

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
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
8 Monday, 4 April 2016
9 (The hearing starts in open session at 9.04 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. It is good to see all of you
14 again after some break.
15 Court officer, please call the case.
16 THE COURT OFFICER: Thank you, Mr President.
17 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
18 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
19 And for the record, we are in open session.
20 PRESIDING JUDGE FREMR: Thank you.
21 Now appearances as usually starting with Prosecution, please.
22 MS LUPING: Good morning, Mr President, your Honours. Appearing on behalf of the
23 Prosecution today are Nicole Samson, senior trial lawyer; Selam Yirgou, case manager;
24 Paola Sacchi, legal assistant; Michala Chadimova, intern; and myself Dianne Luping, trial
25 lawyer.

1 PRESIDING JUDGE FREMR: Thank you.

2 Defence, please.

3 MR BOURGON: (Interpretation) Good morning, Mr President, good morning,
4 your Honours, and to everybody in the courtroom this morning. To represent
5 Mr Bosco Ntaganda, who is in our presence this morning, we have Mademoiselle Elisa
6 Binon; we have Margaux Portier; my learned colleague, Luc Boutin, who is -- it's a great
7 pleasure to welcome him back to the Defence team; and myself, Mr Stéphane Bourgon. It
8 is Maître Boutin who is going to be in charge of this witness and I will be leaving the room
9 at the end of the first session. Thank you, Mr President.

10 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

11 Legal Representatives of Victims now, please.

12 MS PELLET: (Interpretation) Good morning, Mr President. The former child soldiers
13 are represented by Mohamed Abdou and myself, counsel in the OPCV.

14 MR SUPRUN: (Interpretation) Good morning, Mr President, your Honours. The
15 victims of the attacks are represented by myself Dmytro Suprun, counsel for the OPCV.
16 Thank you.

17 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.

18 Today we are going to start the fourth evidentiary block in this case and, if I'm counting
19 well, the testimony of the fourteenth Prosecution witness.

20 Before that I would like briefly to address a few procedural matters. In terms of
21 scheduling you are all aware of the planning, but for the record I note the following: We
22 will be sitting in extended sessions today and tomorrow, that is from 9 a.m. to 11 a.m.,
23 from 11.30 to 1.30 p.m., and then from 3 p.m. to 5 p.m. We will adjourn on Wednesday,
24 6 April after two two-hour morning sessions, that is from 9 a.m. to 11 a.m., and 11.30 to
25 1.30 p.m.

1 I would like to highlight that there is no buffer and that the Chamber accepted request or
2 estimation made by Prosecution for this witness saying that they will need six hours for
3 his examination-in-chief, so we accepted this estimation as a realistic one, and I'm really
4 highlighting that we will be very strict on keeping this time schedule. And as usually,
5 the general principle well-known is that the Defence will have the same amount of time
6 available for cross-examination.

7 Now on a different note, the Defence informed the Chamber via email on 3 March that it
8 was withdrawing its application seeking judicial review of the Registry's decision on the
9 Defence request for resources for review of transcriptions and translations prepared by
10 the Prosecution. This is the public filing number 1166 dated 11 February 2016. This is
11 simply noted by the Chamber for the record.

12 Now, the Chamber's decision on in-court protective measures for Witness P-815 was
13 issued last week ordering face and voice distortion and the use of pseudonym during
14 testimony. It is our decision number 1236.

15 The Chamber also granted the Prosecution's request for the special measure of reading
16 and writing assistance, noting however that the concrete need for any such assistance
17 would be determined at the relevant time. The VWU provided its recommendation in
18 relation to in-court protective measures for the witness on 30 March 2016 and its
19 vulnerability assessment on 31 March and supported both the in-court protective
20 measures granted and the special measure sought.

21 The Chamber notes the further recommendations stemming from the vulnerability
22 assessment conducted by the VWU and orders accordingly that: The familiar support
23 assistant sits next to the witness for the initial stage of his testimony in order to assist him
24 with applicable procedures; then that the parties avoid asking the witness to read text, if
25 possible, and that the witness be provided with reading assistance for any text when

1 necessary; and finally, that the parties appropriately adapt their questioning to the needs
2 and capacity of the witness.

3 And in this regard, I would like to emphasise that it is in fact a general requirement to
4 adapt your way of questioning to the capability of the witness, but especially in case of
5 this witness it will be necessary to devote to that really particular attention.

6 The Chamber also notes the Defence objections to the use of certain photographs on the
7 Prosecution's list of items on the basis that Witness P-815 is not the proper witness
8 through which to tender these items into evidence, or that use may only be permitted if
9 the appropriate material relationship is established between the photographs and the
10 witness.

11 The Chamber recalls, paragraph 31 of our conduct of proceedings decision which states
12 that, quote, "Parties may show documents to a witness whose testimony has a connection
13 with that item and have the witness comment on it." Unquote.

14 Noting the topics the witness is expected to address, the Chamber considers that the
15 Prosecution may present the photographs on the list of items to the witness in order to
16 seek to establish the necessary connection and in order to ascertain whether the witness
17 can usefully comment on them or not. The Chamber also notes the Defence objection to
18 the use with the witness of the photographs with annotations or quotes. In this regard,
19 the Chamber recalled that where it has previously authorised the use of photographs with
20 witnesses, it has ordered that they shall be shown without annotations unless the
21 annotations were made by that particular witness.

22 However, the Chamber notes that the quotes in question form part of the photograph
23 themselves rather than constituting external annotations and thus the items do not fall
24 within the category of annotated photographs. On this basis the Chamber shall authorise
25 the use of the photographs without any requirement to remove the quotes.

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1 Now, unless the parties or participants have anything they wish to raise at this point, we
2 can turn to the scheduled testimony, but I am double-checking, do you have any general
3 issues or other issues at the moment, starting with the Prosecution?

4 MS LUPING: Not at this stage, Mr President.

5 PRESIDING JUDGE FREMR: Thank you, Ms Luping.

6 Mr Bourgon.

7 MR BOURGON: Thank you, Mr President. Yes, one quick issue concerning the
8 filing 1166, which was withdrawn by the Defence, that is the filing of 11 February 2016.
9 The Chamber will be glad to hear that we are about to provide the Prosecution with our
10 review of all exhibits which so far have been marked for identification so that we can
11 move along and get these exhibits admitted, provided of course that we can agree on a
12 few corrections that we would like to bring to these transcript of audio and audiovisual
13 material. Thank you, Mr President.

14 PRESIDING JUDGE FREMR: Anyway, thank you for this good news, Mr Bourgon. So
15 now it seems we can really move to the testimony itself.

16 So now, court officer, please bring the witness into the courtroom.

17 (The witness enters the courtroom)

18 PRESIDING JUDGE FREMR: Mr Witness, good morning. Can you hear me?

19 WITNESS: DRC-OTP-P-0815

20 (The witness speaks Swahili)

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

22 PRESIDING JUDGE FREMR: Very good. Mr Witness, you are going to testify before
23 the International Criminal Court. On behalf of this Chamber I would like to welcome
24 you to the courtroom.

25 This Chamber has been established to try the case of the Prosecutor against

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1 Mr Bosco Ntaganda. You are called to testify to assist us in our search for the truth. You
2 will be soon asked questions both by the Judges and lawyers in the courtroom. In this
3 connection I would like to guide you. Please listen carefully to those questions. It is
4 very important that you make sure that you understand the question before you answer
5 it. If you do not understand, feel free to ask for the question to be repeated or rephrased.
6 We want you to tell the truth and tell us only what you really saw or heard or sensed
7 yourself. If you didn't see or hear it yourself but you found out some other way, then
8 you should explain how.

9 You may be asked about events that happened many years ago, so it is natural that you
10 may not remember all details. It doesn't matter, please testify just on that which you
11 remember. Don't guess. Don't make things up, please. There is nothing wrong in
12 saying "I don't know" or "I don't remember." Do you understand all this, Mr Witness?

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

14 PRESIDING JUDGE FREMR: All right.

15 Mr Witness, let me now explain to you how the protective measures work that the
16 Chamber has put in place for your testimony.

17 As you see you are sitting in a place where the public here in this building cannot see you.
18 In addition, face distortion is applied, which means that your face is blurred on the
19 camera images and the public cannot see your face during the testimony. We also
20 decided to order voice distortion, which means that the public will not be able to identify
21 you by your voice as it has been disguised.

22 And we ordered the use of pseudonym; this means that we will all refer to you only as
23 "Mr Witness" to make sure that the public does not know your name. When you answer
24 questions that will not give away who you are, we will do so in open session, which
25 means that the public can hear what is being said in the courtroom. When you are asked

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1 to describe anything that relates specifically to you, we will do this in a private session,
2 then there is no broadcast and no one outside the courtroom can hear your answers.
3 It will be the case at the very start when a few general questions about who you are will
4 be asked. And again when you are asked to mention facts that might reveal your identity
5 or where you live, for example, please do not refer to these details later on during your
6 testimony whenever we are in open session. If ever anything gets said during open
7 session which should have been said in private session, we will do our best to protect this
8 information. Your testimony will be broadcast on a delay and we can remove any such
9 remarks from the broadcast which will be heard by the public and read from the public
10 transcript of the proceedings.

11 Certain other parts of your testimony shall also be conducted in private session. The
12 Chamber recognizes that your security and well-being is important during the course of
13 this trial. If at any point you feel that you would like a brief break from giving your
14 testimony or you feel unwell, do not hesitate to let us know by raising your hand. Do
15 you understand, Mr Witness?

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

17 PRESIDING JUDGE FREMR: Now, Mr Witness, I will ask you to take a solemn
18 undertaking to tell the truth. So I will read this declaration and you please repeat it what
19 I just read to you. Is it clear?

20 THE WITNESS: (Interpretation) Yes, it's clear.

21 PRESIDING JUDGE FREMR: So now I'm starting to read the solemn undertaking and
22 please repeat it.

23 So I solemnly declare --

24 THE WITNESS: (Interpretation) I solemnly declare.

25 PRESIDING JUDGE FREMR: -- that I will speak the truth --

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1 THE WITNESS: (Interpretation) -- that I will speak the truth --

2 PRESIDING JUDGE FREMR: -- the whole truth --

3 THE WITNESS: (Interpretation) -- the whole truth --

4 PRESIDING JUDGE FREMR: -- and nothing but the truth.

5 THE WITNESS: (Interpretation) -- and nothing but the truth.

6 PRESIDING JUDGE FREMR: Thank you very much, Mr Witness. That's it.

7 So it means that you are now under oath. You will have already been informed by
8 representatives of the Victims and Witness Unit and afterwards by representatives of the
9 Prosecution about the importance of speaking the truth. You need to be aware that it's an
10 offence within the jurisdiction of this Court to give false testimony. Do you understand
11 that?

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

13 PRESIDING JUDGE FREMR: Very well. Now, a few practical matters you should have
14 in mind when giving your testimony.

15 Everything we say here in the courtroom is written down and interpreted into English
16 and French from Swahili. It is therefore important to speak clearly and to speak at a slow
17 pace. We want to make sure that your words can be well understood by the interpreters
18 and then by the rest of us.

19 Please speak into the microphone and only start speaking when the person asking you the
20 question has finished. To allow for the interpretation everyone has to wait a few seconds
21 before starting to speak. So I recommend to you when the lawyer has asked his or her
22 question, please count in your head to three and only then give your answer.

23 If you have any questions yourself, raise your hand so we know that you finish -- sorry,
24 that you wish to say something. We will then give you the opportunity to speak. Have
25 you understood all that?

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1 THE WITNESS: (Interpretation) Yes, I've understood you very well.

2 PRESIDING JUDGE FREMR: Very good, Mr Witness.

3 So now we can start with your testimony. And you will be first examined by
4 Prosecution.

5 Ms Luping, you have the floor.

6 MS LUPING: Thank you, Mr President.

7 QUESTIONED BY MS LUPING:

8 Q. Good morning, Mr Witness. We've met before.

9 A. Good morning.

10 Q. Just a reminder that my name is Dianne Luping and I appear on behalf of the
11 Prosecution and I will be asking you the questions today.

12 Mr Witness, before we start, there was just one reminder that the Presiding Judge gave
13 you that I would like to repeat, which is simply that when you describe what happened, if
14 you could be clear on what you heard with your own ears or saw with your own eyes and
15 what others may have told you.

16 Mr President, I now have a few questions of an identifying nature, if we could please
17 move into private session with your leave.

18 PRESIDING JUDGE FREMR: All right.

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

20 (Private session at 9.28 a.m.)

21 THE COURT OFFICER: We're in private session, MrPresident.

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3 (Open session at 9.38 a.m.)

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

5 PRESIDING JUDGE FREMR: Thank you.

6 Ms Luping, you may proceed.

7 MS LUPING:

8 Q. Mr Witness, you've said that in the year 2002 you were living in Sayo. Do you
9 remember any battles, any fighting that happened in 2002? And if you do, can you
10 please describe what happened from the first battle that you remember.

11 A. The fighting began in 2002 when I was there, and when the fighting became intense
12 we fled.

13 Q. And this fighting, this intense fighting you describe when you fled, who was
14 attacking Sayo?

15 A. When the fighting began, the Lendu chased out the Hema. After having done so,
16 they set up in that location. And later in 2002, the Hema attacked and they drove
17 everybody out. And we also fled. I fled towards Yedi. And in Yuligar (phon) I heard
18 that the members of my family, including my father, had been killed, so I wondered what
19 I was going to do. I started by fleeing, I went towards Lese and I got as far as Faradje.
20 Once I got to Faradje, I took the members of my family with a view to fleeing to Uganda.
21 I remained in Uganda in Paidha more specifically. And after a certain lapse of time I
22 went back to Mahagi. And once I got back to my village I set up there and on a specific
23 day I sent my children to the market to sell cassava in order to meet our demands.

24 Q. Mr Witness.

25 A. Three of my children were there in addition to others.

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1 Q. Mr Witness, I'm sorry to interrupt you. I'm just concerned that we might get to
2 certain information that may be either identifying or sensitive.

3 MS LUPING: Mr President, with your leave if we could move into private session.

4 PRESIDING JUDGE FREMR: All right.

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

6 (Private session at 9.42 a.m.)

7 THE COURT OFFICER: We're in private session, MrPresident.

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9 (Open session at 9.51 a.m.)

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

11 PRESIDING JUDGE FREMR: Thank you.

12 Ms Luping, please.

13 MS LUPING:

14 Q. Now, when the Lendu went into battle, what would they ordinarily wear? Can
15 you describe what the Lendu would wear?

16 A. The Lendu, well, I saw them wearing civilian attire, but some of them were wearing
17 military garb. However, most of them were in civilian dress.

18 Q. And did they have anything on them that made it easier to tell whether they were
19 Lendu, say, as compared to the Hema?

20 A. A distinctive trait was that they would wear banana leaves around their necks,
21 which enabled us to identify them.

22 Q. Now, you have also described an attack by the Hema on the Mongbwalu-Sayo area.
23 You said that the fighting was intense. Can you describe where you were when you first
24 either heard or saw the Hema attackers coming to Mongbwalu and Sayo?

25 A. When the Hema attacked, I fled. I fled as soon as they attacked and I went towards

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1 Yedi.

2 MS LUPING: Mr President, could I please request leave to move into private session.

3 PRESIDING JUDGE FREMR: For sure.

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

5 (Private session at 9.55 a.m.)

6 THE COURT OFFICER: We're in private session, MrPresident.

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11 (Open session at 10.50 a.m.)

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

13 PRESIDING JUDGE FREMR: And, Ms Luping, I'm sure that you have noticed that this
14 clock is not working, but I think you are watching the time, so you still have 10 minutes
15 before the break. Please proceed.

16 MS LUPING: Thank you, Mr President.

17 Q. Now, Mr Witness, you explained that when you were in *Pader, the police started to
18 get very angry with you saying that you were Lendu. Why did you under -- did you
19 understand why the police were angry and thinking that you were Lendu? Why would
20 they be angry if they thought you were Lendu?

21 A. Well, yes, because we were very dirty. It was during the rainy season and we were
22 soaking wet. We also had mud on us. It was the rainy season and we were with the
23 children. And that's why they thought that we were Lendus.

24 Q. And why would they be angry though if they thought you were Lendu? What is it
25 about being Lendu that would mean that they would be angry?

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1 MR BOUTIN: Mr President.

2 PRESIDING JUDGE FREMR: Yes, Mr Boutin, please.

3 MR BOUTIN: I object. I think this last question calls for speculation from the witness.

4 He is asked to basically to tell what a third party's motivation may have been with regards
5 to their behaviour. I think it is just improper to do it this way, your Honour.

6 PRESIDING JUDGE FREMR: Ms Luping.

7 MS LUPING: Mr President, I can certainly seek to rephrase my question.

8 PRESIDING JUDGE FREMR: I think you should, please.

9 MS LUPING:

10 Q. Mr Witness, you have described how there was fighting happening between the
11 Lendu and the Hema in this time; is that correct?

12 A. Yes.

13 Q. And how were the Alur treated by the Lendu or the Hema during this conflict?

14 A. The Hema were armed with firearms and the Lendus had machetes and spears.
15 We didn't know how they had come about those firearms.

16 Q. And your ethnic group, the Alur, how were they treated by either side, by the Hema
17 or the Lendu during this conflict?

18 A. They saw us on occasion because we were short, of short stature like the Lendus,
19 and they thought that we were Lendus, because the Lendus are short, and the people of
20 Hema origin are tall. I don't really know how they ascertained really.

21 Q. And when you say they would think that you were Lendu, who is they? Sorry,
22 because you were short, who would think you are Lendu?

23 A. Well, it was in Paidha. They thought that since we were short we were Lendus. It
24 was the soldiers in Paidha who were of that mind.

25 Q. And during the war in the Democratic Republic of the Congo, during the war

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1 between the Lendu and the Hema, what would happen to the Alur, how were they
2 treated by either side?

3 A. Well, we don't know, we didn't know exactly why they were fighting. So I don't
4 know. I don't really know what to say to you.

5 Q. My question is different.

6 And this is my last question, Mr President.

7 My question was not why were they fighting between each other, but when they were
8 fighting, how did they treat the Alur? What would happen to the Alur during this
9 conflict between the Lendu and Hema?

10 A. They would sometimes put the question as to what ethnic group we belonged to,
11 because all those people are familiar with the Alur language, and they would put the
12 question in order to identify us. And if you weren't able to speak Alur, then you
13 were -- you run the risk of being harmed.

14 Q. And when you say they would ask what ethnic group you were from, who is "they"?
15 Who would ask what ethnic group you were from?

16 A. The Lendus would ask that question.

17 Q. And how would the Hema treat the Alur?

18 A. It was the same thing. They were all asking questions with a view to identifying
19 us.

20 MS LUPING: Okay, Mr President, I think we can break for now. I have no further
21 questions till after the break.

22 PRESIDING JUDGE FREMR: Yes, but just one additional question from my part,
23 because I'm still not fully clear. Mr Witness, if you know it, I don't know, Alur, were
24 they enemies or alliance to Hema or Lendu or were they just neutral in this conflict?

25 THE WITNESS: (Interpretation) The Alur were not involved in any of this fighting.

1 They were a long way away from everything that happened.

2 PRESIDING JUDGE FREMR: Thank you very much, Mr Witness.

3 So we break now and we will continue half past 11.

4 THE COURT USHER: All rise.

5 (Recess taken at 11.00 a.m.)

6 (Upon resuming in open session at 11.32 a.m.)

7 THE COURT USHER: All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: So we will continue with examination of our witness.

10 A question to Ms Luping. Ms Luping, your upcoming questions, will they require the
11 mode of private or open session?

12 MS LUPING: My first questions can be asked in public session, Mr President.

13 PRESIDING JUDGE FREMR: Very well. So then, Ms Luping, you may proceed.

14 MS LUPING: Thank you, Mr President.

15 Q. Now, Mr Witness, you described how you and your family who had fled Sayo
16 arrived in *Pader. You said that you were provided a piece of paper which you had to
17 show and then you were shown where to spend the night. Now, this place where you
18 stayed in *Pader, were there others from the Democratic Republic of the Congo who were
19 also there or not?

20 A. There were only Congolese present. They were also refugees. They had rented a
21 house there and that is where I was given a house. They had rented two houses and I
22 was given a house too.

23 Q. And do you know where these refugees from the Democratic Republic of the Congo
24 were coming from?

25 A. In fact they told me that they were also refugees and that they hailed from the DRC

1 and that it was because of the war that they found themselves there.

2 Q. And can you be specific as to which war you're referring to?

3 A. It was because of the war in the Congo that they had arrived there because there was
4 war waging in the Congo and they had fled and sought refuge there, and that's how I
5 found them.

6 Q. And did they explain the war between which groups?

7 A. They said that it was a war between the Lendu and the Hema.

8 Q. Did you meet anybody else from the Mongbwalu-Sayo area when you got to
9 *Pader?

10 A. I did not meet anybody who came from there.

11 Q. And the refugees that you met in *Pader, what were the ethnicity or ethnicities of
12 the people you met?

13 A. Well, I didn't ask that question. They said that they were refugees who had come
14 from Congo. They said that they were there because of the war. They didn't mention
15 their ethnic origin.

16 Q. And the refugees that you met, were they civilians or fighters or both?

17 A. They were all civilians. There weren't any soldiers. They were all civilians.

18 Q. And what is it about them that enables you to conclude they were civilians? How
19 could you tell they were civilians?

20 A. They were all wearing civilian clothing and that's why I thought they were civilians.

21 Q. Now, you explained that after being in Paidha, in Uganda, that you went back to
22 your -- well, you went to Mahagi with your family. How long did you stay in Paidha
23 before travelling on to Mahagi?

24 A. I spent a night in Paidha, and on the next day I went to Mahagi.

25 Q. Now, you said that you -- when you travelled to Mahagi you set up there with your

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1 family. Do you recall roughly how long you stayed in Mahagi for?

2 A. I spent three months in Mahagi.

3 MS LUPING: Mr President, if I could ask with your leave we could go into private
4 session. It's -- I'm not certain if the next question will in fact be identifying or not but just
5 out of caution.

6 PRESIDING JUDGE FREMR: Yes, that's all right.

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

8 (Private session at 11.40 a.m.)

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

10 (Redacted)

11 (Redacted)

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14 (Open session at 11.49 a.m.)

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

16 PRESIDING JUDGE FREMR: Thank you.

17 Ms Luping, please proceed.

18 MS LUPING: Thank you, Mr President.

19 Q. Mr Witness, when you arrived with your family in Mahagi, was there any armed
20 group in control at that time in Mahagi, and if so, which group?

21 A. There were only Hema soldiers.

22 Q. Now, you referred to Hema soldiers. Do you know if they were known by any
23 particular name, this group of Hema soldiers?

24 A. I believe that they were called the APC or the UPC, something like that.

25 Q. And this group of Hema soldiers, do you know who was known to be their leader?

1 A. I do not know the name of their leader.

2 Q. And I'm not referring only to the leader in Mahagi, I mean overall. Do you know
3 who the overall leader was for the group?

4 A. I do not know the name of the leader of those soldiers. I do not know what he was
5 called.

6 Q. And this group of Hema soldiers, do you know if they belong to the same group or
7 a different group that attacked the Mongbwalu-Sayo area?

8 A. I know that they are Hema soldiers because it was only they or them whom I saw in
9 Mahagi.

10 Q. Now, when you arrived in Mahagi, what were the ethnicities of the local population
11 living there?

12 A. By virtue of the fact that Mahagi is a large village, there are all ethnicities present,
13 but most are of Alur ethnic origin.

14 Q. And when you were there, you say there were different ethnicities, were there
15 Lendu in Mahagi at the time?

16 A. In fact, there were very few Lendu, even if I wasn't able to determine their number.

17 Q. Did you see any Lendu with your own eyes in Mahagi when you were there?

18 A. I didn't see any. As for the Alur, I was in a position to be able to identify them
19 because we spoke the same language. I did see some.

20 Q. And the Hema soldiers that you said were controlling Mahagi at this time, how
21 were they treating the population in Mahagi?

22 A. They were making them suffer. They were taking their property. That's what I
23 remember. And there were even people who talked about the various things that were
24 done.

25 Q. First, when you say "They were making them suffer," what do you mean by that?

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1 A. They were looting their property. In fact, they were looting virtually all of their
2 property. And that's how they were making them suffer.

3 Q. Can you recall what type of property was being looted by these Hema soldiers?

4 A. They were taking their money, their cows, their goats, they were looting many
5 things, and they really were making them suffer.

6 Q. And other than looting property, how else would you describe the Hema soldiers'
7 behaviour in Mahagi?

8 MR BOUTIN: Objection, Mr President.

9 PRESIDING JUDGE FREMR: Mr Boutin, please.

10 MR BOUTIN: I think it's a very generic questions. I think that Madam Prosecutor
11 should ask whether he has seen or is aware of some specific incident, but asking generally
12 his impression I don't think it is proper.

13 PRESIDING JUDGE FREMR: Objection sustained.

14 Please be more specific, Ms Luping, please.

15 MS LUPING: Yes, Mr President.

16 Q. Mr Witness, you described how Hema soldiers were looting the property of civilians.
17 Was there any other misbehaviour that you either saw with our own eyes or heard with
18 your own ears, misbehaviour by Hema soldiers?

19 A. Well, what I saw with my very own eyes was the looting. As for any other action
20 undertaken I did not see it myself.

21 Q. Did you hear of anything else?

22 A. Well, what I heard was that the village girls were being raped. I heard about it, but
23 I didn't see it.

24 Q. Before I ask you more questions about that, Mr Witness, I just wanted to just again
25 just focussing on the Hema soldiers, could you describe what type of uniforms that they

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1 were wearing, the ones you saw in Mahagi?

2 A. They were wearing tache tache military uniforms.

3 Q. And did they all have uniforms?

4 A. Yes.

5 Q. And were they armed? Did they have weapons?

6 A. Yes, they were all armed.

7 Q. What type of weapons did they have?

8 A. I have never used any firearms myself, so I cannot tell you precisely. All I can say
9 is that they were carrying firearms.

10 Q. And amongst the Hema soldiers that you saw in Mahagi, can you recall what the
11 youngest were that you saw?

12 A. Can you kindly repeat your question, please?

13 Q. Yes. Amongst the Hema soldiers that you saw in Mahagi, can you remember
14 roughly what was the age of the youngest Hema soldier that you saw?

15 A. There were young children, there were adults and there were soldiers of all ages and
16 all of them were carrying guns.

17 Q. And the young children that you saw, from your memory, what would have been
18 the age of the youngest Hema soldier you saw?

19 MR BOUTIN: I object, your Honour.

20 PRESIDING JUDGE FREMR: On what ground?

21 MR BOUTIN: On the ground that he maybe provide a generic answer as to how he
22 assess the age of those soldiers I would certainly let it pass, but asking a specific question
23 as to what age specifically the youngest person he may have seen had, I don't think that
24 anybody can answer that question, including the witness.

25 PRESIDING JUDGE FREMR: Ms Luping.

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1 MS LUPING: Mr President, I believe that the witness is in a position to indicate roughly
2 the age of the youngest he may recall. I'm seeking to be more specific and avoid the
3 generic at this stage and I can certainly ask him on what he bases that estimation.

4 PRESIDING JUDGE FREMR: Okay, then objection overruled. Please proceed.

5 MS LUPING: Thank you, Mr President.

6 Q. So, Mr Witness, from your memory, you mentioned seeing young children amongst
7 the Hema soldiers in Mahagi. From your memory what was the age of the youngest that
8 you saw?

9 A. Based on what I saw I would say as from 20 years, but all of them were soldiers.

10 Q. And does this include the children that you saw?

11 A. I would say between 18 and 20. All of them were *soldiers.

12 Q. And did you see any below the age of 18?

13 MR BOUTIN: Mr President.

14 PRESIDING JUDGE FREMR: Yes, Mr Boutin.

15 MR BOUTIN: The witness just testified clearly about -- with regards to the specific
16 questions, what was the youngest you saw, and he said 18 and 20. And the Prosecution
17 didn't like the answer and then she's giving another kick at the can. I don't think,
18 your Honour, that it is fair to the witness at all.

19 PRESIDING JUDGE FREMR: Ms Luping.

20 MS LUPING: I'm seeking to clarify the term used "children," Mr President. We
21 obviously all may have different views as to what a child is, but I'm just simply seeking to
22 clarify if when he referred to seeing young children that we are talking about children or
23 adults. He's referring to a range of 18 to 20, so I'm simply seeking to clarify if there were
24 in fact any he saw below the age of 18.

25 PRESIDING JUDGE FREMR: Maybe I will do it myself just to do it in a most objective

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1 way as possible.

2 Mr Witness, I will just repeat your answer we do have in the English translation. So you
3 answered:

4 "Based on what I saw, I would say as from 20 years, but all of them were *children."

5 And then Ms Luping asked you: "And does this include the children that you saw?"

6 And you said, "I would say between 18 and 20."

7 So according to you, you name people of that age children?

8 THE WITNESS: (Interpretation) I would say at that age they're still children and they
9 were behaving like children. So they had not reached a mature age. So I believe that it
10 is from 20 years that someone can be considered as having become mature.

11 PRESIDING JUDGE FREMR: So sorry, Ms Luping, but I guess I clarified it, so please
12 proceed.

13 MS LUPING: Yes. Thank you, Mr President.

14 Mr President, my next questions may potentially be of an identifying or sensitive nature.
15 With your leave if we could go into private session.

16 PRESIDING JUDGE FREMR: Certainly.

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

18 (Private session at 12.09 p.m.)

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

20 (Redacted)

21 (Redacted)

22 (Redacted)

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13 (Open session at 1.07 p.m.)

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

15 PRESIDING JUDGE FREMR: Thank you.

16 Ms Luping, please proceed.

17 MS LUPING: Thank you, Mr President.

18 Q. Mr Witness, you were just explaining how you learnt from various passers-by how a
19 number of girls had been raped by Hema soldiers. My question is this: In terms of the
20 people that you spoke to, did you know any of these people personally, the ones who told
21 you about girls having been raped by Hema soldiers?

22 A. No, I do not know their names.

23 Q. And what ethnicity were these people who spoke to you?

24 A. All of them were Alurs. These were Alur people passing by and making comments
25 about the activities that were going on at that time.

1 Q. And did you learn what the ethnicity was of the victims of these rapes?

2 A. All those girls were of the Alur ethnic group. It was those passers-by who
3 provided that information to me.

4 Q. Now, you said how long you stayed in Mahagi for. Where did you go to after
5 leaving Mahagi?

6 A. When I left Mahagi, I went back directly to Mongbwalu, specifically Sayo.

7 Q. And when you reached Sayo, was there any particular armed group in control of the
8 Mongbwalu-Sayo area at that time?

9 A. I found armed persons there, but I noticed that the problems that we had had before
10 had sort of calmed down. But there were armed people there.

11 Q. And these armed people who were there, do you know what ethnicity they were,
12 what group they belonged to?

13 A. Well, I was not able to know their ethnic group.

14 Q. Did you meet any of the soldiers who were there at the time whilst they were still
15 there?

16 A. No. I found other soldiers, other armed people there.

17 Q. And what do you mean by that?

18 A. The soldiers that I had left behind were no longer there. On the other hand, I found
19 a different group of soldiers who were at that location.

20 Q. Now, before you fled Sayo, is it correct that the armed group in control were the
21 Lendu; is that right?

22 A. When I fled it was the Hema who caused me to flee, so they were the ones who were
23 there.

24 Q. And when you returned, were there Hema soldiers still there?

25 A. I did not recognize them. There were soldiers and it was difficult for me to identify

1 them.

2 Q. Now, when you first returned to Sayo, this is on your first return and you're
3 entering Sayo, can you describe first of all what you saw with your own eyes when you
4 returned to Sayo?

5 A. When I returned there, I found that Sayo was not as it had been before. All the
6 houses had been burnt down and the doors broken down. That is what I realised. All
7 the houses were covered in smoke. The houses and the church were filled with smoke.
8 It is as if people were preparing food in those houses.

9 Q. Now, in terms of the church, you said it was filled with smoke as if people had been
10 preparing food in the houses and in the church. Could you describe what you saw with
11 your own eyes when you first saw the church?

12 A. I found that there were ashes there. That means they had made fire in the church.
13 There were traces of smoke on the walls. I did not see the people who had perpetrated
14 those acts, but I only identified the traces of the smoke from the fires that had been made
15 there.

16 Q. And did you ever learn from anybody who had lit the fires inside the church? Did
17 anybody ever tell you that?

18 A. It is (Redacted) who told me that, (Redacted) That is the person who told me.

19 Q. And what exactly did (Redacted) tell you about the fires in the church? What did
20 (Redacted) say to you?

21 A. He told me that Hema soldiers had transformed the church into their personal home,
22 and that is where they were preparing their food and that is where they were living.

23 Q. And other than (Redacted), did you hear this from anybody else?

24 A. It is only (Redacted) who told me that. He was also the one who showed me where the
25 members of my family who had been killed during those attacks were buried.

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1 Q. Now, you described how houses were burnt down and doors were broken down.

2 Was anybody in your family, was any of their houses affected?

3 A. No.

4 Q. And you've described what the state of the houses were and the church, was there
5 any other building in Sayo that you saw with your own eyes that was damaged at all?

6 A. There were also some straw houses that had been burnt down and also the houses
7 belonging to Kilo-Moto who -- which had been built by the white people. Some of them
8 had been burnt down. So both houses in brick and straw were damaged.

9 Q. And other than houses or the church, what about any other buildings? Can you
10 remember if there was damage to any other building or buildings in Sayo?

11 A. Yes.

12 Q. And can you explain what other building or buildings had been damaged other than
13 houses and the church?

14 A. There were -- most of the houses were built with straw and other materials, and
15 most of those houses were the ones that had been burnt down.

16 Q. Now, when you went back to the family houses, were -- how -- what -- were all our
17 belongings still there or not?

18 A. The entire house had been burnt down and completely rased to the ground.

19 Q. Are you referring to the family house now?

20 A. It is only the house of my younger brother that had been spared. It had an iron
21 sheet roof, an iron sheet roof. But my house and the house of my father were burnt
22 down and destroyed.

23 Q. And your younger brother's home, were his belongings still inside the house or not?

24 A. The property in the house had been taken away, but the house was spared. Even
25 till today (Redacted)

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1 Q. Mr Witness, I just want to remind you that you're in public session now. We will
2 be making a request for that information to be redacted, but just a reminder that you're
3 currently in public. We will move into private session if need be, but I think we can just
4 simply stay in public for now.

5 Now, Mr Witness, you explained that the belongings in your younger brother's home had
6 all been taken away. What about the neighbours and the other people in living in Sayo,
7 did they have their belongings when you came back, were belongings there or not?

8 A. They took away everything, even from the neighbours' houses. Only a few houses
9 were spared and those houses exist up till today.

10 Q. And when you say they took everything, who is "they"? Who are you referring to?

11 A. I do not know. It is not possible for me to identify them. It was the looters who
12 took away that property.

13 Q. Did you ever learn to what group the looters belonged to, like what ethnic group the
14 looters came from?

15 MR BOUTIN: Mr President, the witness just answered that he doesn't know who the
16 looters were, so obviously their ethnicity I assume he cannot tell us either.

17 MS LUPING: Mr President, if I may respond. I don't think we can assume anything at
18 this stage. I would rather have the answer directly from the witness. He said he doesn't
19 know the identities of the individual looters. Well, that's not very surprising. My
20 question as a follow-up question is whether he learnt what ethnic group the looters
21 belonged to, which is a different question, Mr President.

22 MR BOUTIN: I maintain my objection, your Honour.

23 PRESIDING JUDGE FREMR: The question was "Who are you referring to?" And he,
24 Mr Witness, answered, "I do not know. It is not possible for me to identify them." So
25 the objection is sustained.

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1 Please proceed.

2 MS LUPING:

3 Q. Now, other than property from houses, do you know if property was taken from
4 any other buildings in Sayo?

5 A. I do not know. I do not know whether they took away any other goods.

6 THE INTERPRETER: From the Swahili booth: Can the witness be requested to repeat
7 his answer please?

8 PRESIDING JUDGE FREMR: Mr Witness, could you kindly repeat your answer because
9 it hasn't been captured by the interpreters, please.

10 THE WITNESS: (Interpretation) Please, kindly repeat the question so I should be able
11 to give you the answer.

12 MS LUPING:

13 Q. My question was: Were there any other buildings in Sayo that property was taken
14 away? You mentioned houses, people had their belongings taken by looters. Were
15 there any other types of buildings where belongings were looted?

16 A. In Sayo, Kilo-Moto had built certain brick houses and the inhabitants had built their
17 own brick houses as well as straw houses.

18 Q. And were belongings looted from these Kilo-Moto houses as well?

19 A. This happened a long time ago. Many of those houses are already old and
20 crumbled, but there are still some of those houses existing up till today.

21 Q. Okay, thank you, Mr Witness. My question was slightly different: Did you learn
22 if any property was looted from these brick houses as well?

23 A. The looting took place in all the houses. There were even people living in houses
24 that did not belong to them. So if you were not there someone else occupied your house.
25 And if he had to leave, then they would take away everything in your house. That is

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1 what was happening.

2 Q. Now, when you returned to Sayo, are you aware if the Sayo health centre was fully
3 equipped, whether it had full equipment there when you came back to Sayo?

4 A. Everything was scattered around at that moment in time. The dispensary
5 remained intact; however, all of its equipment was taken away.

6 Q. What do you mean when you say its equipment was taken away? Do you mean
7 that it was also looted; is that what you mean?

8 A. All the equipment had been taken away. There were only the --

9 THE INTERPRETER: Could the witness please be requested to repeat that section of his
10 answer.

11 MS LUPING:

12 Q. Mr Witness, the interpreters are asking if you could please repeat that part of your
13 answer because it wasn't captured for the record.

14 PRESIDING JUDGE FREMR: Mr Witness, at the moment we have on the record your
15 answer starting: "All the equipment had been taken away. There were only" -- and
16 then there is something missing.

17 THE WITNESS: (Interpretation) It was only the empty house that remained.

18 MS LUPING:

19 Q. And to clarify when you say all the equipment had been taken away, do you mean
20 the equipment had been looted?

21 A. Yes, they looted everything. The house remained empty.

22 Q. And focusing now on the Sayo health centre, did you ever --

23 PRESIDING JUDGE FREMR: Ms Luping, I'm sorry, we are even now three minutes
24 behind our schedule. I know that clock is not working, but on my watch it is -- yes, it is
25 half past 1 plus four minutes, so I think we are --

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1 MS LUPING: Apologies, Mr President. My watch is running slow, so that's what I've
2 been running on.

3 PRESIDING JUDGE FREMR: No problem. So I'm sorry I have to interrupt you and --

4 MS LUPING: Understood.

5 PRESIDING JUDGE FREMR: Yes. And we will continue at 3 o'clock. And according
6 to my information you so far exhausted roughly three and a half hours, so you still have at
7 your disposal two and a half hours.

8 MS LUPING: Thank you.

9 PRESIDING JUDGE FREMR: So we break now and we will resume at 3 o'clock.

10 THE COURT USHER: All rise.

11 (Recess taken at 1.34 p.m.)

12 (Upon resuming in open session at 3.02 p.m.)

13 THE COURT USHER: All rise.

14 Please be seated.

15 PRESIDING JUDGE FREMR: Good afternoon everybody. We will continue with the
16 testimony of this witness.

17 Mr Witness, I would like just to say that you are doing very well. You I guess fully
18 followed my guidance, so please proceed in the same way for the rest of your testimony.
19 And before I will give floor to Ms Luping, Ms Luping, just have peace in your mind that
20 you have more than, a bit more than two hours, but you also provided us with a very
21 extensive binder of pictures, so we'll think about that and please come timely with any
22 proposal on the evidence.

23 So, please, floor is yours.

24 MS LUPING: Understood, Mr President. Mr President, before I resume in asking
25 questions, just to note for the record that Ms Samson will need to leave the courtroom

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1 at 4.30 for an appointment.

2 PRESIDING JUDGE FREMR: Thank you. Again, I appreciate that you, you also did the
3 same in the morning with the departure of Mr Bourgon, that you accepted this style we'd
4 like to keep to have perfect record on the presence in the courtroom.

5 But maybe you have another announcement on this?

6 MS PELLET: (Interpretation) Mr President, for the transcription, my colleague
7 Mohamed Abdou is not present this afternoon, just for the record. Thank you.

8 PRESIDING JUDGE FREMR: Thank you very much Ms Pellet. Again, thank you.
9 And now, Ms Luping, you may proceed.

10 MS LUPING: Thank you, Mr President.

11 Q. Mr Witness, before the break you were describing looting that took place at Sayo
12 health centre and you had stated that all the equipment was taken. My question is this:
13 Do you know what the ethnic group was of the looters who took things from the Sayo
14 health centre?

15 A. I'm not in a position to tell you their ethnic group.

16 MS LUPING: Mr President, the next question may be of an identifying nature. If I
17 could seek your leave to move into private session?

18 PRESIDING JUDGE FREMR: Certainly.
19 Court officer, let's move into private session.

20 (Private session at 3.05 p.m.)

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

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 15 (The hearing ends in private session at 5.07 p.m.)