

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 2
8 Monday, 11 July 2016
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good morning everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case
17 of The Prosecutor v. Bosco Ntaganda, case reference ICC-01/04-02/06.
18 For the record, we are in open session.
19 PRESIDING JUDGE FREMR: Thank you, court officer.
20 Now appearances please in the usual order, starting with Prosecution.
21 MS RABANIT: Good morning, Mr President. Good morning, your Honours.
22 Appearing today for the Prosecution are Selam Yirgou, case manager; Kristy Sim,
23 assistant trial lawyer; Dianne Luping, trial lawyer; and myself, Marion Rabanit,
24 associate trial lawyer.
25 PRESIDING JUDGE FREMR: Thank you very much, Madam Rabanit.

1 Now Defence, please.

2 MR GOSNELL: Good morning, your Honours. Christopher Gosnell representing
3 Mr Ntaganda, who is present in the courtroom, assisted by Isabelle Martineau;
4 Elisa Binon; and Jules Guillaumé. Thank you.

5 PRESIDING JUDGE FREMR: Thank you, Mr Gosnell.

6 And Legal Representative of Victims, please.

7 MS PELLET: (Interpretation) Thank you, Mr President. Former child soldiers are
8 represented by myself, Sarah Pellet, counsel at the OPCV.

9 MR SUPRUN: (Interpretation) Good morning, Mr President. Good morning,
10 your Honours. Victims of attacks are represented by myself, Dmytro Suprun,
11 counsel at the OPCV.

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

13 First, before the witness can be called, I'll be addressing a few procedural matters.

14 The chambers recalls its decision rendered orally on 6 July 2016, in transcript 115,
15 granting in-court protective measures for Witness P-113 in the form of face and voice
16 distortion and the use of a pseudonym. The Chamber also indicated that it would
17 defer its decision on the Prosecution's request for special measures until after
18 receiving the vulnerability assessment for this witness from the VWU, which it now
19 has.

20 Thus, the Chamber will now go into private session to issue its ruling.

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

22 (Private session at 9.33 a.m.)

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20 (Open session at 9.36 a.m.)

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

22 PRESIDING JUDGE FREMR: Thank you.

23 So now I will continue with further procedural issues.

24 Second, according to its email of 6 July 2016, the Defence objects to certain of the

25 documents the Prosecution may seek to use with this witness.

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1 These objections will be addressed if and when they arise throughout the course of
2 the examination-in-chief.

3 Third, in terms of timing, the examination-in-chief for this witness is to be completed
4 within four hours and the Defence will have equal time for cross-examination.

5 Next, I note that the legal representative of the victims of the attacks has requested to
6 examine the witness. Following our usual practice, we will come back to this request
7 after the Prosecution has completed its examination-in-chief.

8 I guess I exhausted all procedural issues, so now we can turn to the scheduled
9 testimony.

10 Court officer, please have the witness brought into the courtroom.

11 (The witness enters the courtroom)

12 PRESIDING JUDGE FREMR: Madam Witness, good morning. Can you hear me?

13 WITNESS: DRC-OTP-P-0113

14 (The witness speaks Swahili)

15 THE WITNESS: Yes, I can hear you.

16 PRESIDING JUDGE FREMR: Very well. On behalf of this Chamber, I would like
17 to welcome you to the courtroom. You are called to testify in the case against
18 Mr Bosco Ntaganda and you will be soon asked questions both by the Judges and
19 lawyers. In this connection I would like to guide you as follows:

20 Please listen carefully to those questions. If you don't understand, feel free to ask for
21 the question to be repeated. We want you to tell the truth and tell us what you saw,
22 heard or sensed yourself. If you did not see or hear it yourself but you found out
23 some other way, then you should explain how. You may not remember all details
24 and it doesn't matter. Please don't guess. Don't make things up. There is nothing
25 wrong in saying, "I don't know," or "I don't remember."

1 Do you understand all this, Madam Witness?

2 THE WITNESS: (Interpretation) Yes, I have understood.

3 PRESIDING JUDGE FREMR: Fine. Madam Witness, protective measures are put
4 in place to ensure that your identity is not revealed to the public. It means that the
5 public cannot see your face and that your voice is being disguised so that the public
6 cannot recognize it.

7 We will refer you as "Madam Witness" and ensure that your name and any other
8 information that risks revealing who you are is not broadcast to the public.

9 Therefore, whenever you need to describe anything that might reveal your identity,
10 we will do so in private session so that no one outside the courtroom can hear your
11 answer. Do you understand, Madam Witness?

12 THE WITNESS: (Interpretation) Yes, I have understood you.

13 PRESIDING JUDGE FREMR: Very well. Madam Witness, you will find a piece of
14 paper in front of you. Now you have it in your hands. It's a piece of paper with
15 solemn undertaking. So please now make your solemn undertaking to tell the truth
16 by reading out the declaration you have in your hand.

17 THE WITNESS: (Interpretation) Swahili solemn declaration. I solemnly declare
18 that I will speak the truth, the whole truth and nothing but the truth.

19 PRESIDING JUDGE FREMR: Thank you, Madam Witness. So it means that now
20 you are under oath. So you need to be aware that it is an offence within the
21 jurisdiction of this Court to give false testimony. Do you understand that?

22 THE WITNESS: (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: Fine. And, at the end, a few practical matters you
24 should have in mind when giving your testimony.

25 It's important to speak into the microphone, to speak clearly and to speak at a slow

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1 pace to allow the interpreters to translate everything.
2 What is very important, when a question is asked please do not respond immediately,
3 but count in your head to three and only then give your answer. This pause is
4 essential to properly interpret and record what you are saying.
5 If you have any questions during your testimony or if you feel that you need a break,
6 do not hesitate to let us know by raising your hand, we will then give you the
7 opportunity to speak.

8 Have you understood all that, Madam Witness?

9 THE WITNESS: (Interpretation) Yes, I have understood.

10 PRESIDING JUDGE FREMR: All right, it means now we can move to the testimony
11 itself. So, Prosecution, you have the floor.

12 MS RABANIT: Thank you, Mr President.

13 Q. Bonjour, Madam.

14 A. Jambo sana.

15 Q. (No interpretation) ... you can ask me to repeat or to clarify the question. Have
16 you understood me?

17 A. Yes, I have.

18 Q. I'll start by putting a few questions to you on your personal background.

19 MS RABANIT: And for this, your Honour, I would ask that we move into private
20 session please.

21 PRESIDING JUDGE FREMR: All right. Court officer please let's move into private
22 session now.

23 (Private session at 9.47 a.m.)

24 (Redacted)

25 (Redacted)

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5 (Open session at 10.03 a.m.)

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

7 PRESIDING JUDGE FREMR: Thank you, court officer.

8 Ms Rabanit, you may proceed.

9 MS RABANIT: (Interpretation)

10 Q. You referred to the war. Do you know between what parties this war was
11 taking place?

12 A. The war was between the Lendu and the Hema.

13 Q. Did the war also affect the area where you were living?

14 A. Yes.

15 Q. Where were you living when the war took place?

16 A. We were in Bambu.

17 Q. Did the war have a particular name?

18 A. A particular name, no. It was just a conflict between the Hema and the Lendu.

19 Q. Let me rephrase my question. Did the people who lived in your village refer to
20 that war using a particular name or a particular expression?

21 A. We said that it was an ethnic conflict.

22 Q. So you say that you don't recall what year this was. Does the name Lompondo
23 mean anything to you?

24 A. Excuse me? Could you repeat.

25 Q. Do you know the name of Governor Molondo Lompondo?

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1 A. No, I don't know him.

2 Q. Okay, that's no problem. Do you know who was in charge of the town of
3 Bunia at the time?

4 A. During the war I don't know.

5 Q. No problem.

6 MS RABANIT: Your Honour, at this stage, I would like to try to refresh the memory
7 of the witness.

8 PRESIDING JUDGE FREMR: All right.

9 MS RABANIT: (Interpretation)

10 Q. Madam, do you recall making a statement to the Office of the Prosecutor in
11 2005?

12 A. Sometimes I forget things. Could you refresh my memory.

13 Q. Do you recall making a statement to the Prosecutor as a witness the first time
14 that you met representatives of the Office of the Prosecutor?

15 A. Yes.

16 Q. And do you recall signing that statement?

17 A. Yes.

18 MS RABANIT: Your Honour, if I could call the ERN, it's tab 1 of the list of items that
19 may be used during the testimony.

20 PRESIDING JUDGE FREMR: All right. Court officer, please assist.

21 THE COURT OFFICER: Do we have an ERN number, please?

22 MS RABANIT: So I should say that it should not be displayed, it's a confidential
23 document. The ERN is DRC-OTP-0096-0036.

24 And the page is 0039. And the paragraph is 17.

25 With your leave, your Honour, I will read --

1 PRESIDING JUDGE FREMR: Yes.

2 MS RABANIT: -- in French.

3 (Interpretation) "Bambu, a village which is located in the Walendu-Djatsi territory,
4 Ituri district, Orientale province where the headquarters of the mining company
5 Kilo-Moto are located."

6 Because we are in open session I will omit the next part of the sentence:

7 (Interpretation) "... where until the end of the year 2002, sometime before the
8 Christmas celebrations, the village was attacked."

9 Q. Does this refresh --

10 Sorry, I got mixed up with the language. I will address the witness in French.

11 (Interpretation) Madam, does this refresh your memory?

12 A. Yes.

13 Q. Is it correct that the date of the attack was towards the end of 2002?

14 A. Yes.

15 Q. Madam, can you describe what happened that day, that is to say what you did
16 from the point in time when you realised that the village is under attack?

17 A. I was in Bambu when the Hema attacked Bambu. After the attack, we fled in
18 the direction of Sangi. When we took flight, the Hema realised that Bambu had been
19 deserted and occupied Bambu. Later they occupied Lipri, Kobu, Kilo and Nyangarai.
20 Having occupied all of those villages, there was no longer peace or security and that
21 caused us to flee further to Ngabulo. The Hema were in Kobu and Bambu. As
22 there were no locals there, they tried to track them down and they went to Sangi and
23 Ngabulo looking for villagers. One Monday they led an attack on Kobu and the
24 Kobu went on to Sangi and Kobu. We were up on a hill and could see that they
25 were in large numbers. They made a call saying, "Come, come, we haven't come to

1 kill you. We want to bring peace. But the people who listened to their call didn't
2 want to go to them. The second day they came back and said, "It's peace. There's
3 no war. Come. We have to come to make war."
4 Some people decided to go to them in Sangi and those that went to the Hema did not
5 come back. And the attackers took those whom they captured to Kobu. On the
6 third day they came back, it is about 6.30, and we began to hear gunfire from Kobu,
7 Kilo, Bambu and Nyangarai. Gunfire from all sides. So we fled into the bush.
8 In the bush where we were, we heard gunfire and the attackers pursued the people in
9 the direction of Kobu. Others fled to Jitchu, large numbers of people fled to Jitchu,
10 but we were in or by Ngabulo -- or Buli, rather, excuse me. And we were captured
11 by the attackers. They made us leave Buli. They took food and they asked us to
12 make food for them.
13 They would say to us, "We're not here to kill you." Some of them started speaking in
14 Kilulu. I said, "I'm a Lulu woman too." They said to me, "Well, what are you doing
15 here?" I told them that my mother had been ill and that I had come to take care of
16 her.
17 They took food, and produce, which they had asked us to cook. There were -- there
18 was a lot of gunfire in Jitchu. We finished making the food at about 6 o'clock. But
19 while we were making the food a commander who we called (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted) There were a number of commanders who
24 were present in Bambu and I said, "Oh, that's some time ago, I had forgotten." I
25 know that there was a Commander Salumu and a Commander Kiza, and a Bira

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1 commander whose name I've forgotten. And he said (Redacted) I said, "Ah, it's

2 a long time ago, (Redacted)

3 (Redacted)

4 PRESIDING JUDGE FREMR: Mr Suprun.

5 MR SUPRUN: (Interpretation) I'm sorry to interrupt the witness, but I have the

6 impression that the information that is being provided by the witness is quite specific

7 and may identify the witness.

8 I think that it would be preferable that information be provided in private session.

9 PRESIDING JUDGE FREMR: I personally don't believe that at the moment this

10 information provided so far by Madam Witness so specific. But to be safer, because

11 it's pretty possible that she will be more specific. So for that reason we will move

12 now into private session.

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

14 (Private session at 10.19 a.m.)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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21 (Redacted)

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- 10 (Redacted)
- 11 (Open session at 11.00 a.m.)
- 12 THE COURT OFFICER: We are in open session, Mr President.
- 13 PRESIDING JUDGE FREMR: Thank you, court officer.
- 14 So we will now hold our regular break and we will reconvene half past 11.
- 15 THE COURT USHER: All rise.
- 16 (Recess taken at 11.01 a.m.)
- 17 (Upon resuming in open session at 11.30 a.m.)
- 18 THE COURT USHER: All rise.
- 19 Please be seated.
- 20 PRESIDING JUDGE FREMR: So now before we continue, Madam Witness, allow
- 21 me to say that the Chamber really appreciate that you are perfectly observing other
- 22 guidance, so please continue in the same way. All right?
- 23 THE WITNESS: Ndiyo.
- 24 PRESIDING JUDGE FREMR: I didn't want to confuse you. I just meant that
- 25 you are carefully listening to the questions, you are speaking clearly, you are keeping

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1 those pauses between the question and your response. So that is what I meant. So

2 thank you for that, please continue the same way.

3 And now, Ms Rabanit, you have the floor.

4 MS RABANIT: Thank you, Mr President.

5 Q. (Interpretation) Madam, what is the name of the forest where you took refuge
6 when you fled Ngabulo?

7 A. Buli. The bush is called Buli because it was by Buli.

8 Q. Does the forest have another name?

9 A. It was called Buli, as far as I know.

10 MS RABANIT: Mr President, I think we have to move into private session.

11 PRESIDING JUDGE FREMR: Certainly.

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

13 (Private session at 11.33 a.m.)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

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14 (Redacted)

15 (Redacted)

16 (Redacted)

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22 (Redacted)

23 (Open session at 11.59 a.m.)

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

25 PRESIDING JUDGE FREMR: Thank you, court officer.

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1 Ms Rabanit, please proceed.

2 MS RABANIT:

3 Q. Madam, you said that the soldiers took you to Buli. Can you describe what
4 you saw when you went into Buli.

5 A. They asked us to cook and we cooked until 4 o'clock. Most of the troops were
6 in Jitchu at that time. At around 5 o'clock in the afternoon we saw soldiers returning
7 with local people and it was then that we went to Kobu.

8 Q. Where were you taken to in Buli?

9 A. When we arrived in Buli, from there they went with us to Kobu.

10 Q. But at the time you were in Buli, were you taken anywhere in particular?

11 A. When we were cooking there, they told us to go and get water from houses and
12 we went to get water from houses. And one of the troops entered the house in order
13 to get water. There were three of us. In the first house they entered --

14 Q. I'm sorry, Madam, I have to stop you there.

15 THE INTERPRETER: Says counsel.

16 MS RABANIT: (Speaks English) This may be an issue of going into private session,
17 your Honour.

18 PRESIDING JUDGE FREMR: Exactly. You are right, Ms Rabanit.

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

20 (Private session at 12.02 p.m.)

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- 15 (Open session at 12.37 p.m.)
- 16 THE COURT OFFICER: We're in open session, Mr President.
- 17 PRESIDING JUDGE FREMR: Thank you, court officer.
- 18 Ms Rabanit, please proceed.
- 19 MS RABANIT: Thank you, Mr President.
- 20 Q. (Interpretation) Madam, you said that when you were in Buli there were
- 21 various groups of prisoners. Did you see how those prisoners were treated?
- 22 A. The prisoners who were in Buli were those who were taken out of the bush,
- 23 those are the ones who I saw there.
- 24 Q. And how were they treated by the UPC soldiers?
- 25 A. When they took them it was about 5 o'clock in the afternoon. I didn't observe

1 them being beaten by the soldiers. It was then that the telephone call was made.

2 Q. And you said that you then left Buli. Was that on the same day or was that on
3 a different day?

4 A. It was the same day.

5 Q. And who were you with when you left Buli, madam? Excuse me, I'm going to
6 put that question to you a little bit later in private session.

7 Where did you go when you left Buli?

8 A. When we left Buli we went to Kobu.

9 Q. And did the soldiers ask you to do anything at all when you left Buli?

10 A. We carried baggage that belonged to the soldiers.

11 Q. Do you know what was in that baggage?

12 A. I can only tell you what I carried. (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. Madam, without giving any names, who amongst the prisoners went to Kobu?

16 A. I haven't understood your question.

17 Q. Are there prisoners who, to your knowledge, stayed in Buli?

18 A. We all went to Kobu.

19 Q. Were there soldiers with you when you went to Kobu?

20 A. Yes, we were with soldiers?

21 Q. And did the soldiers carry anything?

22 A. They had their rifles.

23 Q. And you said that you were carrying goods. Do you know who those goods
24 belonged to?

25 A. They are goods that were pillaged in Buli. And those are the loads that they

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1 had us carry.

2 Q. And, madam, how do you know that they had been pillaged?

3 A. When they came there they had nothing, but when they left they had goods
4 which they asked us to carry.

5 Q. And to whom did these goods belong in Buli?

6 A. I don't know. I was asked by Salumu to carry the mattress and he went on to
7 take that mattress with him to Bunia.

8 Q. Through which villages or localities did you pass on your journey from Buli to
9 Kobu?

10 A. From Buli we went through Ngabulo, Sangi, Sangi-Sayo and on to Kobu.

11 Q. And did you go by road or did you go through the forest?

12 A. We took paths.

13 Q. Can you describe the state of Buli and the houses there when you left Buli.

14 A. We left Buli and when we arrived in Ngabulo we saw that houses were
15 beginning to be put on fire.

16 Q. And who was setting fire to these houses?

17 A. They were UPC soldiers. It was UPC soldiers who were setting fire to those
18 houses. Those who were with us set fire to those houses. There was even one
19 soldier beside me and that soldier set light to a house that was owned by one of my
20 neighbours. We then continued on our way into Sangi-Sayo. A house was set on
21 fire and, and that house then set light to other houses.

22 THE INTERPRETER: A note from the interpreters: The Swahili booth would like
23 this question to be re-put to the witness.

24 MS RABANIT:

25 Q. What did you see when you were going past Sangi and Sangi-Sayo, what state

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1 were the houses in?

2 A. All of the houses had been set on fire.

3 Q. And do you know who set fire to those houses?

4 A. UPC soldiers.

5 MS RABANIT: Mr President, I have to go back into private session.

6 PRESIDING JUDGE FREMR: For sure.

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

8 (Private session at 12.49 p.m.)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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16 (Redacted)

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24 (Open session at 12.50 p.m.)

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

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1 PRESIDING JUDGE FREMR: So, Madam Witness, we will break now for lunch
2 break so you will also have a chance to take some rest. And we will continue after
3 90 minutes, which means that we will continue at 2.20.

4 So now court is adjourned.

5 THE COURT USHER: All rise.

6 (Recess taken at 12.52 p.m.)

7 (Upon resuming in open session at 2.21 p.m.)

8 THE COURT USHER: All rise.

9 Please be seated.

10 PRESIDING JUDGE FREMR: Good afternoon, everybody.

11 So let's continue with the last part of examination-in-chief. I'm just reminding

12 Ms Rabanit she has at her disposal 1 hour 27 minutes if I'm not wrong.

13 And another important caveat, we have to today because of some other Judges

14 commitments we have to finish at the latest 4.20 sharp.

15 So now, Ms Rabanit, you have the floor.

16 MS RABANIT: Thank you, Mr President. I'm afraid we will have to go directly
17 into private session.

18 PRESIDING JUDGE FREMR: Why afraid? It's in the interest of protection of the
19 interest of the witness, so don't be afraid.

20 Let's move into private session now.

21 (Private session at 2.23 p.m.)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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20 (Open session at 4.02 p.m.)

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

22 PRESIDING JUDGE FREMR: Thank you, court officer.

23 Mr Suprun, you may proceed.

24 MR SUPRUN: (Interpretation)

25 Q. Madam Witness, after the events of 2002-2003, which you experienced, did you

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1 yourself and members of your family were you able to reconstruct your life to a
2 normal life that you had before the events?

3 A. No. No, we have not been able to return to our normal lives.

4 Q. Did you receive any help or assistance following the 2002-2003 events, whether
5 it be material, psychological or otherwise from the Congolese government, from
6 NGOs or from any other source?

7 A. We have not received anything to this day.

8 Q. Madam Witness, as a victim of war, what do you expect from the ICC following
9 this trial against Bosco Ntaganda?

10 A. I expect reparations because we lost much property; our houses were torched,
11 our property was looted. So we expect that our houses would be rebuilt and that we
12 will receive compensation for the property that were lost.

13 Q. So when you talk about reparations, are you talking about only rebuilding your
14 houses or are you expecting anything else in terms of reparations?

15 A. We need help. I need help. I need assistance so that I can return to a normal
16 lifestyle so that all those consequences of what I experienced may be wiped out from
17 my mind.

18 Q. Thank you, Madam Witness, for your answers.

19 MR SUPRUN: (Interpretation) Mr President, I have no further questions for this
20 witness.

21 PRESIDING JUDGE FREMR: And I thank you, Mr Suprun, for being punctual.

22 Now, I don't see reasonable -- I believe that Mr Gosnell will agree with me to start
23 your cross-examination just for 10 minutes, I think it will be better to start tomorrow
24 because we still, I think, are doing well as to our time schedule.

25 So Madam Witness, we will break now your testimony, we will continue tomorrow,

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- 1 so I would like to thank you because you perfectly observed our guidance and you
- 2 patiently and clearly answered all questions put to you. So thank you for that.
- 3 And I have to give you another guidance: Between today and tomorrow you must
- 4 not discuss your testimony with anybody else. Do you understand?
- 5 THE WITNESS: (Interpretation) Yes, Mr President.
- 6 PRESIDING JUDGE FREMR: All right. Which means that we will adjourn now
- 7 and we will continue tomorrow 9.30.
- 8 THE COURT USHER: All rise.
- 9 (The hearing ends in open session at 4.06 p.m.)