

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 3
8 Wednesday, 8 February 2017
9 (The hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: [9:32:58] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:33:30] Good morning, everyone.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:33:35] Yes, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 And for the record we are in open session.
19 PRESIDING JUDGE FREMR: [9:33:54] Thank you.
20 Now appearances if changed compared to yesterday.
21 Prosecution.
22 MS SIM: [9:34:01] Good morning, Mr President. Good morning, your Honours.
23 There are no changes for the Prosecution bench today.
24 PRESIDING JUDGE FREMR: [9:34:08] Thank you, Ms Sim.
25 Defence, please.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Open Session)

ICC-01/04-02/06

1 MR GOSNELL: [9:34:10] Good morning, Mr President. Appearances are
2 unchanged for Mr Ntaganda this morning.

3 PRESIDING JUDGE FREMR: [9:34:15] Thank you, Mr Gosnell.
4 And Legal Representatives of Victims, please.

5 MR ABDOU: [9:34:20] Good morning, Mr President. Good morning, your
6 Honours. Same composition as yesterday afternoon for the former child soldiers.

7 MR SUPRUN: [9:34:32] (Interpretation) Good morning, your Honours. As regards
8 the victims of the attacks there is no difference to yesterday.

9 PRESIDING JUDGE FREMR: [9:34:43] Thank you, Mr Abdou. Thank you,
10 Mr Suprun.

11 Mr Witness, good morning

12 WITNESS: DRC-OTP-P-0857 (On former oath)

13 (The witness speaks Swahili)

14 THE WITNESS: [9:34:55] (Interpretation) Good morning.

15 PRESIDING JUDGE FREMR: [9:34:56] Mr Witness, we are going to continue with
16 your examination. It's my duty to remind you that you are still under oath, which
17 means that you have to speak truth and nothing but the truth. Do you understand
18 that?

19 THE WITNESS: [9:35:18] (Interpretation) Yes.

20 PRESIDING JUDGE FREMR: [9:35:20] Fine. Now I am giving floor to Ms Sim.

21 Ms Sim, you still have 6 minutes for -- I'm sorry that I had to interrupt you yesterday,
22 but first of all this session was anyway extended a bit and moreover we had some
23 official assignment so that was the reason why I proceeded like that.

24 Now you have the floor and we are in open session.

25 MS SIM: [9:35:46] Thank you, Mr President. I believe we can stay in open session.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Open Session)

ICC-01/04-02/06

1 I have one question for the witness.

2 QUESTIONED BY MS SIM: (Continuing)

3 Q. And that is: Yesterday, Mr Witness, you had said that you had fought with
4 the Lendu combatants group and that had you fought in a number of locations, and
5 I was wondering if you could list the places where you fought, if you could tell the
6 Court the locations where you fought when you were with the Lendu combatants
7 group.

8 A. [9:36:26] When I joined the combatant group I fought in Reti, Bambu and in
9 Mongbwalu. At that point in time, UPC soldiers were attacking the villages.

10 Q. [9:36:53] And if you can remember, when was it that you fought in Reti?

11 A. [9:37:11] I didn't say Geti, I said Reti. Now, the attack took place in September
12 in Reti, 2003. And that same year we went back to Kobu, we were attacked and later
13 we went to fight in Bambu. And before the end of December 2003 or January 2004
14 we fought in Mongbwalu.

15 Q. [9:38:00] And when was the last battle that you fought when you were with the
16 Lendu combatants group?

17 A. [9:38:11] That was the Mongbwalu attack.

18 MS SIM: [9:38:21] Thank you, Mr President. Those are my questions.

19 PRESIDING JUDGE FREMR: [9:38:24] Thank you, Ms Sim.

20 Now I turn to Mr Suprun. Mr Suprun, the Chamber notes your filing number 1752,
21 which was the request in which you sought authorisation to question witness on three
22 topics. So now having heard the Prosecution examination, do you maintain your
23 request?

24 MR SUPRUN: [9:38:53] (Interpretation) Thank you, your Honour. Yes, I do, but I
25 will be very brief. I have very few questions to put to the witness.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Open Session)

ICC-01/04-02/06

1 As regards the first topic, I would like to establish the impact which the events had on
2 the witness; and secondly, I would like to know whether the witness suffered any
3 other harm; and thirdly, I will ask the witness about his expectations in terms of
4 justice and reparations. And I shall require 10 minutes, your Honour.

5 PRESIDING JUDGE FREMR: [9:39:30] Defence, your position?

6 MR GOSNELL: [9:39:32] No objection, Mr President.

7 PRESIDING JUDGE FREMR: [9:39:36] So our ruling is that you are granted
8 10 minutes and usual caveat, please don't be repetitive concerned to questions put by
9 Ms Sim.

10 MR SUPRUN: [9:39:52] (Interpretation) Thank you, your Honour.

11 QUESTIONED BY MR SUPRUN: (Interpretation)

12 Q. [9:40:04] Good morning, Witness.

13 A. [9:40:07] Good morning.

14 Q. [9:40:11] We already know each other, but I shall introduce myself for the
15 purposes of the record. I am Dmytro Suprun and I represent the interests of the
16 civilians who suffered in the attacks in this case against Mr Bosco Ntaganda and I will
17 be putting some questions to you about your experiences during the war.

18 My first question is this. And, your Honour, I know that we are in open court. I
19 would like to go into private session, please.

20 PRESIDING JUDGE FREMR: [9:40:45] Certainly.

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

22 (Private session at 9.40 a.m.) *(Reclassified partially in public)

23 THE COURT OFFICER: [9:41:00] We are in private session, Mr President.

24 PRESIDING JUDGE FREMR: [9:41:02] Thank you, court officer.

25 Mr Suprun, please proceed.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 MR SUPRUN: [9:41:05] (Interpretation)

2 Q. [9:41:10] Witness, you experienced events in Ituri in 2002 and 2003 during which

3 (Redacted). Did those events have any further impact on

4 your life thereafter, on your psychological state and on your further development?

5 And, if so, what?

6 A. [9:41:37] When someone suffers events like this, those events have an impact on

7 him. On me too. Just as you said, I witnessed corpses, (Redacted)

8 (Redacted). I did not expect at all that (Redacted)

9 (Redacted). Then I saw that it had happened very suddenly. I was (Redacted)

10 (Redacted)

11 (Redacted). And that had an impact on my psychological life and on (Redacted)

12 (Redacted). Those

13 events had psychological impact on me. When I think about them, I cry. It is

14 something which happened in my life and there is nothing I could do about it.

15 Q. [9:43:15] And aside from the psychological and emotional harm that you have

16 suffered, have you suffered any other harm, material harm or economic harm?

17 A. [9:43:33] When the enemies came, we were not in the village, the people had

18 fled. And as you know, when there is war, one forgets about one's belongings and

19 so it was that we did not transport our belongings to the house. We had

20 *motorcycles, there were beans, there were foodstuffs that we had harvested from the

21 fields. Everything was looted and burnt. Our clothing too was taken and we had

22 nothing left to clothe ourselves.

23 MR SUPRUN: [9:44:21] (Interpretation) Your Honour, could we go back into

24 public session, please.

25 PRESIDING JUDGE FREMR: [9:44:25] For sure.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Open Session)

ICC-01/04-02/06

1 Court officer, let's return back into open session.

2 (Open session at 9.44 a.m.)

3 THE COURT OFFICER: [9:44:40] We are in open session, Mr President.

4 PRESIDING JUDGE FREMR: [9:44:42] Thank you.

5 Mr Suprun, please.

6 MR SUPRUN: [9:44:46] (Interpretation)

7 Q. [9:44:48] Witness, as a victim of the war in Ituri in 2002-2003 what are your
8 expectations of the International Criminal Court in terms of justice at the conclusion
9 of these proceedings against Bosco Ntaganda?

10 A. [9:45:12] Well, I can state this: I would like to see justice done by the Court in
11 a fair fashion and that those who are responsible are convicted.

12 Q. [9:45:31] And if Bosco Ntaganda were to be convicted at the end of this trial,
13 would you wish to receive reparations for what you suffered?

14 A. [9:45:41] We, like other victims of that incident, have seen that the Court has
15 been seized of the matter and has arrested Bosco Ntaganda. The Court knows full
16 well that at the conclusion of the proceedings there are reparations and that all the
17 victims that suffered harm should receive reparation. This is the process which the
18 court is following and I can't force the Court to make me a beneficiary of reparations,
19 but given that reparations are part of the proceedings of the Court, then I shall
20 naturally be a beneficiary.

21 Q. [9:47:08] Witness, thank you very much for your answer.

22 MR SUPRUN: (Interpretation) Your Honour, I have no further questions.

23 PRESIDING JUDGE FREMR: [9:47:13] Thank you, Mr Suprun.

24 Now I am giving floor to Mr Gosnell.

25 Defence, you have your two hours.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 MR GOSNELL: [9:47:29] Thank you very much, Mr President.

2 QUESTIONED BY MR GOSNELL:

3 Q. [9:47:30] Good morning, Mr Witness. My name is Christopher Gosnell, I will
4 be asking you some questions this morning on behalf of the Defence. And I would
5 like to start by asking you a few questions about your background.

6 MR GOSNELL: So we will have to, Mr President, move into private session.

7 PRESIDING JUDGE FREMR: [9:47:52] Court officer, let's move into private session
8 now.

9 (Private session at 9.48 a.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: [9:48:04] We are in private session, Mr President.

11 PRESIDING JUDGE FREMR: [9:48:08] Thank you, court officer.

12 Mr Gosnell, please.

13 MR GOSNELL: [9:48:12] Thank you.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 Q. [9:49:48] (Redacted)

2 (Redacted)

3 A. [9:50:01] Yes.

4 Q. [9:50:04] And in addition to speaking Swahili and Lendu, you speak French,
5 correct?

6 A. [9:50:21] That's right.

7 Q. [9:50:23] Have you ever heard of a section of the Court, of this Court called the
8 Victims Participation and Reparations Section?

9 A. [9:51:05] Yes, yes, I have heard of the VPRS section.

10 Q. [9:51:13] Thank you. You have used the acronym by which it is perhaps more
11 commonly known. And can you tell us how you know that acronym and the section
12 for which that acronym stands?

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 MR GOSNELL: [10:03:11] May we have tab (Redacted), please. Excuse me,
- 16 tab -- yes, tab (Redacted). It is (Redacted).
- 17 Q. Coming up on the screen in front of you is your application form to participate
- 18 as a victim. In addition to reading -- or speaking French, do you read French?
- 19 A. [10:04:28] Yes, I can read French.
- 20 Q. [10:04:34] At the bottom of this page - if we can please scroll down a little bit - is
- 21 that your signature, above where it says "signature de la victime"?
- 22 A. [10:05:05] I can't see the signature very clearly.
- 23 MR GOSNELL: [10:05:10] Could we zoom in on the signature, please and perhaps
- 24 increase the contrast.
- 25 THE WITNESS: [10:05:10] (Interpretation) Perhaps it be zoomed on my screen.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 MR GOSNELL: [10:05:15] And perhaps the contrast could be adjusted if it's too
2 dark.

3 Q. Is that your signature, sir?

4 A. [10:05:30] Yes.

5 Q. [10:05:35] And underneath that we see a number next to the date, it says
6 (Redacted)/2003. That date is not correct, is it?

7 A. [10:05:50] This date is not correct. Because when the VPRS group (Redacted)
8 (Redacted), not 2003. I think this must be an error by the person noting it.

9 Q. [10:06:24] Do I understand that the proper year would be (Redacted) not 2003?

10 A. [10:06:44] The VPRS group came in (Redacted), not in 2003. 2003, it was still
11 during the confrontations. (Redacted)

12 (Redacted)

13 Q. [10:07:02] And what do you understand the notation of the date to be? Does it
14 mean (Redacted) 2003?

15 A. [10:07:20] Yes.

16 Q. [10:07:23] And so that means that the proper date of this document would be
17 (Redacted), correct?

18 A. [10:07:35] Yes.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 MR GOSNELL: [10:13:30] I'm done with this document. Well, I would request it be
7 tendered before leaving from the screen.

8 PRESIDING JUDGE FREMR: [10:13:43] Prosecution, any objection?

9 MS SIM: [10:13:47] Is the document being tendered to impeach the witness or
10 simply as further evidence?

11 PRESIDING JUDGE FREMR: [10:13:57] I understood if it's not said that it is for the
12 purpose of impeachment, so as the -- to involve the content. Am I right? All right.
13 So, Ms Sim, your position?

14 MS SIM: [10:14:08] Well, as it happens, in due course, when the material has been
15 read into the record, there doesn't seem to be a reason to also submit the document
16 since the witness hasn't been able to respond to any of the other issues that counsel
17 may wish to raise.

18 PRESIDING JUDGE FREMR: [10:14:24] Objection is overruled. The document
19 is admitted into evidence as a further Defence exhibit.

20 MR GOSNELL: [10:14:33]

21 Q. [10:14:34] Yesterday -- now I am done with the document. Thank you very
22 much.

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [10:16:47] Mr Witness, I understand you wanting to give us a lot of details
11 concerning this matter, but the Defence is now asking questions in a bit of a different
12 way than the Prosecution, I am seeking very specific information, so if I could ask you
13 to focus very precisely on my questions and try just to answer the specific question
14 that I ask, that would be very, very helpful. Do you understand?

15 A. [10:17:18] Yes.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 Q. [10:29:08] May we have (Redacted), tab (Redacted).

4 And if we could turn, please, to (Redacted). I will read, Mr Witness,

5 what you are recorded as having told the Prosecution during your first interview

6 with them, at least your first interview in which a formal statement was produced.

7 And it says: "The second time, when the UPC was in control of the Kobu area and

8 the surrounding villages (Lipri, Kobu, Bambu, Nyangarai), I heard transmission on

9 the Motorola (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted). I think that the UPC wanted to avoid an open battle and

15 looked for other ways of making people (Redacted) and other places inhabited by

16 Lendu to come out of their hiding places. (Redacted)

17 (Redacted)

18 (Redacted)

19 Now, Mr Witness, you were not asked questions about the content of this paragraph

20 yesterday and I would like to know whether, when you read over this paragraph last

21 week, did you say anything to the Prosecution about whether you still stood by this

22 claim, or whether you were sure about its content?

23 A. [10:32:37] We didn't change the content. I didn't say that we changed the

24 content (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted). They
2 continued their discussion and a question was put, "What is the situation where
3 you are now? How is the combat going?" And he said that there should be
4 a change of strategy and to go (Redacted) to talk with the local people
5 about bringing about peace. And the person in Kobu said, "Okay" and said that the
6 commander in Kobu agreed that there should not be a change.
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11 Page redacted

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [10:53:53] And then when you went back the next day, would it be fair to say
20 that there were more people there at the scene than there had been there on the first
21 day, there was a larger group of people?

22 A. [10:54:16] Yes, there were a lot of people. Some had come from Buli, others
23 had come from Gutsi. They had come from various quarters. A lot of people.

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0857

1 MR GOSNELL: [10:59:46] Mr President, I see it's 11 o'clock.

2 PRESIDING JUDGE FREMR: [10:59:48] Yes, you are right, Mr Gosnell.

3 So we will -- and let's move into open session for remainder of this session.

4 (Open session at 11.00 a.m.)

5 THE COURT OFFICER: [11:00:14] We are in open session, Mr President.

6 PRESIDING JUDGE FREMR: [11:00:19] Thank you, court officer.

7 So now we are taking our regular morning break for 30 minutes.

8 For your information, Mr Gosnell, you still have roughly 45 minutes. And we will

9 reconvene at half past 11.

10 THE COURT USHER: [11:00:37] All rise.

11 (Recess taken at 11.00 a.m.)

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

13 THE COURT USHER: [11:32:34] All rise.

14 Please be seated.

15 PRESIDING JUDGE FREMR: [11:33:00] We are going to continue with the

16 remainder of cross-examination of our witness.

17 Mr Gosnell, you have the floor and we are in open session. Is it possible to remain in?

18 No. All right. Understandable.

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

20 (Private session at 11.33 a.m.) *(Reclassified partially in public)

21 THE COURT OFFICER: [11:33:30] We're in private session, Mr President.

22 PRESIDING JUDGE FREMR: [11:33:41] And before continuing, I was a little bit

23 imprecise as concerning the time remaining. Court officer, how much time

24 Mr Gosnell still has?

25 THE COURT OFFICER: [11:33:57] 49 minutes, Mr President.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [11:33:59] Thank you for this clarification.

2 MR GOSNELL: [11:34:06]

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11 Page redacted

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [11:50:35] Thank you.

7 MR GOSNELL: I tender this document, Mr President.

8 PRESIDING JUDGE FREMR: [11:50:39] Ms Sim, any objection?

9 MS SIM: [11:50:43] No.

10 PRESIDING JUDGE FREMR: [11:50:43] So this document is admitted into evidence
11 as a further Prosecution -- pardon, as a further Defence exhibit.

12 MR GOSNELL: [11:50:55]

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 MR GOSNELL: [11:52:49] May we have (Redacted), tab (Redacted). It is the

2 witness's statement from (Redacted). And if we could turn to ERN page (Redacted).

3 THE COURT OFFICER: [11:53:28] The document will be displayed on the evidence

4 1 channel.

5 MR GOSNELL: [11:53:41]

6 Q. [11:53:41] Let me read to you a portion from (Redacted) of your statement,

7 Mr Witness, quote:

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Now, Mr Witness, is that information that you give there in your statement correct?

12 A. [11:54:36] Yes. These people had been -- were buried when I was there. I was
13 present.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 MR GOSNELL: [11:59:15] May we have (Redacted). That's tab (Redacted).

22 Q. Now, Mr Witness, this is a sketch that you prepared during your -- the giving of
23 your statement in (Redacted), and you have indicated (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [12:00:56] And this rectangle number 4, how many people were buried in that
5 location?

6 A. [12:01:11] I don't know how many people were buried in the fourth, because
7 I didn't pay a lot of attention to know how many people were there.

8 MR GOSNELL: [12:01:25] Mr President, I tender this sketch.

9 PRESIDING JUDGE FREMR: [12:01:28] Ms Sim, any objection?

10 MS SIM: [12:01:29] No objection.

11 PRESIDING JUDGE FREMR: [12:01:33] The sketch is admitted into evidence as
12 a further Defence exhibit.

13 MR GOSNELL: [12:01:41]

14 Q. [12:01:42] How many bodies, if any, did you see taken away from the burial site
15 to be buried elsewhere?

16 A. [12:02:00] I wasn't able to count how many bodies were taken away. When I
17 arrived there were people who had already -- they had already taken bodies, so I
18 wasn't able to know how many were taken to the village and how many remained in
19 terms of bodies. I also didn't know where, or the exact place where these bodies
20 were. But some people went to Buli, some people stayed in Kobu, others went to the
21 locality of Gutsi. That's it.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [12:07:14] May we have (Redacted), please, tab (Redacted), page (Redacted),
23 please, (Redacted).

24 Mr Witness, here in your statement you are describing dates of certain battles that

25 you participated in, or you say you participated in and what it says is the following:

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0857

1 "At the beginning of 2004, I fought against the UPC in Mabanga and in Nizi, then in
2 April 2004 the UPC attacked and settled for 3 days in Mongbwalu. I was in the
3 group of the Lendu community defence that defended Mongbwalu and chased the
4 UPC out."

5 Now, Mr Witness, just so you understand I am not saying that this is different than
6 what you have testified to yesterday, but I'm asking you whether this information is
7 correct in terms of the year in which these battles occurred, according to you?

8 A. [12:08:53] The information with regards to Mongbwalu is correct.

9 Q. [12:09:00] Mr Witness, the information I have is that the events that you are
10 describing here in particular, that there was a UPC attack on Mongbwalu which
11 involved the UPC being there for three days and then being chased away by Lendu
12 combatants. That's an event that correspond to events that occurred in
13 November 2002 and that there's no such event that occurred in 2004. Is it possible
14 that you are confused about the dates of this battle in which you participated?

15 A. [12:09:50] Very well, I can explain myself once again. The first time the UPC
16 troops entered Mongbwalu that was in 2002. They continued, they even took Kilo
17 and Kobu. Kobu was taken in 2003, all of Kobu. And having left Kobu, it was the
18 Ugandans who drove them out of Mongbwalu. The Ugandans helped the Lendu to
19 drive UPC troops out of Mongbwalu. The UPC troops left Mongbwalu, Mongbwalu
20 was freed therefore, or liberated.

21 Now, afterwards, when the -- when there was more clear structure of combatants,
22 took on the name of FNI and the military wing FRPI, that's how they started to
23 organise themselves in different localities. And it was afterwards that the UPC
24 attacked Mongbwalu for three days. The events in November took place well before.
25 It was the shika na mukono operation. And it was after 2004 that they arrived.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 They attacked Mongbwalu and they stayed for three days. After the combatants
2 drove them out of Mongbwalu the last time, there was no further attack on that
3 locality.

4 Q. [12:11:46] Is your testimony that there was an attack in Mongbwalu in
5 2004 -- excuse me, is it your testimony that you fought in a battle in Mongbwalu in
6 2004 involving Lendu combatants and the UPC? And when I say Lendu combatants,
7 it can be the FNI or the FLPC.

8 A. [12:12:32] The UPC -- no, the FNI was a Lendu movement which had taken over
9 the locality. But I don't remember exactly the month in which the UPC troops took
10 Mongbwalu definitively. I remember that there was another war, a three-day war in
11 Mongbwalu in which the UPC troops were driven out when they had spent three
12 days in that locality.

13 Now as to the November battle, November 2002, that was the start of the UPC
14 operations from Mongbwalu, Kilo and *Mongbwalu during the operation called shika
15 na mukono. But it wasn't in 2004, that was well before. However, after 2003, the
16 UPC troops came back to Mongbwalu, they attacked Mongbwalu and they stayed
17 there for three days.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. [12:15:52] May we turn, please, to page (Redacted) of the document on the
8 screen, (Redacted).

9 Again, from your (Redacted) statement, Mr Witness, quote:

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 A. [12:16:52] At that time there was the group of combatants which wasn't well
15 structured. If he came from a government you could give him a precise title, but
16 with us --

17 Q. [12:17:14] Can I just with the greatest of politeness ask you to just directly answer
18 my question, which was specifically why did you refer to him as (Redacted)

19 A. [12:17:24] Very well. He was one of the combatants. Everybody called him
20 (Redacted) because he was the one who led the combatants on the battlefield. He
21 was the one who led the fighting. That's why everybody called him (Redacted).

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 A. [12:19:21] I don't know the exact number of people who were under his

6 command, but I know that he was the person responsible or the person in charge.

7 He was the one who led the troops when there was an attack. He knew how many

8 people were to be sent to which area. I don't have any details with regards to the

9 names or numbers of troops.

10 Q. [12:19:53] And just one last question, Mr Witness, and may we please have

11 (Redacted). And again, Mr Witness, this is your victim application form

12 which you've told us was written on (Redacted) -- or at least is signed (Redacted).

13 And that would be (Redacted) before the statement

14 that you gave to the Prosecution where you describe (Redacted)

15 (Redacted).

16 And if we could zoom in a little bit on the text, we see your description of the

17 personal harms that you have suffered and you refer to (Redacted)

18 (Redacted)

19 (Redacted) Can you explain why you didn't mention (Redacted)

20 (Redacted) in this statement?

21 A. [12:21:46] Very well. There wasn't enough room on this form. When I was

22 given it, I was asked to give a short account and told that details would be given later.

23 (Redacted)

24 Later, we were going to give details. If this application would be accepted, details

25 would be given to other people, (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 PRESIDING JUDGE FREMR: [12:22:40] Mr Gosnell, last minute.

3 MR GOSNELL: [12:22:44]

4 Q. [12:22:46] But there was enough room on this paper to mention the pillage

5 (Redacted)

6 nine chickens, five pairs of pants and three shirts. Why did you include that

7 information (Redacted)

8 (Redacted)

9 A. [12:23:29] (Redacted)

10 (Redacted). He asked me if things had been

11 pillaged. I also gave the list of items that had been pillaged by way of a summary.

12 And later, if the application is accepted, we were going to give a lot more details.

13 That's what the explanation was.

14 Q. [12:24:17] Thank you very much, Mr Witness.

15 MR GOSNELL: And thank you, Mr President.

16 PRESIDING JUDGE FREMR: [12:24:20] Now, Ms Sim, any request for redirect?

17 MS SIM: [12:24:24] I have one fairly short topic that I would like to redirect on.

18 PRESIDING JUDGE FREMR: [12:24:30] You know, sometimes the issue of topic is

19 a bit vague, so how many minutes you would like to get?

20 MS SIM: [12:24:37] I would say five minutes.

21 PRESIDING JUDGE FREMR: [12:24:38] All right.

22 QUESTIONED BY MS SIM:

23 MS SIM: [12:24:43]

24 Q. [12:24:44] Mr Witness, this morning when you were answering questions about

25 this victim application form that is up on the screen - page 14, line 11 for

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 Defence counsel - you said that there was an error by the person noting it, and that
2 was when you were talking about how the date was 2003 and it should have been
3 (Redacted). So my question is: Did anybody help you when you were filling out
4 this form?

5 A. [12:25:25] Very well. Nobody helped me fill out the form, who told me "write
6 this," no. There is a problem with the date. What I wrote was in another document,
7 and the person who copied it probably made a mistake regarding the date. I wrote
8 on another piece of paper and that person recopied it from the piece of paper onto the
9 form and probably made a mistake regarding the date.

10 Q. [12:26:30] And when you had the opportunity to review this victim application
11 form last week, did you notice any other errors other than the date that were on this
12 form, on this page or in any of the other pages of the form?

13 A. [12:26:56] You are speaking about the form in front of me?

14 Q. [12:27:01] Yes, that form. That page and any of the other pages that came after
15 it.

16 A. [12:27:19] As regards this form, I would state the following: We were advised
17 and then we signed and then we saw the date, it was 2003. And I immediately saw
18 that in 2003 there weren't people that had arrived in 2003 (Redacted); it was, rather, in
19 (Redacted). Now, at the end of the document that I compiled, it was (Redacted).
20 And it was recently that I noted this error regarding the date.

21 MS SIM: [12:28:18] Could I have the court officer turn to page 0056 of this same
22 document.

23 Q. Do you see that page on the screen now, Mr Witness? And looking at the
24 information --

25 A. [12:28:46] Yes.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 Q. [12:28:48] And looking at the information on that page, is everything there
2 correct or is there anything else that was incorrect in this document?

3 A. [12:29:08] I find that there is also an error here. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. [12:30:29] And just to be clear, is this your handwriting on this page of this
12 document? Is that your handwriting?

13 A. [12:30:39] No. That's not my handwriting. I said that I had written
14 information concerning me on another sheet of paper and it was somebody else who
15 re-transcribed it onto this document.

16 MS SIM: [12:31:03] Thank you, Mr President. Those are my questions.

17 PRESIDING JUDGE FREMR: [12:31:05] Thank you, Ms Sim.

18 Mr Gosnell, any need for recross-examination?

19 MR GOSNELL: [12:31:21] No, Mr President. Thank you.

20 PRESIDING JUDGE FREMR: [12:31:23] All right. I will have two, two probably
21 questions for Mr Witness.

22 Mr Witness, according my notes, and I am referring to transcript, English transcript
23 page 111, line 11 you said, you said yesterday about your involvement in the group of
24 Lendu combatants, and now I am quoting your testimony:

25 "It's true that I did go and fight, but my aim was not achieved. I gradually realised I

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 should step back from this group." Could you be, Mr Witness -- unquote. Could
2 you be, Mr Witness, more specific about that? What made you to step back from this
3 group?

4 THE WITNESS: [12:32:46] (Interpretation) In terms of the decision to leave this
5 group, this was part of other decisions I was making. The organisation of combatant
6 groups started in 2004. (Redacted)

7 (Redacted)

8 (Redacted)

9 THE INTERPRETER: [12:33:36] And the Swahili interpreter says he didn't catch the
10 location of the brigade.

11 THE WITNESS: [12:33:46] (Interpretation) But then I thought perhaps I should enrol
12 as a soldier and that's why I then decided I had to leave to continue with my studies
13 and that's what pushed me to leave the group.

14 THE INTERPRETER: And the first place was (Redacted). Correction from the
15 Swahili booth.

16 PRESIDING JUDGE FREMR: [12:34:12] And my second and probably last question.
17 If I understood well, that time when you, when you were a member of this group,
18 your age was (Redacted), something like that?

19 THE WITNESS: [12:34:35] (Interpretation) Yes.

20 PRESIDING JUDGE FREMR: [12:34:37] And were there any younger fellow
21 combatants within the group?

22 THE WITNESS: [12:34:48] (Interpretation) In this group I didn't know the various
23 ages of the combatants because I didn't know their dates of birth. There were some
24 who were small in size, but who were older. And others seemed to be adults but
25 were minors. I didn't know their different ages and the people in charge didn't

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Private Session)

ICC-01/04-02/06

1 know my age either.

2 PRESIDING JUDGE FREMR: [12:35:40] And now really last question. And were
3 there also some female combatants?

4 THE WITNESS: [12:35:47] (Interpretation) The girls *who felt strong enough were
5 also involved in combat.

6 PRESIDING JUDGE FREMR: [12:36:05] Thank you, Mr Witness. I don't have any
7 further questions. Do my colleagues have any questions? I don't think so.
8 So now let's move into open session.

9 (Open session at 12.36 p.m.)

10 THE COURT OFFICER: [12:36:21] We are in open session, Mr President.

11 PRESIDING JUDGE FREMR: [12:36:34] Thank you, court officer.

12 Mr Witness, it concludes your testimony. I would like to thank you that you
13 underwent such a long journey and that you testified, even if this testimony also
14 includes some maybe painful, painful memories. But we appreciate that you come
15 and that you patiently answered all questions put to you, and I believe that your
16 testimony will assist us in our effort to find the truth in this case.

17 So I thank you, Mr Witness, and we wish you safe journey home.

18 And now, court usher, please assist Mr Witness to leave the courtroom.

19 (The witness is excused)

20 PRESIDING JUDGE FREMR: [12:37:49] And having concluded this testimony we
21 are done with the agenda for today.

22 Since the next -- Mr Gosnell, please.

23 MR GOSNELL: [12:37:59] May I raise one procedural matter quickly? It may be the
24 most efficient way of dealing with it.

25 PRESIDING JUDGE FREMR: [12:38:05] Go ahead.

Trial Hearing
WITNESS: DRC-OTP-P-0857

(Open Session)

ICC-01/04-02/06

- 1 MR GOSNELL: [12:38:05] It concerns the disclosure of the Defence
- 2 cross-examination list for P-116. The preparation session, as I understand it, will
- 3 continue this afternoon and your Honours issued a ruling on 7 November 2016,
- 4 page 38, line 20, in which you said, quote: "A cross-examining party may, however,
- 5 apply to the Chamber to delay provision of such a list in particular circumstances.
- 6 For example, where exceptionally witness preparation may not have been
- 7 completed." End quote.
- 8 So I would request on the basis of that decision that indeed we be permitted to delay
- 9 disclosure of our cross-examination list until the Prosecution has completed its
- 10 preparation with P-116.
- 11 Thank you very much, Mr President.
- 12 PRESIDING JUDGE FREMR: [12:39:08] Prosecution, any objection to that?
- 13 MS SIM: Thank you, Mr President. Of course it sort of depends on how delayed
- 14 the delay would be. So we sympathise with Defence counsel's position on wanting
- 15 to have full information before they provide their list, but also need to preserve our
- 16 position to be able to prepare for --
- 17 PRESIDING JUDGE FREMR: [12:39:29] Because at the moment I think our plan is
- 18 that we should start this testimony via video at 11.30. So would it be feasible for you,
- 19 Mr Gosnell, to provide Prosecution at least one hour before beginning of testimony
- 20 with such a list?
- 21 MR GOSNELL: [12:39:47] Certainly, Mr President, as long as the preparation is
- 22 completed before then and I imagine it will be.
- 23 PRESIDING JUDGE FREMR: [12:39:52] I am still building this negotiation on the
- 24 presumption that the preparation will finish this evening, so I guess it then should be
- 25 feasible, even for you, to have one hour before start of examination-in-chief, this list.

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0857

1 Would it be sufficient for Prosecution?

2 MS SIM: [12:40:17] That sounds like a reasonable position to take, and if we have
3 issues or if there is something extraordinary that happens and we need to bring that
4 to your attention, we can do it at the time.

5 PRESIDING JUDGE FREMR: [12:40:27] All right. So under those conditions I think
6 there is common agreement that we will proceed in such a way. So even I open this
7 issue so this witness is planned to be heard in two sessions tomorrow, first one from
8 11.30 till 1 p.m. and the second one, 2.30 till 4 p.m. and the rest should be done on
9 Friday.

10 So if there are no further requests for the floor, we adjourn now and we will continue
11 tomorrow 11.30.

12 THE COURT USHER: [12:41:06] All rise.

13 (The hearing ends in open session at 12.41 p.m.)

14 RECLASSIFICATION REPORT

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