should be killed or people should just be arrested and
9 detained? And Mr Witness, to clarify, I'm not talking about what you inferred later,
10 what you learned later, what happened later, just the content of the message itself.

11 A. [11:38:08] Well, the message we received from Gutsi was the following: "Do not
12 go to the pacification site because the idea is not pacification. There is great danger
13 awaiting you." So that is why we decided not to go because they said that they had
14 monitored what was being said and what was recommended therefore we should not go
15 there. That was what we understood.

16 Q. [11:38:49] A bit earlier today you referred to a video and you said that the first time
17 that you saw the photographs of the Kobu massacre was when a video was shown and
18 that there was a young man from your community who "returned with a delegation, a
19 MONUC delegation to Kobu. At that time a videotape had been produced and it is
20 through that video that I saw those images for the first time, the images which had been
21 developed."

22 Do I understand correctly you to be saying that you saw the photographs of the Kobu
23 massacre on a video?

24 A. [11:39:58] Well, if I said that I saw it on a video it was in Kobu. Well, I don't -- I
25 don't know where exactly, but I do recall seeing the image of a young man from Bunia

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1 who was explaining to the MONUC delegation what had happened on site after. So he
2 came, and I think the purpose of the MONUC delegation was to visit the site, but this
3 happened later, several months after. And so they came. And I can still see the pictures
4 of that video because he was presenting the images of the area which had been cleared, or
5 something like that. I don't know whether it was in Bunia or in Kobu that I saw that. I
6 no longer recall.

7 Q. [11:40:47] Can you remember approximately when you saw this video? Was it
8 the same year as the events? Was it the next year?

9 A. [11:41:11] Well, it was not too far after the events. It was close, shortly after the
10 events, at least.

11 Q. [11:41:23] Did other people watch this video with you? Were you in the presence
12 of others?

13 A. [11:41:48] I am not sure that I can recall clearly. All I see is the young man and
14 whatever he was projecting it on, on his screen. All I remember is that I saw a young
15 man presenting -- and I don't know exactly where, I don't know who was there, but it all
16 happened around that young man.

17 Q. [11:42:10] I just have one last passage from this document to show you and then I'll
18 be finished.

19 MR GOSNELL: [11:42:18] And if we could turn please to page 0006.

20 Q. [11:42:36] Down at the bottom, the last question and answer, Mr Witness, I'm
21 going to try and read this as best I can. And the question that appears to be posed is:

22 (Interpretation) "Were there any written reports and photographs of the incidents?"

23 (Speaks English) And then the answer is:

24 (Interpretation) "Photographs were taken by (Redacted) whose name was (Redacted)."

25 (Speaks English) And then a little bit further down it says:

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1 (Interpretation) "Please, contact for more information (Redacted)."

2 PRESIDING JUDGE FREMR: [11:43:40] Hold on, Mr Gosnell.

3 Mr Iverson.

4 MR IVERSON: [11:43:49] I would ask that this be read in private session.

5 MR GOSNELL: [11:43:55] That's fine. That's fine, Mr President, out of an abundance
6 of --

7 PRESIDING JUDGE FREMR: [11:43:59] All right.

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

9 And for, to inform the public, it's because this witness is protected, so if there is a risk to
10 reveal his identity, we have to move into private session, which is the case just now.

11 (Private session at 11.44 a.m.) *(Reclassified partially in public)

12 THE COURT OFFICER: [11:44:18] We are in private session, Mr President.

13 PRESIDING JUDGE FREMR: [11:44:27] Thank you, court officer.

14 Mr Gosnell, please proceed.

15 MR GOSNELL: [11:44:33] (Interpretation) (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [11:45:19] (Speaks English) Mr Witness, first of all, does this, seeing this passage
20 remind you in any way that there was a person named (Redacted) who had something to
21 do with the video that you saw, that you've just been describing?

22 A. [11:45:40] Yes, it is (Redacted) I am talking about indeed.

23 Q. [11:45:44] And do you know his family name?

24 A. [11:45:58] No, I don't know his family name, once again, but I know the boy (Redacted)
25 (Redacted) as well.

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1 Q. [11:46:07] And is he the one who you see pictured on the video that you've been
2 describing?

3 A. [11:46:17] Please?

4 Q. [11:46:18] Is he the person who is seen on the video that you have been describing?

5 A. [11:46:32] The name (Redacted).

6 And the images, yes, I was with him to view that.

7 Q. [11:46:49] And then let's just turn back the page, please, to the part where it says:
8 (Interpretation) "Photographs were taken by (Redacted)."

9 A. [11:47:06] Yes.

10 Q. [11:47:06] If (Redacted) was the one who took the photos, why did you say here
11 that it's (Redacted) who took the photos?

12 A. [11:47:20] Well, that's his family name. It must be his family name. There was
13 no one else who did so apart from (Redacted). So (Redacted) and (Redacted) are the
14 same person, I think. There was no one else. So the name (Redacted) has been written
15 down here and there is a family name or a surname as well.

16 Q. [11:47:46] The (Redacted) to whom you were referring is the photographer was not
17 known as (Redacted)?

18 A. [11:48:03] I beg your pardon?

19 Q. [11:48:04] I suggest to you that the name of the putative photographer who is
20 called (Redacted); isn't that right?

21 A. [11:48:22] Well, as far as I'm concerned and all I know is that it's (Redacted) who
22 took the photographs. Now maybe (Redacted) could also be his name, that might be his
23 nickname, or so, as far as I remember, but (Redacted) it would be – would be the same (Redacted)
24 because I don't know anyone else who would have taken the photograph.

25 Q. [11:48:59] The person named (Redacted)?

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1 A. [11:49:12] (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [11:49:29] So you're saying that when you, in this document, which is on the page
5 in front of us, but not the right page in fact, could we have the next page, 0006.

6 So you're telling us, Mr Witness, that the phrase here, (Interpretation) (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [11:51:09] Thank you very much, Mr Witness.

14 MR GOSNELL: [11:51:11] Mr President, that concludes my cross-examination.

15 PRESIDING JUDGE FREMR: [11:51:14] Thank you, Mr Gosnell.

16 And for the record, Mr Gosnell used approximately, I guess, 11 maybe 12 minutes over
17 the time given to the Prosecution, but as he indicated that he will need it, and as the
18 Chamber also indicated that it is open to that request, we made it without any formal
19 ruling.

20 Now, Mr Iverson, any request for re-direct?

21 MR IVERSON: [11:51:50] Yes, Mr President, I do request a brief re-direct.

22 PRESIDING JUDGE FREMR: [11:51:55] How much time do you think you will need?

23 "Brief" is a relative word, you know.

24 MR IVERSON: [11:52:02] I would say probably no more than 10 minutes.

25 PRESIDING JUDGE FREMR: [11:52:04] Okay, so you have your 10 minutes.

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1 MR IVERSON: [11:52:07] And I can ask these questions in open session, Mr President.

2 PRESIDING JUDGE FREMR: [11:52:11] Very well.

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

4 (Open session at 11.52 a.m.)

5 THE COURT OFFICER: [11:52:17] We are back in open session, Mr President.

6 PRESIDING JUDGE FREMR: [11:52:31] Thank you, court officer.

7 Mr Iverson, please proceed.

8 MR IVERSON: [11:52:38] And I would ask that DRC-OTP-2058-0164 be displayed.

9 And this document cannot be displayed publicly. And I ask that it be displayed at 0167.

10 PRESIDING JUDGE FREMR: [11:53:16] And regular reminder, Mr Iverson, the issues

11 you will now deal with should have source or should be a reaction to the issues dealt by

12 Mr Gosnell.

13 MR IVERSON: [11:53:33] Of course, Mr President. I don't intend to go beyond the

14 scope of his questioning. And my question is actually relatively simple.

15 QUESTIONED BY MR IVERSON:

16 Q. [11:53:48] Sir, Defence counsel spent a considerable amount of time on this

17 notebook asking you questions about these meetings and discussions, so I want to ask you:

18 Did these meetings and discussions that you mentioned in these notes in anyway

19 influence your ability to tell the truth to the Chamber about your experiences?

20 A. [11:54:27] Well, when it comes to my experience and the meetings that we had

21 subsequently, those did not affect anything because everything that I experienced

22 remained intact. It was not affected or modified by subsequent meetings.

23 Q. [11:54:49] And in these meetings and discussions, did you ever try to tell anybody

24 else what to say or to influence any other person?

25 A. [11:55:05] Sorry, I didn't quite understand your question.

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1 Q. [11:55:08] In these meetings and discussions that are written down in these notes,
2 did you, yourself, ever try to influence any of the other participants or try to tell them
3 what to say?
4 A. [11:55:34] Well, we had a meeting, we had several meetings. Well, but I don't -- I
5 don't know, except you find them in the diary here. We had a meeting on the eve of the
6 arrival of the delegation to inspect the mass grave. That meeting simply sought to bring
7 us together as a team to provide proper information to those who were coming with
8 questions.

9 Now, whether there was an influence as such, no, I don't think anyone was influenced.
10 Not at all.

11 Q. [11:56:10] All right. Thank you, sir.

12 MR IVERSON: [11:56:13] I don't have any other questions, Mr President. Thank you.

13 PRESIDING JUDGE FREMR: [11:56:16] Thank you, Mr Iverson.

14 Mr Gosnell, any need for re-cross?

15 MR GOSNELL: [11:56:22] No, Mr President. However, I forgot to seek to tender a
16 document.

17 PRESIDING JUDGE FREMR: [11:56:29] So now you may go ahead.

18 MR GOSNELL: [11:56:32] Well, it's actually the same document that was tendered in
19 part by the Prosecution that we ended on. And now I would suggest, Mr President, that
20 there have been, I think, a total of five passages from this document that have been used.
21 The Defence, I would suggest, is not subject to the same restrictions in terms of the scope
22 of an admission of a prior statement, which we say is inconsistent and therefore is being
23 tendered for impeachment purposes, so for that reason I would request the entire
24 document be admitted. And for the record it's 0077-0002.

25 PRESIDING JUDGE FREMR: [11:57:14] Mr Iverson, any objection to that?

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1 MR IVERSON: [11:57:22] So I understand that Defence counsel is seeking to admit the
2 exhibit that I previously sought to admit; is that correct? Then of course Prosecution has
3 no objection to the admission of that exhibit.

4 PRESIDING JUDGE FREMR: [11:57:40] All right. So document specified now by
5 Mr Gosnell is admitted into evidence as a further Defence exhibit.

6 Now Judge Chung would like to put questions. Please. And we have to move into
7 private session for that purpose. Court officer, please.

8 (Private session at 11.58 a.m.) *(Reclassified partially in public)

9 THE COURT OFFICER: [11:58:11] We are in private session, Mr President.

10 PRESIDING JUDGE FREMR: [11:58:14] Thank you, court officer.

11 Judge Chung, please.

12 JUDGE CHUNG: [11:58:17] Thank you.

13 Mr Witness, you testified that the one night before your pacification meeting you got the
14 information that the meeting is not genuine from the people who overheard Motorola at
15 Gutsi. Can you recall this?

16 THE WITNESS: [11:58:41] (Interpretation) Yes.

17 JUDGE CHUNG: [11:58:44] And the moment you heard this information, got this
18 information that the pacification is not genuine, what did you do? Did you just trust the
19 information given by those people, or did you do some -- spend some time to verify if the
20 information is true or not?

21 THE WITNESS: [11:59:14] (Interpretation) Well, your Honour, we had sought refuge
22 in another area in relation to this area from which the message was coming. It would
23 have been imprudent to move about carelessly because we were under siege at the time.
24 So when someone was delegated -- someone was specifically delegated to come and
25 deliver that message to us. So they came simply to deliver the message and to go back.

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1 That was it.

2 JUDGE CHUNG: [11:59:53] Then if I understand you correctly, then you had no
3 chance to verify whether if the information is true or not at all, you just trusted it?

4 THE WITNESS: [12:00:08] (Interpretation) I had confidence in it because these are
5 people of the same community. They were -- took pity on us because there was a
6 rendezvous in Sangi. But it wasn't in that area. And as they had heard the message,
7 they found it prudent to warn us, so they delegated these people and they came to tell us.
8 And we also had to tell that to our people as well. And that's what we tried to do.

9 JUDGE CHUNG: [12:00:44] But you was not always successful in persuading people
10 not to go there. Why you understanding and other people's understanding were
11 different?

12 THE WITNESS: [12:00:59] (Interpretation) Please, if I remember the period well, in
13 the refugee camp where we were, there was some people who were undergoing a lot of
14 life difficulties in that camp, and for them they really wanted for the war to stop, and so
15 when we talk about pacification for them they couldn't believe us because for them they
16 loved peace. And there were people like that. And they left for that. They left hoping
17 for peace. But we, we knew the substance of it and so we didn't go.

18 JUDGE CHUNG: [12:01:38] Who were with you when you got the information, other
19 members of elders' council? Were those members with you at the time?

20 THE WITNESS: [12:01:50] (Interpretation) Yes. Well, the message was sent straight
21 to the Conseil des Sages and the numbers of us who were there at Buli. Now, we got this
22 message and now what we had to do was to defuse the message to the population. We
23 had very little time to do so. From the moment the message came on the Sunday, we had
24 very little time on Sunday, Monday before the rendezvous on Tuesday. We tried to do
25 our best. Most people didn't go, just some people left.

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1 JUDGE CHUNG: [12:02:32] So you mean at least the people who were with you at the
2 time, when you got the information, they were all in the same line with you, they all -- all
3 those people also trusted the information?

4 THE WITNESS: [12:02:50] (Interpretation) Exactly.

5 JUDGE CHUNG: [12:02:53] Thank you, Mr Witness.

6 Thank you. That's it for me.

7 PRESIDING JUDGE FREMR: [12:02:58] And for my part, Mr Witness, a person called
8 (Redacted), did he inform you about ways how the ICC could you or the other witnesses
9 protect if you are going to give your testimony?

10 THE WITNESS: [12:03:35] (Interpretation) Firstly, we got to know the ICC at the start
11 when the ICC was founded. And I remember I saw certain pictures that were published
12 and some notifications made. And we thought that it could be --

13 PRESIDING JUDGE FREMR: [12:03:58] Mr Witness, please focus on my question. I
14 am interested what (Redacted) told you about possibility to be protected by the ICC, if -- if
15 he told you anything, or to other witnesses he was in contact with?

16 THE WITNESS: [12:04:27] (Interpretation) Well, the person who reassured me the
17 most was Mr (Redacted).

18 PRESIDING JUDGE FREMR: [12:04:39] And did he also speak about some material
19 benefits that somebody who will be giving testimony could receive from the Court?

20 THE WITNESS: [12:05:02] (Interpretation) I haven't understood the scope of the
21 question. Please, could you ask it again?

22 PRESIDING JUDGE FREMR: [12:05:14] Or maybe let's be more specific: So what kind
23 of protection was Mr (Redacted) speaking about?

24 THE WITNESS: [12:05:52] (Interpretation) So firstly, Mr (Redacted), as regards
25 protection, we didn't speak much about protection with (Redacted). We didn't speak with (Redacted)

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1 about the issue of protection, no.

2 PRESIDING JUDGE FREMR: [12:06:22] All right. Just to be fully assured of that, so,
3 for example, he did not mention possibility of relocation of you or your family or other
4 witnesses' family?

5 THE WITNESS: [12:06:44] (Interpretation) That's something we didn't speak about
6 with (Redacted).

7 PRESIDING JUDGE FREMR: [12:06:48] All right. Thank you very much, Mr Witness.
8 Does Judge Ozaki have any? No, okay.

9 So let's move into open session, court officer, please.

10 (Open session at 12.07 p.m.)

11 THE COURT OFFICER: [12:07:04] We are in open session, Mr President.

12 PRESIDING JUDGE FREMR: [12:07:18] Thank you, court officer.

13 Mr Witness, it concludes your testimony so, on behalf of this Chamber, I would like to ask
14 you that you underwent such a long journey, that you came and that you testified. I can
15 imagine that some parts of your testimony could be really difficult experience for you,
16 especially those parts that could lead to some traumatisation, but that is why we very
17 much appreciate that you came and testify. And we believe that your testimony will
18 assist us in our effort to find the truth in this case. So Mr Witness, I thank you once more
19 very much and we wish you safe journey home.

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

21 (The witness is excused)

22 PRESIDING JUDGE FREMR: [12:08:44] And now since today's the last day of our
23 evidentiary block, is there anything the parties or participants wish to raise before we
24 conclude this hearing?

25 I have also some issues that I will mention, but now I'm asking parties whether they have

1 anything they would like to present.

2 MR IVERSON: [12:09:14] Nothing from the Prosecution, Mr President.

3 PRESIDING JUDGE FREMR: [12:09:16] Defence?

4 MR GOSNELL: Yes, Mr President. And I didn't raise it at the time of the testimony of
5 the second last witness because we were pushing quickly and I knew your Honours
6 wanted to move quickly so I didn't raise it then.

7 It has to do with the disclosure of the investigation note and the, what we thought were
8 photographs that were related to the investigation note and then, in the course of
9 questioning, the Prosecution suggested that that had not been established.

10 As a preliminary matter the Defence cannot operate effectively if it's receiving material
11 that really does fall within Article 67(2) on the morning of a witness's appearance. And I
12 suggest that that was the nature of that material, however strong or not it may be. And
13 that's not the first time.

14 So I would simply say that we would request that the Prosecution do everything possible,
15 especially now that we're at the beginning of an interval before the next sequence of
16 witnesses to try to make sure that we get that material as far in advance as possible.

17 The second thing is is that if it's going to be the case that questions are raised about the
18 basis for the connection between different materials that are being disclosed to us, then I
19 would ask then that the Prosecution be more specific in indicating to us what is the
20 connection between materials disclosed of this kind, for example, at least telling us the
21 Rule under which it's being disclosed, in particular, most importantly whether it's coming
22 to us under Article 67(2).

23 So I understand that it's a difficult job, I understand that disclosure lapses occur, I
24 understand that things do come late, but it is very difficult for the Defence to operate
25 without receiving timely disclosure of this material, especially then when after the fact the

1 Defence raises doubts about what may be the connection or relevance of the material.

2 So my submission would simply be now that we have several weeks before the next block
3 that we can receive those materials in advance as much as possible of the next set of
4 witnesses.

5 PRESIDING JUDGE FREMR: [12:11:44] Who wants to react from -- I hope that
6 somebody will react from Prosecution.

7 MR IVERSON: [12:11:52] A few things. Initially, the reason I objected wasn't
8 necessarily because the photographs and the film, it was that Defence counsel was putting
9 a confusing question to the witness that he had received a photograph when the
10 information indicated that he had received a roll of film. So that was the initial objection.
11 This was not disclosed under Article 67(2), it is not 67(2). We always indicate the nature
12 of the -- the Rule under which we're disclosing, so I don't think that that should be unclear
13 to the Defence in anyway.

14 But I do understand what Defence counsel said as far as disclosing as soon as possible. I
15 think in this instance, I may be mistaken, but I think it was pursuant to a Chamber's order
16 having to do with P-154, which was the reason why it was disclosed as it was on the
17 courtesy copy *given, I believe, on 5 October, six days ago, but I understand what Defence
18 counsel is saying.

19 PRESIDING JUDGE FREMR: [12:13:13] Yes, I am glad to hear it because I would say
20 generally, at this stage, it seems to me that in this case the cooperation between parties it's
21 at a very solid level, but always, as in all areas of human activities, there is still some room
22 for improvement. I can understand that especially this block was conducted in a rather
23 hectic style, sometimes to the well-known -- because of well-known circumstances, but
24 especially issue of timing, I think you should be very careful about that. I believe that it
25 is not some -- some sign of wrong faith, it's just, I think, I believe that still Prosecution is

1 doing its best but, at the same time, I also see that the material in its possession is very
2 voluminous, so sometimes such problems could occur, but it should be really exceptional.
3 But as I said, generally I find so far mutual relationship between parties is a very good
4 one, so I believe that it will continue, at least at the same level.

5 And now just two issues from my part. The Chamber itself wishes to address those
6 issues before closing this evidentiary block:

7 In July, in filing number 1471, the Prosecution indicated that it intends to make five
8 requests for the admission of witness evidence under Rule 68(2)(b) of the Rules. And as
9 the adjudication of these requests will need to occur in the near future, I would like now
10 seek an update from the Prosecution in this regard and to get information how soon do
11 you foresee being in a position to file them? Probably, Ms Samson?

12 MS SAMSON: [12:15:46] Yes, Mr President, I will address this question.

13 I have to verify the exact number that remain. I do know that there are several. It is
14 likely that we can file at least one of them this week. And shortly thereafter, in the
15 coming weeks, we'll assess how many more will come. But as I understand the
16 Chamber's concern, it would be that these applications are made soon. And I can update
17 the Chamber by way of email and the parties as well with an exact figure today.

18 PRESIDING JUDGE FREMR: [12:16:19] Very well. You know, the sooner the better
19 because we are, even if we now just finished this block, we are in a phase of planning the
20 next one, so and it could play a very important role how many witnesses will be presented
21 under this Rule. Thank you very much, Ms Samson.

22 And, in fact, at the very end of this block, I wish on behalf of the whole Chamber to thank
23 everyone for their cooperation during this really very demanding evidentiary block. I
24 thank the Defence, Prosecution, and legal representatives teams, as well all the service
25 providers of the Registry, particularly for their flexibility, especially with respect to

1 accommodating last-minute changes in the schedule and especially for sitting extended
2 hours for many days, which was, I can understand, extremely tiring for everybody,
3 including the Chamber.
4 Despite some unexpected matters, as well as challenges in terms of scheduling and
5 bringing the witnesses to The Hague, with the assistance and efforts of everyone involved,
6 we were able to hear 16 witnesses, which is the same number as was originally planned,
7 despite of some challenges we faced.
8 The Chamber hopes that during the next block we can proceed with the same -- at least
9 the same efficiency.

10 We will resume for the seventh evidentiary block on 7 November. And this block is
11 going to last until 16 December 2016.

12 And in the near future, the Chamber would like also address a number of procedural
13 issues, including indicating the sitting schedule for the start of 2017, as well as set certain
14 deadlines related to the end of the Prosecution case. And it will do so by way of formal
15 order.

16 So this concludes my message to the parties and participants. And this also concludes
17 today's hearing and our sixth evidentiary block.

18 And now court is adjourned.

19 THE COURT USHER: [12:16:45] All rise.

20 (The hearing ends in open session at 12.16 p.m.)

21 RECLASSIFICATION REPORT

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