

Trial Hearing
WITNESS: DAR-OTP-P-0878

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and
7 Judge Althea Violet Alexis-Windsor
8 Trial Hearing - Courtroom 2
9 Thursday, 8 September 2022
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:47] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:32:11] Yes. Good morning, all.
15 Could we call the case please.
16 THE COURT OFFICER: [9:32:18] Good morning, Madam President. Good
17 morning, your Honours.
18 This is the situation in Darfur, Sudan, in the case of The Prosecutor versus
19 Ali Muhammad Ali Abd-Al-Rahman, case reference ICC-02/05-01/20.
20 And for the record, we're in open session.
21 PRESIDING JUDGE KORNER: [9:32:33] Yes. Thank you very much.
22 Yes, appearances.
23 Prosecution.
24 MR NICHOLLS: [9:32:37] Good morning, your Honour. Good morning everybody
25 in the courtroom. Julian Nicholls with Edward Jeremy, Claire Sabatini and

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- 1 Diana Saba. Thank you very much.
- 2 PRESIDING JUDGE KORNER: [9:32:49] Representatives for victims.
- 3 MS VON WISTINGHAUSEN: Yes.
- 4 MR NICHOLLS: [9:32:51] And Mohanad Elkholy. I'm sorry, he came in a minute
5 late today.
- 6 MS VON WISTINGHAUSEN: [9:32:56] Good morning, Madam President,
7 your Honours. Good morning to everyone in and around the courtroom. The
8 common Legal Representatives of Victims are represented today by associate counsel
9 Anand Shah, case manager Idriss Anbari, and our new legal intern Nur Mahameed.
10 And myself, Natalie von Wistinghausen. Thank you.
- 11 PRESIDING JUDGE KORNER: [9:33:15] Yes. Thank you, Ms von Wistinghausen.
12 And the Defence.
- 13 MR LAUCCI: [9:33:19] Good morning, Madam President. Good morning,
14 your Honours. Good morning, colleagues. Good morning, Mr Witness. On
15 the side of Mr Ali Muhammad Ali Abd-Al-Rahman present in the courtroom this
16 morning, Madam Camille Divet, assistant evidence reviewer; Mr Ahmad Issa, case
17 manager, Madam Vanessa Grée; legal assistant; my colleague, Iain Edwards; and
18 myself, Cyril Laucci, counsel.
- 19 PRESIDING JUDGE KORNER: [9:33:46] Yes. Thank you very much, Mr Laucci.
20 Yes. Anything else?
- 21 MR LAUCCI: [9:33:52] Yes, Madam President.
- 22 MR NICHOLLS: [9:33:54] Sorry to interrupt. I'm not sure exactly what my friend is
23 going to say. I heard there's a submission. I think perhaps (Overlapping speakers)
- 24 PRESIDING JUDGE KORNER: [9:34:02] The witness should leave court then
25 perhaps.

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1 MR NICHOLLS: [9:34:07] for the witness, it should perhaps not be in front of the
2 witness.

3 PRESIDING JUDGE KORNER: [9:34:09] Is it to do with the witness, Mr Laucci?

4 MR LAUCCI: [9:34:10] It has to do. I have no problem to do it in front of him.

5 PRESIDING JUDGE KORNER: [9:34:14] well, no, I think it is better, if that's -- yes.

6 MR NICHOLLS: [9:34:16] Thank you.

7 PRESIDING JUDGE KORNER: [9:34:16] Thank you.

8 Did you notify the Court that -- that there was going to be a submission this morning?
9 Because I wouldn't have had the witness in.

10 MR LAUCCI: [9:34:24] I did not. I informed my colleagues, but I did not notify the
11 Court. But that -- that will be very short.

12 PRESIDING JUDGE KORNER: [9:34:26] All right. I know. But can you in future,
13 Mr Laucci, if you're going to do something like that, tell the Court.

14 MR LAUCCI: [9:34:33] I will.

15 PRESIDING JUDGE KORNER: [9:34:34] Yeah. Thank you.

16 Sir, good morning to you. And I'm sorry, I'm afraid we're just going to ask you to
17 leave court briefly this morning before you continue with your evidence.

18 So the court officer will go with you.

19 (The witness exits the courtroom)

20 PRESIDING JUDGE KORNER: [9:35:11] Yes, Mr Laucci, what's the problem?

21 MR LAUCCI: [9:35:13] Yes, Madam President. Well, we have been extremely
22 patient and quiet yesterday afternoon, but all along his appearance, the -- the witness
23 has kept using, well, at least once, derogative word, and especially --

24 PRESIDING JUDGE KORNER: [9:35:32] In Arabic, do you mean?

25 MR LAUCCI: [9:35:35] Yes. But it was translated. I mean, he used the word

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1 "criminal". It's at page 59, line 6. But throughout there was also repeated body
2 language pointing at my client and looking at him. I'm directly in the line of sight.
3 I can tell you that this body language was not at all pleasant and I think it's -- it's
4 unnecessary.

5 It is on record that the witness is identifying our client as Ali Kushayb. There is no
6 challenge about that record -- that identification by -- by the witness, but I think for
7 good order and for the dignity of these proceedings, the witness should be requested
8 to stop, to focus on what he has to say without entering into derogatory language or
9 provocative body language as he has done yesterday.

10 PRESIDING JUDGE KORNER: [9:36:41] I mean, certainly nobody can have failed to
11 notice his attitude towards your lay client. I mean, in one sense it could be said
12 that's an asset to you, but it -- it's a bit difficult.

13 When you say "derogatory language", calling somebody a criminal, obviously that's
14 what he says your client is. That is not going to influence us at all. We decide this
15 case on the evidence. And so the fact that he uses that word ...

16 MR LAUCCI: [9:37:26] My concern, Madam President, is not the impact of this on
17 your Honours. My concern is that Mr Ali Muhammad Ali Abd-Al-Rahman is not
18 expected to endure that when he is in the courtroom. I mean, it's -- it's -- he is -- he is
19 an accused and he appears before this Court. It is not to get insulted or pointed at
20 like this. It's, I mean, for -- for question of dignity, I think that is not acceptable.

21 PRESIDING JUDGE KORNER: [9:37:59] Yes, Mr Nicholls.

22 MR NICHOLLS: [9:38:01] Just very briefly, your Honour. I don't think it's unusual
23 for a witness in this type of trial, or in a domestic criminal trial, to have --

24 PRESIDING JUDGE KORNER: [9:38:11] Mr Laucci, sit down while Mr Nicholls is
25 standing up would you. Thank you.

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1 MR NICHOLLS: [9:38:17] -- to have those views. I don't believe the term criminal,
2 as you said, your Honour, of course it wouldn't affect your Honours and
3 it's -- the witness is expressing himself. I think it's natural for a witness to point at
4 the accused. He was trying to make sure it was unambiguous who he was referring,
5 which my friends have conceded.

6 Mr Abd-Al-Rahman may not like it, but he's on trial, and I don't think the witness
7 should be instructed at this stage. The witness, to me, has not crossed any lines and
8 has pointed at the witness, expressed himself. He's answering the questions as best
9 he can, so I don't see a problem here.

10 PRESIDING JUDGE KORNER: [9:38:57] Yes.

11 My reaction is that it's -- it's quite difficult to say to a witness, who hasn't actually
12 overstepped the line in the fact that the language he uses is either discriminatory or
13 ethnically obnoxious, or whatever. And the fact that he keeps on pointing to your
14 client is, as you say, I don't think anybody disputes he recognises, if nothing else, and
15 we will be undoubtedly taking that into account from the reports of this trial, if
16 nothing else, your client.

17 I'll just consult for a moment my colleagues.

18 (The Trial Chamber confer)

19 PRESIDING JUDGE KORNER: [9:41:11] I think we'll rise in order to -- to discuss this
20 properly, because it's a bit difficult when we're all sitting here. In the States I know
21 everybody approaches the bench, but we'll rise just to consider this matter, Mr Laucci,
22 Mr Edwards.

23 THE COURT USHER: [9:41:33] All rise.

24 (Recess taken at 9.41 a.m.)

25 (Upon resuming in open session at 9.48 a.m.)

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1 THE COURT USHER: [9:48:22] All rise.

2 Please be seated.

3 PRESIDING JUDGE KORNER: [9:48:51] Yes.

4 Mr Laucci and Mr Nicholls, we've considered this and we are prepared to say a little
5 bit to him. Not quite in the terms you've asked for, Mr Laucci, but I think in
6 the interests of the smooth continuance of this trial, it would probably help if I -- well,
7 it probably won't help at all, but we will see what we can do in respect of, firstly, that
8 the speed and the length at which he's answering questions. And we will point out
9 to him that although, obviously, he believes he's a criminal, that in the end is a matter
10 for us to decide at the end of the case.

11 But for future reference, Mr Laucci, this sort of discussion certainly can't be held in
12 front of a witness. I know you said that the witness could stay in, but obviously, it
13 can't be in front of him.

14 MR LAUCCI: [9:50:07] Yes, well noted. And I will provide a notice to the -- to
15 the Chamber.

16 PRESIDING JUDGE KORNER: [9:50:13] Yes. Well, let's have the witness back in
17 again.

18 (The witness enters the courtroom)

19 PRESIDING JUDGE KORNER: [9:51:27] Sir, I'm sorry that we had to keep you
20 waiting. Can I just say a couple of things to you before you continue your evidence.
21 You will recall yesterday afternoon you were in the middle, or maybe finished, giving
22 a long answer and we broke there with -- you may remember I said to
23 Mr Jefferys -- Mr Jeremy that he would need to go back over your very, very long
24 answer. And, really, arising from that, can I make a couple of suggestions to you.
25 First, that you really listen to the question you're asked and just give an answer to

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1 the question. If anybody who's asking you questions wants further details, they'll
2 ask for them.

3 Second, we all appreciate in this -- in this Court that these events are events which
4 obviously cause you to become emotional. I think that's a way of possibly putting it.
5 But try not to get too emotional when you recount the events that you are asked about.
6 I think it will make it better for the way that your evidence comes across.

7 And third, nobody disputes that the man sitting in the dock you've pointed out as
8 the man who's Ali Kushayb, so you don't need to keep pointing at him. And you
9 called him a criminal. Now, we all understand that that's your strong belief in this
10 case, but it's perhaps worth pointing out to you that at the end of the day it's for us,
11 the Judges, to decide whether the evidence shows that he is actually a criminal and he
12 doesn't legally become a criminal unless and until we convict him of these crimes.

13 So I hope that's clear. This is really in an effort to help you, because particularly if
14 you keep your answers shorter, you will finish giving your evidence quicker.

15 Otherwise, it means if you give these very long answers, that people have to ask
16 further questions and go back over them.

17 So I hope that's clear to you and I hope that helps you.

18 Yes, Mr Jeremy.

19 WITNESS: DAR-OTP-P-0878 (On former oath)

20 (The witness speaks Arabic)

21 THE WITNESS: [9:55:15](Interpretation) Thank you very much, your Honours.

22 And I apologise for anything really.

23 QUESTIONED BY MR JEREMY: (Continuing)

24 Q. [9:55:29] Good morning, sir.

25 And good morning, your Honours.

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1 Now, sir, I want to return to the answer that you provided at the end of your
2 testimony yesterday afternoon.

3 And you'll recall that this was in relation to the arrival by Ahmad Harun and
4 a delegation to Mukjar on 9 August 2003.

5 So, firstly, sir, in relation to certain locations, so you mentioned you saw
6 the helicopter land to the east of the mobile forces garrison. And then you
7 mentioned a private meeting took place.

8 Now my question, sir, is what was the location of this private meeting? This closed
9 meeting I think you referred to.

10 A. [9:57:02] Yes. The meeting was held in the meeting room inside
11 the municipality.

12 Q. [9:57:21] And you mentioned yesterday those persons who were present at the
13 meeting, including Ali Kushayb. How were you able to see who attended that
14 meeting, sir?

15 A. [9:57:51] We were standing under a tree in the municipality. And when
16 the delegation arrived from Khartoum and entered the municipality compound, we
17 went towards the doors of the municipality building, we were standing there and we
18 saw them. They came from behind us and entered the meeting room.

19 Q. [9:58:38] And when you saw them, can you estimate how far away you were.
20 And as a reminder, the distance between you and I is about 6 metres.

21 A. [9:58:58] The distance was not far at all. It wasn't more than 10 metres.

22 Q. [9:59:10] Now you said yesterday, sir, that when the persons came out of this
23 private meeting, the commander of the Janjaweed addressed the crowds. So my
24 question is, who were you referring to when you -- when you referred to
25 the commander of the Janjaweed?

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1 A. [9:59:51] The commander of the Janjaweed on that day was Ali Kushayb.

2 Q. [9:59:59] And when you refer to "crowds", who were you referring to?

3 A. [10:00:16] There were no citizens from the area, except us, about nine people, or
4 maybe eight people. Everybody else were from the Janjaweed. The Janjaweed and
5 their commanders. Obviously, with Ali Kushayb.

6 Q. [10:00:40] And do you recall what Ali Kushayb said to these gathered
7 Janjaweed?

8 A. [10:00:56] He spoke on the behalf of the delegation coming from Khartoum, and
9 he said that those men shall be -- shall -- are siding with the government and with
10 the armed forces.

11 Q. [10:01:25] Now, you also said yesterday that Ahmad Harun addressed
12 the crowd. Where were you when these -- when these speeches by Ali Kushayb and
13 Ahmad Harun were going on?

14 A. [10:01:54] We were as follows: To my right, the delegation from Khartoum.
15 Us. And I was there facing the Janjaweed and their leaders, let's say where
16 your Honours are sitting. And you have here the commander of the Janjaweed to
17 my right as well, facing the crowds.

18 Q. [10:02:50] And, sir, you've referred to the Janjaweed leaders, you mentioned
19 Ali Kushayb. Do you recall any -- the names of any other Janjaweed leaders present
20 at that time?

21 A. [10:03:14] One of them was famous and he has cited a long poem in which he
22 has lauded the government and its delegation, Al-Dayf Samih Idris. Also another
23 one, Muhammad Adam Bonjouse.

24 Q. [10:03:57] And do you recall any other persons present from the -- any officials
25 based in Mukjar or any other military or other persons present from Mukjar?

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1 A. [10:04:27] Regarding the ones that have been present in this meeting between
2 the Janjaweed and the government officials, for us citizens we were eight to nine;
3 myself, (Redacted)
4 (Redacted)
5 (Redacted) And I don't remember. Those who I have named were present.
6 As for government officials, * there was only the executive director, Khatir Khedher.
7 Also one security officer from the region, his name is Isma'il Abd-Al-Karim, from
8 security. And another one who was an electrician from the municipality, his name is
9 Hussain Adam Nasser.

10 Q. [10:06:36] Were any representatives of the -- of the -- of the military or
11 the Popular Defence Forces present, to your recollection?

12 A. [10:06:50] Yes. Within the delegation there was Mr Ali Karti. Ali Karti was
13 the general commander of the Popular Defence Forces at that time.

14 Q. [10:07:10] Sir, sorry, my question should have been clearer. I meant local
15 military or local PDF representatives from either Mukjar or -- or Garsila. We'll come
16 back to the delegation shortly.

17 A. [10:07:38] From the armed forces there was only Abdullah Himeidan,
18 the commander of the garrison of Mukjar, the commander of the military base of
19 Mukjar. He was the only one from the armed forces.

20 Q. [10:07:59] Okay. Sir, now, yesterday you referred to the members of Harun's
21 delegation. You'll recall you listed the six members, you listed three of them by
22 name and three by their position. I asked you how you knew who they were and
23 you -- you provided a thorough answer and I know you were about to address that
24 exact point. But if I could ask you to do that now, to explain how was it you knew
25 who those people were.

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1 A. [10:08:45] Okay. Do you mean from the armed forces or all the members of
2 the delegation?

3 Q. [10:08:56] Sir, you -- you listed the six members of the delegation. And my
4 question, just -- and I hope you'll be able to answer it in brief terms, is just how did
5 you know who those people were? How is it that you were able to name them or
6 indicate their position? So did you already know them or -- or was their identity
7 brought to your attention in some other way?

8 A. [10:09:31] Okay. Regarding Mr Ahmad Harun, he was the interior minister.
9 He was well known by all Sudanese, or the majority.
10 Mr Ali Karti, who was the general commander of the PDF and he became later on
11 the minister of foreign affairs, he was also very well known to all Sudanese.
12 As for the others, Major General Suleiman Abdullah, he is the governor of the state of
13 West Darfur. At that time we used to know him very well.
14 As for the members of the armed forces, Mr Ahmad Harun addressed them, saying
15 that this is the director of the western command and this is the director -- the director
16 of the security in the state of South Darfur, and this is the director of the police in
17 the state of West Darfur. So he introduced them.

18 Q. [10:11:10] Now, you also said yesterday that Ahmad Harun made a speech. So
19 after the arrival of the helicopter and the private meeting, the public meeting where
20 Ali Kushayb addressed the Janjaweed, you then said that Ahmad Harun made
21 a speech.
22 Now, following Ahmad Harun's speech, did any other members of the delegation
23 also make a speech?

24 A. [10:11:49] Yes. After the speech of Mr Ahmad Harun, the interior minister,
25 Ali Karti took the floor. Ali Karti, the commander of the Popular Defence Forces,

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1 and he said to the Janjaweed and their leaders, "You, today, are considered a part of
2 the PDF. You are a part of the PDF. We will train you. We will give you weapons.
3 We will give you wages. And we will provide assistance to your people."

4 He donated 10,000 Sudanese dinars at that time, so 10,000 dinars. And he said, "I
5 will give you 5,000 in cash today and 5,000 when the helicopter would come back."

6 Q. [10:13:15] Now, sir, was there any reaction from the crowd in response to either
7 Ahmad Harun's speech or Ali Karti's speech?

8 A. [10:13:38] They repeated "*Allahu Akbar*. Down with the traitors." This is what
9 the Janjaweed said.

10 As for us, the ones standing there, we were confused as to the new hat given to these
11 Janjaweed when they have become governmental forces, despite the fact that the State
12 has its own army, its own police, and its own armed forces that would defend its
13 property. And those are tribes.

14 Q. [10:14:41] And did any of the group that you were with say anything in
15 response to either of those speeches? Did they address Ahmad Harun or Ali Karti?

16 A. [10:14:55] Yes. There has been reaction * from Uncle Suleiman Musa the tailor,
17 Wad Telin Telin. At that time, the Janjaweed were looting the property of citizens
18 and the minister was watching that and the minister told them, "Please stop those
19 people who are looting the houses and property of citizens." And the answer came
20 from Ahmad Harun. He was angry and he told them, "Like bring the property of
21 the State, give it to your children and then we'll be providing your food."

22 PRESIDING JUDGE KORNER: [10:16:14] Sorry, do you mean (Overlapping
23 speakers)

24 THE INTERPRETER: [10:16:17] They gave us back the things, the property of our
25 children.

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1 PRESIDING JUDGE KORNER: [10:16:23] Do you mean the looting had already
2 started when the speeches were being made?

3 THE WITNESS: [10:16:39](Interpretation) The looting started on August 15 when
4 the Janjaweed entered into Mukjar while they were headed to the -- to
5 the neighbourhood * where the garrison was and they have started looting the area
6 west to the municipality.

7 And this looting has continued until Saturday, so they were looting the houses.

8 MR JEREMY: [10:17:16]

9 Q. [10:17:16] Sir, just -- just a clarification on dates. So you said that this meeting
10 took place on 9 August. So had the looting begun before -- before the date of this
11 event in Mukjar?

12 A. [10:17:44] Yes, the looting started when the vehicles arrived and when there was
13 a green light given to those to enter the garrison. While they were entering
14 the command, they were looting the houses. This was on August 8 when they have
15 entered the command.

16 Q. [10:18:19] Thank you. I just wanted to clarify that because
17 the -- the interpretation said August 15, but as I understand it it was August 8 that
18 the Janjaweed arrived and the looting began; is that right?

19 PRESIDING JUDGE KORNER: [10:18:33] It's not what the interpreter said, it's
20 whether or not that's what he said.

21 MR JEREMY: [10:18:40]

22 Q. [10:18:40] Is that what you said, sir, that be the Janjaweed arrived on 8 August,
23 not the 15th?

24 A. [10:18:47] The looting started on August 8 when the Janjaweed arrived through
25 Mukjar and reached the command south to Mukjar. All the western part of the city

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1 has been looted.

2 Q. [10:19:15] I also want to clarify one of your earlier answers in relation to -- to
3 the looting. You -- you said, transcript page 15, line 10, that the minister told them,
4 "Please stop those people who are looting the houses and property of the citizens."
5 Is that correct, sir?

6 A. [10:19:56] No. The answer of the minister was as follows: "If you would like
7 to leave the Janjaweed, take your property and your food from your own houses.
8 You have to give them back -- to give back the property of the State that has been
9 looted by your own children", i.e., the Sudan Liberation Movement when they left
10 Mukjar on 8/8. This was the reaction or the answer of the minister. He said that if
11 you don't give back the property you will be looted, you will be killed, you will be
12 raped. This is what he said.

13 PRESIDING JUDGE KORNER: [10:20:54] Well, yes, but -- sorry, who was the one
14 who said to the minister -- which person said to the minister, "Please stop
15 the looting"?

16 THE WITNESS: [10:21:15](Interpretation) Citizen Suleiman Musa, * the tailor, aka
17 Wad Telin Telin, while the minister was watching with his own eyes the Janjaweed
18 looting the houses and taking the property of citizens on back of their camels and
19 donkeys.

20 MR JEREMY: [10:21:44]

21 Q. [10:21:44] Now, sir, after -- after these speeches by Ahmad Harun and Ali Karti
22 ended, did the delegation stay in Mukjar or did it leave?

23 A. [10:22:07] No, the delegation has left Mukjar upon the end of the two meetings.
24 The speech delivered by the first delegation and the second meeting with
25 the governor of Mukjar and the head of the local administration of Mukjar. So they

1 left to Khartoum.

2 Q. [10:22:41] And after the delegation left, sir, did Ali Kushayb and his forces
3 remain in Mukjar or did they leave?

4 A. [10:23:01] Yes, exactly. After an hour and a half, or two hours after
5 the helicopter left Mukjar, Ali Kushayb and his forces started to attack the villages
6 east and north of Mukjar on Saturday, August 9, till Thursday, August 14, 2003.

7 And they have burned nine villages. They burned down nine villages.

8 If you would like to know, I can give you the names of those villages. Like in two
9 hours only, or one hour 30 minutes after the delegation left.

10 Q. [10:24:09] Yes, if you could -- if you could tell us which villages were -- you're
11 referring to, please.

12 A. [10:24:21] * The villages east of Mukjar were: first, Arada, second, Siggir, third,
13 Indri, fourth, Balbaso, fifth, Dimbukabdé, sixth, Tendy, seventh, Aberla, eighth,
14 Segaderra, and ninth, Aberla.

15 Q. [10:25:02] And, sir, how do you know that these villages were attacked by
16 Ali Kushayb and his forces?

17 A. [10:25:26] Since August 8, until Thursday, August 14, 2003, we were watching,
18 * knowing that three or four people from the command that have been beaten,
19 the houses have been burned down. But we wanted to be aware of the news and
20 receive the news any time so we would know about what was happening from
21 the people who would flee from those villages to Mukjar.

22 We had with us as well some security officers from the region, Mr Abd-Al-Karim who
23 was responsible for the security services, and because at that time the communication
24 was really bad.

25 And those Janjaweed did not return to Mukjar until Thursday, August 14. Those

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1 people, those Janjaweed came back with their leaders and we had also waves of
2 Janjaweed who would come to Mukjar and to follow the ones that were burning
3 the villages.

4 Q. [10:27:05] And how do you know that the Janjaweed returned on -- on the 14th?
5 Could you -- were you able to see them? Did others tell you that they had returned?
6 How did you know?

7 A. [10:27:25] They brought with them large cattle, cows, sheep, and you could hear
8 them, because they were really in huge numbers. So you would hear those cattle
9 even while you are at your home in Mukjar.

10 Q. [10:27:51] And where were they located? Were they -- were they inside of
11 Mukjar town or outside, if you know?

12 A. [10:28:04] No, they have been to the north-western side. You know there, there
13 is a plain where they have arrived with their cattle, and the ones leading the cattle
14 were behind the mounted Janjaweed. Those who were riding horses were
15 the closest to the village.

16 MR JEREMY: [10:28:44] Madam President, I'm moving to my next topic,
17 which -- which unfortunately is going to require private session. I don't think there's
18 any way around it. My apologies to those in the gallery. It's --

19 PRESIDING JUDGE KORNER: [10:28:59] Is that the topic on page 21?

20 MR JEREMY: [10:29:03] Exactly.

21 PRESIDING JUDGE KORNER: [10:29:04] Yeah. All right.

22 Yes. Private session, I'm afraid. How long do you think? I mean it's not easy to --

23 MR JEREMY: [10:29:14] It's going to take us to the break, at least.

24 PRESIDING JUDGE KORNER: [10:29:17] To the break. Yes, all right.

25 Private session, please. Just so the public gallery understand, that means you won't

1 be hearing anything before the break.

2 (Private session at 10.29 a.m.)

3 THE COURT OFFICER: [10:29:37] We're in private session, Madam President.

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8 (Upon resuming in open session at 11.47 a.m.)

9 THE COURT USHER: [11:47:39] All rise.

10 Please be seated.

11 PRESIDING JUDGE KORNER: [11:47:56] Just before we carry on. And this needn't

12 be translated for the witness. I'll deal at the end of the day with the situation in

13 P-1018, but, Mr Jeremy, how much longer are you going to be in chief?

14 MR JEREMY: [11:48:17] I expect I'll finish before the end of the day, but -- but part

15 way through the final session.

16 Having -- having spoken to Mr Edwards, who can speak for himself --

17 PRESIDING JUDGE KORNER: [11:48:33] It's Mr Edwards cross-examining is it?

18 Right.

19 MR JEREMY: [11:48:37] I understand that that will still leave sufficient time for -- for

20 him.

21 PRESIDING JUDGE KORNER: [11:48:41] That is sufficient. That gives you

22 tomorrow.

23 MR EDWARDS: [11:48:45] If I can -- if I can start fresh tomorrow morning, I have no

24 hesitation in saying that I'll be finished well before the end of the day.

25 PRESIDING JUDGE KORNER: [11:48:55] Well, that's what -- that's what I was

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1 becoming concerned about. But if you're sure about that, Mr Edwards.
2 MR EDWARDS: [11:49:02] It's actually -- I'll say no more, but, yes.
3 PRESIDING JUDGE KORNER: [11:49:07] No. All right.
4 Yes. Yes, thank you.
5 It's because Mr Shah didn't ask my questions last time, Ms von Wistinghausen.
6 Ms von Wistinghausen, do you know how long you're going to be.
7 MS VON WISTINGHAUSEN: [11:49:24] I don't know exactly. I mean the more I
8 think about it, the more questions I have. But, of course, I will take the time and the
9 timing into consideration. So I hope I can squeeze this in today.
10 PRESIDING JUDGE KORNER: [11:49:37] Well, yeah. All right.
11 Mr Jeremy, I think you are going to have to * finish in time for the -- today for
12 the representative of the victims to ask their questions.
13 MR JEREMY: [11:49:49] I will do so, Madam President.
14 PRESIDING JUDGE KORNER: [11:49:50] Right.
15 So, Ms von Wistinghausen, if you're given 45 minutes, will -- will that cover it?
16 MS VON WISTINGHAUSEN: [11:49:55] That's I think more than enough. I would
17 think 20 to 30 minutes, something. And it also depends on -- on the responses
18 the witness will give to Mr Jeremy's questions.
19 PRESIDING JUDGE KORNER: [11:50:06] Okay. All right.
20 Sir, can we now -- sorry, can we resume the translation.
21 Sir, what we've been discussing is the timing, and it's obviously important that you
22 finish your evidence tomorrow.
23 Can I urge you again, as I did this morning, please, to keep your answers short and
24 simply to answer the question that you're asked with a "yes" or "no", if possible. If
25 not, just the question that's asked. And as I say, if -- if any of the lawyers want more

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1 details, I have no doubt they can ask you follow-up questions. But it's really point,
2 from your point of view, that -- that you're able to finish your evidence. Which is, as
3 you'll realise, important, by tomorrow.

4 Yes, Mr Jeremy.

5 MR JEREMY: [11:51:10] Thank you, Madam President, your Honours.

6 To resume the questioning we'll need to go back into private session, I'm afraid.

7 PRESIDING JUDGE KORNER: [11:51:18] Right. How much longer do you think
8 we need to be in private for?

9 MR JEREMY: [11:51:22] Regretfully, I think it's going to be --

10 PRESIDING JUDGE KORNER: [11:51:25] Most of the day.

11 MR JEREMY: [11:51:26] -- most of the day. Yeah.

12 PRESIDING JUDGE KORNER: [11:51:28] Yeah. All right.

13 Private session, please.

14 (Private session at 11.51 a.m.)

15 THE COURT OFFICER: [11:51:39] We're in private session, Madam President.

16 (Redacted)

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- 8 (Upon resuming in open session at 2.17 p.m.)
- 9 THE COURT USHER: [14:17:43] All rise.
- 10 Please be seated.
- 11 PRESIDING JUDGE KORNER: [14:18:17] Yes, Mr Jeremy, whenever you're ready.
- 12 MR JEREMY: [14:18:22] Thank you, Madam President, your Honours. And just
- 13 to --
- 14 PRESIDING JUDGE KORNER: [14:18:28] We're in open session, I gather. It's still
- 15 private, is it?
- 16 MR JEREMY: [14:18:34] Yes, please.
- 17 PRESIDING JUDGE KORNER: [14:18:37] Yes.
- 18 Private session then, please.
- 19 (Private session at 2.18 p.m.)
- 20 THE COURT OFFICER: [14:18:42] We're in private session, Madam President.
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5 (Open session at 3.42 p.m.)

6 THE COURT OFFICER: [15:42:52] We're in open session, Madam President.

7 QUESTIONED BY MS VON WISTINGHAUSEN:

8 Q. [15:43:00] Good afternoon, Mr Witness. My name is Natalie von

9 Wistinghausen. We haven't had the opportunity to meet yet, but you've met my

10 colleague. And both of us, together with our team, we represent the victims who are

11 participating in these proceedings. And I have a few questions to ask you.

12 First of all, you will have realised that we are now in a public session. I think it's

13 important that at least parts of your testimony are heard by the public. Obviously,

14 nobody can see your face. However, that means that you have to be cautious. I

15 think you can answer the questions in public, but just be reminded not to mention

16 your name, names of your family members, the village where you come from and

17 the work you were doing. Is that all right for you?

18 A. [15:44:02] Yes, of course.

19 Q. [15:44:07] We understand from your testimony yesterday that based on your

20 work - and please don't mention it - you were familiar with different villages in

21 the areas of Bindisi and Mukjar; is that correct?

22 A. [15:44:31] Yes, that is accurate.

23 Q. [15:44:35] Can you tell us what were the main livelihoods of the Fur people

24 living in these villages? What did they live off?

25 A. [15:45:00] Their main source of revenue for those people was linked to

1 agriculture as a first element, if you will. And also they raised cattle, second element.

2 And they also made cheese.

3 Q. [15:45:29] And if people in your community had money, or jewellery, or gold,
4 would they normally store this wealth in their homes?

5 A. [15:45:47] Yes, indeed they would keep this at their homes.

6 Q. [15:45:58] And can you tell us, gold or jewellery - jewellery, difficult word for
7 me - do they have any cultural significance for the Fur people, for the people in your
8 community?

9 A. [15:46:22] Gold, gold is the -- is the most important thing for women to dress up.
10 And that's true in every community. And the more gold a woman puts on, the more
11 it shows how well off and affluent she is. And that is why they care to keep gold.

12 Q. [15:47:05] I would like to ask you about the treatment of civilians after the rebel
13 attack on Mukjar on 8 August 2003. Remember that yesterday you told us that
14 following the rebel attack on Mukjar on 8 August, "any man who would be found
15 would be arrested and be beaten." And I'm quoting from the transcript: "... all
16 the men were taken to the command forces so that they are insulted and beaten and
17 arrested." Right, this is what you said yesterday.

18 Can you tell us what were the tribes or ethnicities of the men who were arrested and
19 abused by the mobile forces?

20 A. [15:48:16] You're asking about those detained, or the -- or the ethnicity of those
21 who carried out the attack?

22 The ethnicity of the forces, or the ethnicity of the tribes whose citizens got arrested,
23 which one?

24 Q. [15:48:34] Those who were arrested and abused by the mobile forces?

25 A. [15:48:46] After the battle between the two sides ended, the mobile -- the mobile

1 forces entered every house -- raided every house in Mukjar and arrested most of
2 the men, except the men who had managed to leave. Their own colleagues in
3 the Mukjar police station were arrested. A person, if arrested, he would have his
4 robe put on his head and his head would be covered by his own robe and would be
5 beaten and put in the command office. Every man ended up in that office. They
6 were all beaten up, humiliated, and some of them even got injured. Some got
7 injured on their backs because of these heavy knives they used. And the injuries
8 were filled with a nylon -- a nylon bag that was put in a format that allowed it to drip
9 on those injuries.

10 As to the town of Mukjar, it was surrounded by a circle of Janjaweed troops. No one
11 can escape. No one could escape, nor could anyone enter. At least it was difficult
12 to enter town. It was a very difficult situation, and for about two months not
13 a single commercial vehicle or a vehicle carrying supplies or food was able to enter.
14 All the villages where there were food supplies got burned. Even salt, a typically
15 very cheap product, was lost. And the container where salt would be prepared,
16 those containers were destroyed so that the salt becomes no longer available. And it
17 shows how much evil-hearted, bitter and resentful these were towards the locals.
18 So some villages were burned, and in some other villages were -- that were not
19 burned, the bags of that -- where crops were were burned. So there was no way for
20 us to go to these villages to get food for ourselves. And it was raining. For eight
21 days it was raining continuously. There was no sun, and there was no way to sleep
22 on a proper mattress, or to cover yourself, or to have access to food or to medication.
23 This is how the situation was like. These poor people were in such circumstances.
24 Q. [15:52:37] I was going to ask -- I was going to ask you about the burning of
25 the crops. Can you make it clear for us again why the crops were burnt. In your

1 handwritten statement you speak about the burning of corn, if I'm not mistaken.

2 A. [15:53:05] What is very deplorable is that after targeting individuals per se, and
3 targeting their honour and assets, food in and of itself became a weapon in order to
4 prevent people from living or from benefiting from these supplies. Each time after
5 burning a village they would go back to the village and, should there be any crop
6 bags left still unburned, they would rip that off using knives, and using other sharp
7 tools, so that rain may pour on those crops and they would hence become useless and
8 no one could really use them, by anyone. So that's how they used food and water as
9 weapons.

10 Q. [15:54:12] Thank you. I would like to ask you about the immediate impact of
11 the events on your community. And obviously you've already talked about this
12 today, but just a few more concrete questions.

13 The people of the burned villages, and you spoke about many villages that were
14 burned, had to flee. Can you tell us where they moved to and approximately how
15 many they were. And can you also tell us if we're talking about men, women and
16 children.

17 A. [15:55:13] Most of the citizens in the villages around Mukjar and Bindisi, most of
18 the citizens got displaced to Mukjar. Their number was approximately 60,000 people.
19 Some of them fled to the Republic of Chad (Redacted)
20 (Redacted) Back then it was the fall season
21 and those who left the country did so after October. But back in August, it was not
22 possible for anyone to leave the region because it was encircled by Janjaweed troops
23 so that the people would die out of hunger and out of the targeting by weapons.
24 By October a large number of elderly people, pregnant women, and children died out
25 of hunger and disease. If you go to the -- to a cemetery to bury someone, you would

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1 be unable to come back because the number of dead people would be coming in
2 droves. You would go and you would find other folks burying their own dead. It
3 continued like that for a long time.

4 Q. [15:57:21] I may be asking the obvious, and allow me to lead on this. But you
5 have described a lot of houses that you yourself saw burning and where nothing was
6 left. Can I assume that this means that there was nothing left in the houses, no
7 furniture, no jewels, no food, no animals, if there were any? Are we really speaking
8 about houses that burnt to the ground? And please only refer to what you have seen
9 with your own eyes. Thank you.

10 A. [15:58:09] These Janjaweed, some of them knew citizens very well. They knew
11 who was rich and who was not. They knew their homes and their shops and they
12 also knew who had a -- a lot of livestock and a lot of cattle. When they came to
13 attack a village, they would race -- they would compete to get to the house of
14 the person who was financially doing well. They would first loot all that was inside
15 the house, then they would burn the house. As to the other houses which they
16 deemed worthless, they would just set on fire and didn't bother to loot. So they left
17 nothing standing. That which is neither burned nor looted, they endeavoured to
18 destroy it, to make sure it becomes useless, it becomes of no worth to whomsoever.
19 That was the operation that the Janjaweed carried out.

20 PRESIDING JUDGE KORNER: [15:59:34] Yes, well, the interpreters have been
21 working a long time today, this afternoon. So I think we'll call a halt there.
22 Sir, we're being to have to call a halt to your evidence for today. You will resume
23 tomorrow morning at 9.30. But you'll be concluded tomorrow. Thank you very
24 much.

25 THE WITNESS: [16:00:02](Interpretation) God willing. Thank you very much.

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1 PRESIDING JUDGE KORNER: [16:00:04] Yes. If you'd like to leave with
2 the court officer, please.

3 (The witness exits the courtroom)

4 PRESIDING JUDGE KORNER: [16:00:40] Yes. Just very quickly, I gather very
5 helpfully that both sides have reached an agreement on P-1018. In order -- can I
6 understand what -- do you admit -- sorry, Mr Laucci, or Mr Edwards, whoever dealt
7 with this, do we understand that you admit the contents of the document and that
8 they are -- they comply with all the evidentiary rules on documents?

9 MR LAUCCI: [16:01:15] The documents that have been submitted are only lists of
10 identified victims, and this is not something that we intend to challenge.

11 PRESIDING JUDGE KORNER: [16:01:26] Right. Thank you very much, indeed.
12 The only thing then, they've got to comply with the code of conduct and they've got
13 to list the contents and all the rest of it.

14 MR NICHOLLS: [16:01:37] Thank you, your Honour. We will make that
15 (Overlapping speakers)

16 PRESIDING JUDGE KORNER: [16:01:40](Overlapping speakers)

17 MR NICHOLLS: [16:01:40] I just wanted to - and thank you again to my friend - get
18 this on the table quickly as the witness was scheduled as the next witness.

19 PRESIDING JUDGE KORNER: [16:01:48] Yes. No. Well, the Chamber is happy
20 that, and subject to the usual formalities being complied with, those documents will
21 be admitted as -- as a bar table motion, I suppose, really.

22 And the one thing I should say, Mr Jeremy, having if not overtly, impliedly criticised
23 you for taking too long over this, that was -- the document that you compiled from
24 what, I'm afraid to say, the Chamber had given up trying to read the notes, really was
25 extremely helpful. And I recommend that if there are future witnesses where we

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1 have the same, either interviews with Arabic interspersed in the middle, or notes, that
2 the same procedure is followed.

3 MR JEREMY: [16:02:40] Thank you, Madam President. And I credit my colleague
4 Ms Saba for that document.

5 PRESIDING JUDGE KORNER: [16:02:45] Right. Well, whoever -- whoever did this
6 document gets the credit. Very helpful, indeed.

7 Yes, thank you. 9.30, please.

8 THE COURT USHER: [16:02:57] All rise.

9 (The hearing ends in open session at 4.02 p.m.)