

Trial Hearing

(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 Judge Chang-ho Chung
 6 Trial Hearing - Courtroom 2
 7 Thursday, 15 September 2016
 8 (The hearing starts in open session at 9.33 a.m.)
 9 THE COURT USHER: [9:33:02] All rise.
 10 The International Criminal Court is now in session.
 11 Please be seated.
 12 PRESIDING JUDGE FREMR: [9:33:12] Good morning, everybody.
 13 Court officer, please call the case.
 14 THE COURT OFFICER: [9:33:24] Thank you, Mr President.
 15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
 16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
 17 We are in open session.
 18 PRESIDING JUDGE FREMR: [9:33:38] Thank you, court officer.
 19 Now appearances as usually.
 20 MS SOLANO: [9:33:42] Good morning, your Honours. For the Prosecution
 21 appear Marion Rabanit, associate trial lawyer; Selam Yirgou, case manager; and I am
 22 Julieta Solano, trial lawyer.
 23 PRESIDING JUDGE FREMR: [9:33:53] Thank you, Ms Solano.
 24 Defence, please.
 25 MR BOURGON: [9:33:57] (Interpretation) Good morning, your Honour. Good

1 morning, your Honours, as well as everybody else present in the courtroom. So we
2 have Han Catherine Morin, Isabelle Martineau, Chloé Grandon and myself
3 Stéphane Bourgon. Thank you, your Honour.

4 PRESIDING JUDGE FREMR: [9:34:17] Thank you, Mr Bourgon.

5 And now Legal Representatives of Victims, please.

6 MS PELLET: [9:34:24] (Interpretation) Thank you, your Honour. Former child
7 soldiers are represented by Mohamed Abdou and myself Sarah Pellet, counsel with
8 the Office of Public Counsel for Victims.

9 MR SUPRUN: [9:34:37] (Interpretation) Good morning, your Honour, your
10 Honours. The victims of the attacks are represented by the Office of Public Counsel
11 for Victims, Anne Grabowski, associate lawyer; and myself Dmytro Suprun, counsel.

12 PRESIDING JUDGE FREMR: [9:34:51] Thank you, Ms Pellet. Thank you,
13 Mr Suprun.

14 Normally we would continue with testimony of our witness, but since the Chamber
15 got information that, if I am not wrong, both Mr Suprun and Ms Grandon would like
16 to address the Chamber; am I right?

17 MS GRANDON: [9:35:13] (Interpretation) Maître Bourgon and myself.

18 PRESIDING JUDGE FREMR: [9:35:18] Sorry, sorry. I'm sorry, my error. I guess
19 that probably Ms Grandon will address issues concerning this witness, and
20 Mr Bourgon issues concerning Mr Ntaganda. So probably it will be more logical to
21 start with Mr Bourgon.

22 MR BOURGON: [9:35:36] Thank you, Mr President. As the Trial Chamber can
23 see, Mr Ntaganda is neither present today in the courtroom nor is he available in the
24 video room at the detention centre. I would like to report briefly on his situation.

25 PRESIDING JUDGE FREMR: [9:35:58] Mr Bourgon, I don't want to limit you, but

1 please focus on changes. If the situation remains the same, we don't need to hear
2 again how much Mr Ntaganda is suffering. Please go ahead.

3 MR BOURGON: [9:36:11] Thank you, Mr President. On the contrary, I was going
4 to say simply that yesterday we had a long meeting with the director of judicial
5 services, during which significant and encouraging progress were made in finding a
6 way for Mr Ntaganda to meet with members of his family in the near future and in
7 conditions that would be acceptable to him.

8 So that's really encouraging.

9 Unfortunately, it was not possible to convey this information to Mr Ntaganda
10 yesterday. We were at the detention centre when a situation developed and there
11 was a lock down and we were not able to see him. As a matter of fact, we were -- the
12 visit was cancelled and there was no way to speak to him until a few minutes ago.
13 We were very scared that the situation involved Mr Ntaganda, but it didn't.
14 I will visit him today, as soon as the testimony of this witness is over. I will convey
15 the information to him. And I hope that we can make progress on this basis.

16 One last point is that we had prepared a consent form for him to agree to provide his
17 medical records to the Chamber. Of course this form is not signed, but it will be
18 signed this afternoon. That's all I have to report, Mr President. Other than the fact
19 that of course there's no change. We are still present in the courtroom contrary to
20 the instructions of Mr Ntaganda and pursuant to the Trial Chamber's order.

21 Thank you, Mr President.

22 PRESIDING JUDGE FREMR: [9:37:44] I am glad to hear it, with the exception of
23 the last sentence, and have to add that I hope this positive, or this progress also is a
24 result of our effort, because Chamber, the whole Chamber have met yesterday, those
25 of, representative of the registry were responsible for the issues and hopefully we

1 found a solution that could be at the same time in harmony with our decision and at
2 the same time could meet wish of Mr Ntaganda to meet his wife.

3 And as concerns your last statement, so it's obvious that as concerns presence of
4 Mr Ntaganda, situation remains unchanged. Because yeah, I can just confirm we
5 have been advised that Mr Ntaganda was assessed as being able to attend to video
6 link room but has refused to do so. It's our information coming from detention
7 facility and the Chamber therefore adopts its reasoning of yesterday in full in
8 deciding to continue the proceedings and to directing the Defence to continue its
9 representation.

10 Now Ms Grandon, you have the chance to speak.

11 MS GRANDON: [9:39:09] (Interpretation) Thank you, your Honour. I would
12 like to address the Chamber very briefly on the issue of the testimony of P-100 who
13 started yesterday.

14 Witness P-100 provided information on four occasions to the Office of the Prosecutor,
15 a statement which was taken by an intermediary, and on three occasions directly to
16 the investigators of the Office of the Prosecutor. I, for the purpose of the transcript, I
17 will give the references of the document because I would like to information you that,
18 following my cross-examination, I will be asking for the admission of the document
19 so as to assess the credibility of the witness.

20 The document in question, DRC-0007-0008. The second, 0096-0020, 2062-2252 and
21 the next one 2063-5446. The four documents have 25 page -- or, make up 25 pages in
22 total. And the reasons for my request are as follows: Before the witness starts with
23 the testimony I noted in the four -- or, before the witness started, there were certain
24 contradictions that I noticed in the four documents that I wanted to take up with the
25 witness this morning. And in the light of the testimony yesterday, given by the

1 witness in the courtroom, certain new information appeared during the testimony.

2 And I note that the practice of this Chamber consists during cross-examination, or

3 main -- examination-in-chief of reading passages of preceding statements and

4 submitting them to the witness with a view of having the content in the transcript.

5 However, in light of the number of contradictions that I've been able to ascertain, I

6 doubt my ability to be able to reveal all these contradictions in the three allocated

7 hours that I have available to me, in particular because some contradictions can only

8 become apparent if the entire document is read from the start to the finish.

9 It is therefore my submission of today to put to you that, with a view to assessing the

10 credibility of the witness as a whole, it is essential to have the entire, or the entirety of

11 the four documents. And I also put to you that it's in the interests of justice to be

12 able to have these documents for you so that you are also able to carry out this

13 evaluative work.

14 I have informed my colleague about my submissions and I will also confirm my

15 request, but I do find it very important to inform you of it before starting with my

16 cross-examination. Thank you very much.

17 PRESIDING JUDGE FREMR: [9:42:39] Thank you, Ms Grandon. Ms Solano, your

18 position?

19 MS SOLANO: [9:42:43] Thank you, your Honour. Of course I'm grateful to the

20 Defence for the heads up but, despite that, I believe the submission is premature.

21 The indispensable thing is that any facts in evidence that, in the Defence's view, give

22 rise to an inconsistency with the witness's prior statements must be put to the witness

23 in fairness to the witness. And if that is not done within the time allocated by the

24 Chamber, then the Chamber cannot really be expected to take any such supposed

25 contradictions into account when the Chamber assesses a credibility of the witness.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

1 Thank you, your Honour.

2 PRESIDING JUDGE FREMR: [9:43:20] Yes, for the moment I can confirm that also
3 we will decide according to the situation during the cross-examination, so
4 normally -- you should start as normally, cross-examine the witness and if you will
5 see such a need that really there are some big discrepancies between his
6 examination-in-chief and either parts -- or frankly saying, I have some doubt that it
7 will be necessary to compare his testimony from yesterday and today with whole
8 written statement. But if such a need will arise and if you will in fact persuade us
9 that such a need is there, we will do it.

10 Now, court officer, please bring Mr Witness into the courtroom.

11 (The witness enters the courtroom)

12 PRESIDING JUDGE FREMR: [9:45:15] Good morning, Mr Witness. Are you
13 feeling well today?

14 WITNESS: DRC-OTP-P-0100 (On former oath)

15 (The witness speaks Swahili)

16 THE WITNESS: [9:45:26] (Interpretation) Yes, I'm well.

17 PRESIDING JUDGE FREMR: [9:45:29] Fine, Mr Witness.

18 Today we will continue with your examination and today you are going to be
19 examined by Defence, concretely by Ms Grandon, who will put to you your -- her
20 questions.

21 Two important things: First one, I have to remind you that you are still under oath,
22 which means that you have to speak the truth and nothing but the truth; and the
23 second thing, this Court is governed by principle of fair trial, which also means that
24 both parties should be treated equally, which in your case means that as you
25 answered all questions yesterday put to you by Prosecution, you would make it in a

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

1 same way today when you are questioned by Defence.

2 Do you understand that, Mr Witness?

3 THE WITNESS: [9:46:44] (Interpretation) Yes, I understand.

4 PRESIDING JUDGE FREMR: [9:46:45] All right, so we can start. And,

5 Ms Grandon, allow me just to remind you that you, or the Defence, have been granted
6 three hours to examine the witness. Please, you have the floor.

7 MS GRANDON: [9:46:57] (Interpretation) Thank you, your Honour.

8 QUESTIONED BY MS GRANDON: [9:47:04] (Interpretation)

9 Q. [9:47:06] Good morning, Witness.

10 A. [9:47:10] Good morning.

11 Q. [9:47:13] So we met on Friday, but I'm going to introduce myself once more.

12 So my name is Chloé Grandon and today I'm going to ask you questions on behalf of
13 the Defence of Bosco Ntaganda. Do you understand?

14 A. [9:47:41] I understand.

15 Q. [9:47:48] I'm now going to try and ask my questions as clearly as possible.

16 And if you could try to listen well to my questions in order to give the clearest
17 possible answer thereto, I would thank you for that.

18 Before asking you questions as to the events that you spoke about yesterday, I would
19 like to come back to different statements that you gave to the Office of the Prosecutor.

20 Are you able to follow me, sir?

21 A. [9:48:38] I am following you.

22 Q. [9:48:41] You met the representatives for the Office of the Prosecutor, the last
23 time you met them, that was last week, was it not?

24 A. [9:48:59] Are you talking about here in The Hague, the Office of the Prosecutor
25 here in The Hague?

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

1 Q. [9:49:15] Yes.

2 A. [9:49:19] Yes, we met.

3 Q. [9:49:25] And on that occasion you had the possibility to reread the statements
4 that you had given in the past to the Office of the Prosecutor, did you not?

5 A. [9:49:40] Everything that happened during the war. Yes, everything that
6 happened during the war.

7 Q. [9:50:05] My question, Witness, was to know if last week, when you met the
8 Office of the Prosecutor, you had the possibility to reread or to have read to you the
9 written statement that you gave in the past or the written statements that you gave in
10 the past; is that correct?

11 A. [9:50:30] Yes, that's correct.

12 Q. [9:50:36] I don't know if you know, but following the work that you carried
13 out last week, the Prosecutor provides the Defence with the document which is a
14 report on what happened during the sessions, the working sessions with the Office of
15 the Prosecutor. Were you informed thereof?

16 A. [9:51:06] Yes, I'm following you.

17 Q. [9:51:11] These documents make it possible for me to know which documents
18 were presented to you during this working session.

19 I would now like to go back to the different statements that you gave to the Office of
20 the Prosecutor. Now, the first statement that I have is a statement, the end of month
21 of (Redacted). Do you remember this meeting?

22 A. [9:52:03] Yes. You're speaking about (Redacted).

23 Q. [9:52:11] I would like to call up a document, 0096-0020.

24 THE COURT OFFICER: [9:52:31] Could you please indicate its level of
25 confidentiality?

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

1 MS GRANDON: [9:52:39] (Interpretation) Is this for the screen?

2 THE COURT OFFICER: [9:52:44] Just to know if the document can be broadcast or
3 not.

4 MS GRANDON: [9:53:09] (Interpretation)

5 Q. [9:53:14] Can you see the document which appears in front of you?

6 A. [9:53:23] I see it.

7 Q. [9:53:27] Do you recognize this document?

8 A. [9:53:40] Yes. This is a document with my name on it.

9 MS GRANDON: [9:54:13] (Interpretation) Please, could we have the page 0031 of
10 this document.

11 Q. [9:54:51] Do you see the page in front of you?

12 A. [9:54:57] Yes.

13 Q. [9:55:00] Do you recognize the signature?

14 A. [9:55:05] Yes, I recognize it.

15 Q. [9:55:11] You know that in signing this document you commit yourself to
16 stating that the content of the document corresponds with the fact that you have
17 mentioned and the fact that they are true; is that not the case?

18 A. [9:55:42] This document is written in French. Please, could you try and
19 explain the content of the document in Swahili so I can understand what's written?

20 Q. [9:55:58] Well, I'm going to read the corresponding paragraph and that will be
21 interpreted for you.

22 "I declare according to my honour and conscience that the information figuring in this
23 statement that I personally reread correctly reflects my interview of the 27th -- from
24 27 to 30 May 2005. I made -- I gave this statement fully voluntarily and I was
25 informed that it could be used within the framework of legal proceedings before the

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

1 International Criminal Court and that I could be called to testify in public before the
2 Court."

3 Do you confirm this information?

4 A. [9:56:55] Could you explain to me in detail everything that I stated? I haven't
5 heard what I stated myself in this statement.

6 Q. [9:57:36] Well, the paragraph that I've just put to you, that's on the last page of
7 the document, which corresponds with your first meeting with the investigators of
8 the Office of the Prosecutor. Here we're talking about a document that you reviewed
9 last week during the working session with the Office of the Prosecutor. Is that
10 clearer for you?

11 A. [9:58:19] That's why I said that I wanted to read my statement before
12 answering you.

13 Q. [9:58:28] Well, I'll go back to the content of this statement a bit later.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 MS SOLANO: [9:59:14] Your Honour.

18 PRESIDING JUDGE FREMR: [9:59:15] Ms Solano.

19 MS SOLANO: Your Honour.

20 THE WITNESS: [9:59:19] (Interpretation) (Redacted)

21 PRESIDING JUDGE FREMR: [9:59:25] Mr Witness, hold on. We will first listen to
22 Madam Prosecutor.

23 Ms Solano.

24 MS SOLANO: [9:59:29] I apologise. Could we please move into private session.

25 PRESIDING JUDGE FREMR: [9:59:33] Yes, good point. So, and for the

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 information of public, this witness is protected, one, so he was granted that his
2 identity will not be revealed, so if there is such a risk we will have to move into
3 private session, which is the case right now.

4 Madam Court Officer, please, let's move into private session.

5 (Private session at 10.00 a.m.) *(Reclassified partially in public)

6 THE COURT OFFICER: [10:00:23] We're in private session, Mr President.

7 PRESIDING JUDGE FREMR: [10:00:26] Thank you, court officer.

8 So, Ms Grandon, please put your question again.

9 THE WITNESS: [10:00:42] (Interpretation) (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 *MS GRANDON:

17 Q. [10:02:03] I would like to call up a document, 0007-0008.

18 THE COURT OFFICER: [10:03:14] Could you please confirm that the ERN number
19 is 0077?

20 MS GRANDON: [10:03:40] (Interpretation) Is it possible to zoom into the
21 document, please?

22 Q. [10:03:54] Mr Witness, can you see the document on the screen in front of you?

23 A. [10:04:03] Yes, I can see it.

24 Q. [10:04:08] Do you recognize this document?

25 A. [10:04:18] With regard to this document, I can see the name Kobu. It is

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 written there. I think it is the document that I can identify.

2 Q. [10:04:37] Is this a document that was shown to you last week during your
3 working session with the OTP? Do you recall that?

4 A. [10:04:53] Yes, I remember.

5 Q. [10:05:05] And these are notes that (Redacted) during his meeting with you;
6 is that correct?

7 A. [10:05:19] I'm with you.

8 Q. [10:05:30] And this meeting with (Redacted),
9 correct?

10 A. [10:05:44] That is correct.

11 Q. [10:05:54] After the first two meetings, you met again with the OTP on two
12 occasions in (Redacted); do you remember that?

13 A. [10:06:16] Yes, I'm with you.

14 Q. [10:06:24] The first meeting was on (Redacted). Do you remember
15 that?

16 A. [10:06:42] Yes, I'm following you.

17 Q. [10:06:54] And the second meeting was on (Redacted); do you recall that?

18 A. [10:07:06] Yes.

19 Q. [10:07:15] Do you remember that between those two last meetings there were
20 (Redacted)?

21 A. [10:07:41] (Redacted)

22 Q. [10:07:53] (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [10:08:14] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 Q. [10:08:25] Is it not correct to say, Mr Witness, that those exhumations were
2 known to the people in the Kobu area?

3 A. [10:08:56] When we went to (Redacted), they opened -- they dug the graves and
4 when they found the bodies, they started removing them to clean them up. And
5 since it was raining heavily, I was no longer there. (Redacted)

6 It was raining heavily and there was a very strong wind. They were working under
7 the rain. After they finished their work and the rain had stopped, they came and we
8 returned to Kobu. That is where they went to clean the bodies. So in Kobu that is
9 what they did. People knew when they came to exhume the bodies and even when
10 they were cleaning the bodies they were there. No one had informed them that this
11 work was going to be done, but they were there.

12 PRESIDING JUDGE FREMR: [10:10:18] Ms Grandon, subject to your future
13 questions, do you think we can return back into open session?

14 MS GRANDON: [10:10:30] Yes.

15 PRESIDING JUDGE FREMR: [10:10:32] Fine.
16 Court officer, let's return back into open session now.

17 (Open session at 10.10 a.m.)

18 PRESIDING JUDGE FREMR: So now I was told that because of some technical
19 problems with possible redactions we will have to remain for, hopefully a short time,
20 in the regime of private session. As soon the technical problem is solved we will
21 then move into open session. So, sorry, and please proceed, Ms Grandon.

22 MS GRANDON: [10:11:47] Merci, Mr President.

23 PRESIDING JUDGE FREMR: [10:11:51] So let's return back, sorry, because of
24 technical let's return back into --

25 MS SOLANO: [10:11:57] Your Honour.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [10:11:58] Ms Solano.

2 MS SOLANO: [10:12:01] Thank you, your Honour. Perhaps I can use the
3 opportunity to just say that depending on what the questions are going to be in
4 relation to the exhumations, if they have a potential to identify the witness, because
5 perhaps the questions will require him to talk about particular individuals, in that
6 case, I would request that we remain in private session, please.

7 PRESIDING JUDGE FREMR: [10:12:22] Yes, my understanding was that we will,
8 and I said subject to future questions, that we will remain in a general level about
9 exhumations as such.

10 So, court officer, still this technical problem remains?

11 THE COURT OFFICER: [10:12:38] We are now in open session, but our IT
12 technician have strongly recommended to remain in private session.

13 PRESIDING JUDGE FREMR: [10:12:48] All right. So for the sake of protection of
14 our witness, we will respect that. Let's return back into private session.

15 (Private session at 10.13 a.m.) *(Reclassified partially in public)

16 THE COURT OFFICER: [10:13:14] We are now back in private session,
17 Mr President.

18 PRESIDING JUDGE FREMR: [10:13:17] Thank you.

19 Ms Grandon, please proceed.

20 MS GRANDON: [10:13:22] (Interpretation)

21 Q. [10:13:25] Are you still with me, Mr Witness?

22 A. [10:13:32] Yes, I am with you.

23 Q. [10:13:39] Do you confirm that last week during your working session with the
24 OTP you had the opportunity to make corrections in the statements that you gave to
25 the OTP, didn't you?

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 A. [10:14:09] Yes, we met and what you say is correct.

2 Q. [10:14:20] I would like to put some questions to you about Bosco Ntaganda.

3 Yesterday during your testimony I realised that you referred to Bosco Ntaganda on
4 several occasions. Do you remember?

5 A. [10:14:54] I do remember.

6 Q. [10:14:58] I read closely the four statements that you gave to the Office of the
7 Prosecutor, those that we have just talked about, and there is no mention of
8 Bosco Ntaganda in those four documents. Is that correct?

9 A. [10:15:58] Well, even if I did not mention his name, he's the one who sent his
10 soldiers to go and fight against the Lendus. So he was the one who was responsible.
11 He is the one who brought the soldiers to fight against the Lendu.

12 Q. [10:16:30] There is indeed a document in which you mention Bosco and it is
13 the victim's participation form.

14 I would like to call up that document, 2090-0038.

15 Is it possible to zoom into that document, please.

16 Do you recognize that document?

17 A. [10:18:09] I recognize the document.

18 Q. [10:18:17] Before I ask you any questions on this document, I would like to be
19 sure that the date marked on that document is correct.

20 If you can scroll down to the bottom of that document where the date is indicated,
21 please.

22 Do you see the date that is written there, Mr Witness?

23 A. [10:18:58] Yes, I can see it.

24 Q. [10:19:03] It is stated that this document was filled in on (Redacted).

25 Is this a mistake, or was this document actually filled in on (Redacted)?

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 A. [10:19:53] The document was at the beginning in February 2003 when Bosco was sending
2 his soldiers there to Mongbwalu. It was at the beginning of the war and that is why it is
3 written 16 February 2003. This was a time at which he sent his soldiers to Mongbwalu.

4 Q. [10:20:34] *Maybe my question was not clear, I am submitting to you that the error in the
5 date does not relate to the date of the events, but rather to the date when you answered the
6 questions on the victim participation form. (Redacted?)

7 A. [10:21:17] (Redacted)
8 (Redacted)
9 (Redacted)

10 Q. [10:22:04] And it was at the time that you were answering questions relating to
11 this form that you mentioned "Bosco - T" for the first time; is that correct?

12 A. [10:22:44] Bosco's name was known from the very beginning of the war.
13 Even during the war it was Bosco who was the leader during the war, so his name
14 was known. He was the one who sent soldiers to carry out operations. He was the
15 one who gave them the authority to do everything that they did. I cannot say I
16 mentioned his name only at this time. No. It was from the very beginning of the
17 war.

18 Q. [10:23:54] Mr Witness, but this is in fact the only document dated (Redacted) in
19 which you actually mention Bosco; isn't that correct?

20 A. [10:24:40] That is what I am telling you. Bosco's name was mentioned ever
21 since the Ugandans left. He is the one who brought soldiers to Mongbwalu and ever
22 since then it was Bosco Ntaganda who was known to be sending his soldiers to
23 Mongbwalu to fight against the Lendu. So since the Ugandans left, people were
24 only speaking about Bosco. I heard his name from the very beginning of the war. I
25 knew that he was the one sending his soldiers to fight against the Lendu. I did not

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 mention that when the war was already halfway through.

2 MS GRANDON: [10:25:44] (Interpretation) Could you display page 0041 of the
3 same document, please.

4 Q. [10:26:16] I wanted this document to be shown to you because the date which
5 appears on this page is (Redacted) and it is signed by the interpreter who helped
6 you to fill in this form, and this confirms that the form was completed in (Redacted)
7 in 2003.

8 Did you see the date on the document?

9 PRESIDING JUDGE FREMR: [10:27:26] Hold on, Mr Witness. Hold on,
10 Mr Witness. Ms Solano first.

11 MS SOLANO: [10:27:29] Thank you, your Honour. I object to the way the question
12 was put to the witness because the Defence has said to the witness that "this page is
13 signed by the interpreter who helped you to fill in this form." And below the
14 signature that is currently displayed on the screen, it says "personne ressource",
15 resource person, which in my submission is not the same thing as the interpreter. So
16 I think there's a possibility that the witness is going to be led into error by this
17 question.

18 PRESIDING JUDGE FREMR: [10:28:02] Ms Grandon. I read the same, so maybe
19 you may rephrase.

20 MS GRANDON: [10:28:09] (Interpretation)

21 Q. [10:28:17] Can you see the date on the page of that document, Mr Witness?

22 A. [10:28:32] Yes, I see the date.

23 Q. [10:28:40] It is indeed (Redacted), right?

24 A. [10:28:59] I recognize this document because I was the one who signed the
25 document. But if I did not sign it, then I wouldn't be able to -- I wouldn't know what

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 it says.

2 Q. [10:29:24] But that is indeed the date on which you answered the questions
3 relating to the form for victim participation; isn't that correct?

4 A. [10:29:51] I am not the one who signed this document. That is why I do not
5 remember this date. Maybe you should tell me what I said, maybe I will remember.
6 It is someone else who signed, not myself. That is why I am not in a position to
7 confirm to you what you are asking.

8 Q. [10:30:20] So if we could go back to the first page of the document, 0038, if you
9 would be so kind.

10 MS SOLANO: [10:30:47] Your Honour.

11 PRESIDING JUDGE FREMR: [10:30:49] Ms Solano.

12 MS SOLANO: [10:30:49] If the witness's headphones could be removed I would
13 like to make a very quick submission, your Honours.

14 PRESIDING JUDGE FREMR: [10:30:58] All right. Court officer, would be up to
15 you to assist.

16 Mr Witness, for some procedural reasons we will have to deprive you for a moment
17 of your headphones.

18 MS SOLANO: [10:31:17] Thank you, your Honour.

19 Your Honour, just in case this assists the Defence, the Prosecution will not dispute
20 that the likely date of creation of this entire document is (Redacted) rather than 2003. And
21 that's because the Victim Participation Reparations Section did not exist in 2003 and
22 neither did these forms.

23 I see some potential for the witness to get confused by the questioning, so if that
24 assists in allowing the Defence reach where they want to go, that is fine by us.

25 PRESIDING JUDGE FREMR: [10:31:52] Ms Grandon.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 MS GRANDON: [10:31:54] (Interpretation) I'd like to thank my colleague.

2 Certainly it's going to help me continue with my questioning.

3 PRESIDING JUDGE FREMR: [10:32:02] Very well.

4 So now, court officer, please put headphones back on Mr Witness' head, and we can
5 continue.

6 Ms Grandon, please.

7 MS GRANDON: [10:32:19] (Interpretation)

8 Q. [10:32:21] Do you still see the document in front of you, Witness?

9 A. [10:32:27] Yes, I can see it.

10 Q. [10:32:33] I'm going to read the content of this document.

11 "I the undersigned or the victim on behalf of which I am acting confirms personally
12 having suffered the following events: Hema soldiers from the UPC entered into our
13 village of Kobu towards the last week of the month of February 2003. They killed
14 (Redacted)."

15 Are these indeed your words, Witness?

16 A. [10:33:53] I don't know these words because (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 time. They died well before then.

24 Q. [10:35:08] So you deny having said to the person who was assisting you to fill
25 in the forms that (Redacted) died during the conflict (Redacted; is that true?

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 A. [10:35:27] (Redacted) They died
2 before the war. The war started when they were already dead. The person who
3 wrote that did not write it down correctly. What is written is different than what I
4 said. I don't know that. During the war (Redacted) were no longer alive. I was
5 living with my children and my wife at that time. (Redacted) were no longer alive.

6 Q. [10:36:35] You were reread the document at the time when you answered
7 these questions, did you not?

8 A. [10:36:48] Well, it's not written well. I can't accept that. (Redacted)
9 (Redacted) were no longer alive during the war.

10 Q. [10:37:13] Do you remember having answered the question as to the harm that
11 you suffered during the war?

12 A. [10:37:39] (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. [10:38:24] When you filled in the participation form, victims participation
18 form --

19 PRESIDING JUDGE FREMR: [10:38:31] Sorry.

20 Ms Solano.

21 MS SOLANO: [10:38:32] Your Honour, I object to the form the question is taking
22 because there is no indication that the witness himself filled in this form.

23 PRESIDING JUDGE FREMR: [10:38:44] Ms Grandon.

24 MS SOLANO: [10:38:46] Among other things, it's in French which the witness said
25 yesterday -- well, he --

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [10:38:56] So it's seems that, Ms Grandon, your
2 question in fact supposes facts that were not confirmed by the witness. Please
3 rephrase your question.

4 MS GRANDON: [10:39:30] (Interpretation)

5 Q. [10:39:31] Do you remember having spoken about the harm you suffered
6 when you filled in this form?

7 A. [10:40:00] I can only recognize what I said. I can't recognize what I didn't say.
8 Here I'm speaking to you about things that I said. What's written here, I do not
9 recognize because (Redacted), during the war.

10 I was just living with my children. The person who wrote that wrote what they
11 wanted. I told you I don't speak French, if the people who wrote it in French wrote
12 things that I didn't say.

13 Q. [10:41:07] You were aided by somebody when you answered the questions as
14 to harm, you were assisted, were you not?

15 A. [10:41:24] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [10:42:01] My question, Witness, was to know if you'd been helped by
20 somebody to fill in this form.

21 A. [10:42:40] Even if somebody helps you when -- well, it's a language that you
22 don't understand. They can write things that you haven't said. They can confuse
23 you with word tricks or plays on words.

24 Q. [10:43:35] Now, the last page of this document that I showed to you a moment
25 ago explains that there was an interview in order to fill in this form. The interview

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 was translated in Swahili and Kilendu. These are languages which you speak and
2 understand, do you not?

3 A. [10:44:19] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 They were only speaking Swahili. I didn't speak any French on that day. But
8 I don't know how they wrote these words.

9 Q. [10:45:25] This document was therefore never reread to you in a language that
10 you understand; is that what you are telling us today, Witness?

11 A. [10:45:54] If I was spoken to in a language that I knew, how -- it would have
12 been changed, but what's written there just confuses me.

13 Q. [10:46:27] In this form there is no mention of (Redacted)

14 (Redacted)

15 when you answered the questions in this form.

16 A. [10:47:33] I don't understand that. (Redacted) died before the war.

17 Q. [10:47:44] (Redacted)

18 (Redacted)

19 A. [10:48:26] (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 They were no longer alive. I cannot accept things that I do not know.

24 Q. [10:49:23] (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 document. You therefore did not mention these people --

2 MS SOLANO: Your Honour.

3 PRESIDING JUDGE FREMR: [10:49:44] Hold on, mister -- hold on Mr Witness.

4 Ms Solano.

5 MS SOLANO: [10:49:47] Thank you, your Honour. I object because in my

6 submission the question has been answered. The question that immediately

7 precedes this one is about whether the witness had mentioned (Redacted)

8 (Redacted) having died during the conflict when he answered the

9 questions. And the witness provided an answer.

10 PRESIDING JUDGE FREMR: [10:50:09] Ms Grandon, you spent 20 minutes, even

11 maybe more, dealing with this issue and, I guess, the answer, I don't think whether

12 we will believe or not, the answer was -- Mr Witness said he did not write it, he

13 doesn't speak French so he, according him, he can't be responsible for it, for what is

14 written here. So in my view really of further questions, including the last one, can't

15 bring any progress, so I would rather encourage you to move on.

16 MS GRANDON: [10:50:51] (Interpretation) I'm going to continue, your Honour.

17 Q. [10:51:14] In this document it's also indicated, if I carry on reading, and here I
18 will quote:

19 "They burnt our houses and all the items therein. It was during the operation shika
20 na mukono."

21 Are those your words?

22 A. [10:51:46] Yes, during the war they burnt the houses in the shika na mukono
23 operation. It wasn't just with us. Wherever they went they burnt everything.

24 They pillaged everything that they found, everywhere, in all the villages.

25 Everywhere where they went they burnt houses and they pillaged everything.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 Q. [10:52:18] Therefore confirm that you said that the Hema soldiers burnt your
2 house and all the items therein; is that correct?

3 A. [10:52:31] They set fire to the houses. They went through all the village, they
4 left nothing behind them. Everywhere, wherever they went they set all the houses
5 alight. Until they came back to Kobu to kill the people, they had already set the
6 houses on fire. And people had fled into the forest. Just with regards to (Redacted),
7 (Redacted) He died long before.

8 Q. [10:53:24] During your testimony yesterday, and here I'm referring to transcript 131 in
9 the morning, page 35, lines 7 to 9; 14 to 16; *page 37, line 18 to 21; and page 37, line 18 to
10 page 38, line 13, you explained that your house had not been completely burnt because it
11 rained, started raining and you found your goods on the floor. Do you remember that?

12 A. [10:54:26] Yes, I remember. When they arrived in Kilo, the Nyali were in the
13 forest and that's when the houses were set on fire. They arrived in Kobu on two
14 occasions; the first time they came they went to Kilo, and the next day they prepared
15 well to attack Kobu. That was during the war. And it's when they arrived in Kilo
16 that they joined us in the forest.

17 Q. [10:55:33] So in the participation form it says that your house and all the items
18 therein were set on fire. That's not the truth, that they were all burnt?

19 A. [10:55:58] When they went into the forest, well, they were in Kilo, in fact they
20 set fire to the houses a bit later. And the second time, when they came to Kobu, they
21 went to all of the villages and they set fire to all the houses and they pillaged
22 everything that they found. That was the second time. The first time the attack
23 was very quick and they left because they heard people who were coming for them,
24 so they went to Kilo and they prepared to come to attack.

25 Q. [10:57:07] Do you therefore confirm the existence of two attacks?

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 A. [10:57:16] That was the attack of Mongbwalu when they were following the
2 Lendu, they were following them to Kobu. That was one attack. From Kilo they
3 arrived in Kobu and they went into the forest without going through Kobu. That
4 was one attack, in fact.

5 Q. [10:58:03] Do you remember in (Redacted), during your first meeting with the
6 investigators of the Prosecutor, that you put the date of the first attack as
7 (Redacted)?

8 A. [10:58:31] Continue. I'm following you.

9 Q. [10:58:57] I'm going to read the paragraph of your statement of (Redacted),
10 paragraph 20, DRC-0096-0020.

11 "13 February 2003, sometime after having heard that the UPC had conquered
12 Mongbwalu and Kilo, towards 5 o'clock or 5.30 in the morning, I woke up suddenly
13 because a mortar had blown up in the air."

14 Do you remember having explained that?

15 A. [10:59:54] They fired the mortar in Kilo before they arrived with us. That was
16 in the morning. They fired that in Kilo.

17 Q. [11:00:17] And these events come from 13 February 2003, do they not?

18 A. [11:00:27] Yes, I know they attacked Kilo, it was in the morning.

19 Q. [11:00:41] I'm going to read another paragraph, paragraph 28 of the same
20 document, page 0026:

21 "On the morning of 25 February 2003 (Redacted) and myself went to the
22 commercial centre of Kobu to buy oil and salt and on that occasion to inform
23 ourselves with regards to the security situation. As it was a market day there were a
24 lot of people who were on the road. Before even arriving in the centre, we heard the
25 sound of a mortar explosion not far away and there was panic."

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 Do you confirm that here we're talking about the second attack?

2 A. [11:01:49] Yes, that was the next day. They fired the mortar, having left Kilo,
3 and they were on the main road next to Kobu. And it was at that time that they shot
4 or fired these mortars, and we hadn't got to Kobu. And sometime afterwards we
5 met people who were fleeing and we didn't go to the market, but went back home.
6 That was the second attack. When they wanted to enter Kobu, *this was the second
7 attack. They fought, they had already left Kilo and they were next to Kobu.

8 Q. [11:02:43] And coming back to the dates of 13 and 25 February, you will agree
9 with me that there is a period of about 10 days between those two attacks; is that
10 correct?

11 A. [11:03:07] When they entered Kobu, the following day the fighting continued.
12 That is what happened.

13 PRESIDING JUDGE FREMR: [11:03:26] Ms Grandon, it's 11.03. I would prefer if
14 you could wrap up. If you want just to put one, two additional questions just to
15 finish the topic, but anyway it's time to break.

16 MS GRANDON: [11:03:38] (Interpretation) I think we can have the break, your
17 Honour.

18 PRESIDING JUDGE FREMR: [11:03:42] All right. So we will break now and we
19 will resume 11.30.

20 Court officer, please take Mr Witness out of the courtroom because I would like to
21 briefly discuss a timing issue in his absence.

22 And court officer, let's move into open session now.

23 (The witness stands down)

24 (Open session at 11.04 a.m.)

25 THE COURT OFFICER: [11:04:25] We're in open session. I need, however, to

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

1 inform you that the broadcast is not set up, it's due to technical issues. Only the
2 public gallery can follow us.

3 PRESIDING JUDGE FREMR: [11:04:52] Thank you. And I hope that the problem
4 will be solved soon.

5 As to the point of organisation, Ms Grandon, I got information you used so far 1 hour
6 16 minutes, which should mean that you still have 1 hour 44. But in light of the fact
7 that Ms Solano used only 2 hours, 42 minutes and frankly saying, and I guess I can
8 speak on behalf of the whole Chamber, of the current content of the testimony of this
9 witness, who obviously is not the most important witness in our case, we believe that
10 you could finish at least a bit or make this *cross-examination a bit shorter,
11 approximately as Prosecution, which would mean that still will have at your disposal
12 1 hour 30 minutes.

13 Anyway, we would like to take a bit longer session because there is some risk of, or is
14 possibility of re-direct.

15 Ms Solano, at the moment do you envisage any need for re-direct?

16 MS SOLANO: [11:06:16] Not at the moment, your Honour.

17 PRESIDING JUDGE FREMR: [11:06:18] So we will see. But anyway we are ready
18 to sit a bit longer than 1 hour 30 minutes, then to shorten the afternoon session.

19 But my main message to you, Ms Grandon, please, you have still 30 minutes to
20 reconsider things. I believe that this testimony, or your examination, should be
21 re-organised and finish in 1 hour 30 minutes.

22 Now we break and we will resume at 11.35.

23 THE COURT USHER: [11:06:46] All rise.

24 (Recess taken at 11.06 a.m.)

25 (Upon resuming in open session at 11.39 a.m.)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

1 THE COURT USHER: [11:39:50] All rise.

2 Please be seated.

3 PRESIDING JUDGE FREMR: [11:40:13] Ms Solano, please.

4 MS SOLANO: [11:40:14] Thank you, your Honour. Ms Selam Yirgou is not with
5 us in the courtroom for this session.

6 PRESIDING JUDGE FREMR: [11:40:19] Well noted. Thank you.

7 Otherwise we can continue with the rest of cross-examination of this witness by
8 Defence, concretely by Ms Grandon.

9 Ms Grandon, subject to your further questions, is it possible to remain in the regime
10 of open session, or it's necessary in the interest of protection of our witness to move
11 into private session?

12 MS GRANDON: [11:41:00] (Interpretation) The first questions can be in open
13 session, your Honour.

14 PRESIDING JUDGE FREMR: [11:41:03] All right. Then please proceed,
15 Ms Grandon.

16 MS GRANDON: [11:41:10] (Interpretation)

17 Q. [11:41:11] Good morning once again, Mr Witness.

18 A. [11:41:14] Good morning.

19 Q. [11:41:15] Coming back to what we were talking about before the break, that is
20 the attacks which took place against Kobu, from your testimony of yesterday I believe
21 you said that the pacification meeting and the events in the banana plantation took
22 place on the day after the attack on Kobu; is that correct?

23 A. [11:42:14] I did not quite understand your question. Can you kindly repeat,
24 please.

25 Q. [11:42:21] Yesterday you testified that after the attack on Kobu there was an

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

1 appeal for pacification. Do you remember that?

2 A. [11:42:42] Yes, that was my testimony.

3 Q. [11:42:49] And you said that that appeal for pacification took place on the day
4 after the attack on Kobu; is that correct?

5 A. [11:43:11] The Kobu attack took place, let us say today, then the next day they
6 chased after the young Lendu who had been hiding in the forest. They went
7 and -- they went on to Sangi and a new attack took place.

8 Q. [11:43:54] And the following day corresponds to the day of the appeal for
9 pacification; is that correct?

10 A. [11:44:19] To begin with, there was an attack. And after that some of the
11 soldiers started shouting, saying "We are asking for a ceasefire. We are not here to
12 fight. We are here for pacification." And that is how the others heeded that call.
13 And the next day they promised to have a pacification meeting. In fact, this was not
14 true. They simply wanted to fool people to come there so that they could capture
15 them. I was not amongst the people who went for the meeting.

16 Q. [11:45:31] Let me come back to your statement of *May 2005, and it is
17 paragraph 14 of that statement, page 0023 of DRC-0096-0020.

18 And you explain, and I quote:

19 "The information on the said operation 'shika na mukono' as contained in paragraph
20 68 to 82", and you are referring here to your meeting, your first meeting with the
21 intermediary of the OTP, it is stated that that information and I quote you: "I learned
22 about that indirectly from certain members of the Lendu community of Bunia." I
23 understand from that paragraph that, when it comes to the attack on Kobu, the
24 information that you provided is information that you received from third parties; is
25 that correct?

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

1 A. [11:47:49] Are you talking about the pacification meeting or all the rest of the
2 information? I have just told you that I did not take part in the pacification meeting.

3 Q. [11:48:05] I am referring here to the shika na mukono operation. Do you
4 remember speaking to that topic yesterday?

5 A. [11:48:37] Yes. Yesterday I talked about shika na mukono. When they
6 asked for a ceasefire, one of Ntaganda's soldiers was shouting, "We want a ceasefire.
7 We did not come here to fight. We came here for pacification." But they did not
8 really want peace, they simply wanted to draw out members of the civilian
9 population in order to capture them. They said that all those who had fled into the
10 forest should come out and attend the meeting. But however, their purpose was to
11 capture those people. That was my testimony.

12 I was in Gola, in fact, between Gola and Sangi. These are two localities which are
13 quite close to each other and it was possible to hear them shouting. Even my
14 neighbours said, "Look, we are not going to that pacification meeting. There is a
15 hidden agenda there." And that is why we did not go to that meeting.

16 Q. [11:50:29] I would like to display to you a paragraph of your statement of 2014,
17 DRC-2062-2252, paragraph 5. And in relation to the pacification meeting, it is stated,
18 (Speaks English) "I later learned that some of those who went to the pacification
19 meeting were taken to a house and kept there."

20 (Interpretation) Mr Witness, this is information that you heard about or that you
21 learnt about after the events; is that correct?

22 A. [11:51:28] You see, the news about the arrest of people in the house was on the
23 day when the UPC soldiers captured some people and locked them up in the house.
24 Some of those people had stayed outside and refused to enter the house, and when
25 they started their operation, they opened fire. Those who were outside fled, but

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Open Session)

ICC-01/04-02/06

- 1 those who were inside the house were prevented from leaving and so they were tied
2 up. Those who had been outside fled, but the attackers started chasing after them.
3 We were there and we said, "You see, is that really a pacification meeting?"
4 It was after that that I told (Redacted) to escape. We also escaped.
5 However, (Redacted) *and the others were captured. They had started chasing after
6 the members of the population. There was no longer any pacification meeting as
7 promised. They started firing, and those who were in the house were prevented
8 from leaving and were tied up.
9 Some of the soldiers stayed back to guard those who were in the house while the
10 others chased after those who had fled. It was on that day that they captured (Redacted)
11 (Redacted). They took them to Jitchu and the following day they took
12 them to Kobu and killed them. They had captured many people, not only members
13 of my family. There were other -- many other members of the civilian population.
14 Q. [11:53:59] Mr Witness, my question was quite clear. Talking about the
15 pacification meeting and the events that followed, you do not have any first-hand
16 knowledge of this, yes or no?
17 A. [11:54:36] There is someone who was shouting, "We want a ceasefire." So I
18 could hear what he was saying because we were quite close to Sangi. We could hear
19 everything they were saying. The person was shouting very loud so that the
20 members of the population could hear, and I personally heard myself. It was not
21 somebody who told me about that.
22 Q. [11:55:22] You were not present at the pacification meeting, Mr Witness,
23 correct?
24 A. [11:55:51] No, I did not go there. No, it was not a genuine pacification
25 meeting. We know that.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

- 1 Q. [11:56:17] I will move on to something else.
- 2 For that purpose, your Honour, I would like us to go into private session.
- 3 PRESIDING JUDGE FREMR: [11:56:29] All right.
- 4 Court officer, let's move into private session now.
- 5 (Private session at 11.56 a.m.) *(Reclassified partially in public)
- 6 THE COURT OFFICER: [11:56:48] We're in private session, Mr President.
- 7 PRESIDING JUDGE FREMR: [11:56:52] Thank you, court officer.
- 8 Ms Grandon, please proceed.
- 9 MS GRANDON: [11:56:57] (Interpretation)
- 10 Q. [11:57:01] Mr Witness, let us talk about what happened in the banana
- 11 plantation in Kobu. Are you with me?
- 12 A. [11:57:17] Yes.
- 13 Q. [11:57:30] Yesterday you explained that after having been informed that
- 14 people had been killed in Kobu, you yourself went to that location; do you
- 15 remember?
- 16 A. [11:57:53] (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 Q. [11:59:01] (Redacted)
- 23 A. [11:59:11] (Redacted)
- 24 Q. [11:59:15] (Redacted)
- 25 A. [11:59:24] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 Q. [11:59:39] (Redacted)

2 A. [11:59:43] (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [12:00:21] (Redacted)

6 (Redacted)

7 A. [12:00:45] (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. [12:01:30] (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. [12:02:07] (Redacted)

16 (Redacted)

17 Q. [12:02:26] (Redacted)

18 (Redacted)

19 A. [12:02:43] (Redacted)

20 (Redacted)

21 Q. [12:03:02] You explained that there were three bodies in the banana farm; do
22 you recall that?

23 A. [12:03:13] Not only three bodies, no. They killed several people. And there
24 were many dead bodies there, people who had left Sangi from Gola, and then they
25 killed people from other areas. So there were many bodies of people who had been

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 killed, not only three.

2 Q. [12:03:42] Maybe my question wasn't very clear. I'm sorry. So I'll repeat the
3 question.

4 (Redacted)

5 (Redacted)

6 A. [12:04:01] (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [12:04:24] (Redacted)

10 (Redacted)

11 A. [12:04:42] (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [12:05:24] (Redacted)

15 (Redacted)

16 (Redacted)

17 A. [12:05:45] (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. [12:06:51] (Redacted)

21 (Redacted)

22 (Redacted)

23 A. [12:07:14] (Redacted)

24 (Redacted)

25 Q. [12:07:48] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 A. [12:08:02] (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 MS SOLANO: [12:08:26] Your Honour.

7 PRESIDING JUDGE FREMR: [12:08:28] Yes, Ms Solano.

8 MS SOLANO: [12:08:30] Your Honour, I'm on my feet to request a transcript

9 correction to both the English and the French transcript. The references are, for the

10 French transcript, page 39, line 19 and in the English transcript page, 42 line 5. Both

11 transcripts indicate that when speaking of the burial location of (Redacted)

12 (Redacted). I heard

13 the witness say something different. I can say what I heard, but perhaps the Defence

14 would like to pose the question again.

15 PRESIDING JUDGE FREMR: [12:09:13] In the interests of clarity, Ms Grandon, are

16 you with us? It concerns the place where (Redacted) were buried, specifically

17 mentioned, this one place mentioned in English transcript, it's page 42, line 5, which

18 according Ms Solano is not correct.

19 MS GRANDON: [12:09:49] (Interpretation)

20 Q. [12:09:53] *Mr Witness, could you confirm where was the family cemetery located?

21 THE INTERPRETER: [12:09:59] Mr President, the microphone was not open and

22 we didn't hear the counsel -- Defence counsel's question.

23 THE WITNESS: [12:10:10] (Interpretation) (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 PRESIDING JUDGE FREMR: [12:10:34] So now, in fact, it was confirmed by

3 Mr Witness.

4 You may proceed, Ms Grandon.

5 MS GRANDON: [12:10:45] (Interpretation)

6 Q. [12:10:47] (Redacted)

7 (Redacted)

8 A. [12:11:08] (Redacted)

9 Q. [12:11:20] (Redacted)

10 (Redacted)

11 A. [12:11:36] (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [12:12:06] (Redacted)

15 (Redacted)

16 A. [12:12:18] (Redacted)

17 Q. [12:12:26] (Redacted)

18 (Redacted)

19 A. [12:13:04] (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [12:13:48] (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 A. [12:14:06] Yes, that's correct. (Redacted)

2 Q. [12:14:21] However, yesterday during your testimony you explained that you
3 had to quickly leave the banana plantation because at the time there was still gun
4 firing around Kilo. And I'm referring here to transcript T-131, afternoon page 25,
5 line 24 and page 26, line 1.

6 Are you therefore saying that you quickly left the location, or did you bury the body
7 on the same day as you had found them in the banana farm?

8 A. [12:15:16] We buried those bodies promptly. When the members of our
9 (Redacted)

10 (Redacted).

11 Q. [12:15:58] (Redacted)

12 (Redacted)

13 (Redacted)

14 A. [12:16:33] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [12:17:58] (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 *A. Yes I remember

5 PRESIDING JUDGE FREMR: [12:18:53] Ms Solano.

6 MS SOLANO: [12:18:54] (Overlapping speakers) Unless I am mistaken, in

7 paragraph 9 of this statement, the -- there is no record of the witness being asked

8 (Redacted).

9 PRESIDING JUDGE FREMR: [12:19:13] Ms Grandon, could you clarify are you correct

10 or not?

11 MS GRANDON: [12:19:20] I'm checking.

12 (Speaks French)(No interpretation)

13 (Speaks English) (Redacted)

14 Q. [12:19:52] (Interpretation) Mr Witness, can you then confirm that you

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. [12:20:16] (Redacted)

19 (Redacted)

20 Q. [12:20:37] At paragraph 12 of the statement you say the following, and I quote:

21 (Speaks English) (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 (No interpretation)?

2 A. [12:21:20] (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [12:21:42] So you must know that place very well?

6 A. [12:21:52] Yes, I know the place. (Redacted)

7 (Redacted)

8 Q. [12:22:14] (Redacted)

9 (Redacted)

10 A. [12:22:34] (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [12:23:08] (Redacted)

15 (Redacted)

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

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. [12:24:21] (Redacted)

22 (Redacted)

23 (Redacted)

24 MS SOLANO: [12:24:44] Your Honour.

25 PRESIDING JUDGE FREMR: Ms Solano.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 MS SOLANO: Your Honour, may I say something to the Chamber please without
2 the witness having the headphones on?

3 PRESIDING JUDGE FREMR: [12:24:52] Court officer, please assist.

4 Ms Solano.

5 MS SOLANO: [12:25:10] Thank you, your Honour.

6 I'm sure my colleague is going to be very careful because I've briefly spoken to her at
7 the break, but I want the Chamber to know that (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted) Thank you, your Honours.

16 PRESIDING JUDGE FREMR: [12:26:06] Ms Grandon, (Redacted)

17 (Redacted)?

18 THE INTERPRETER: [12:26:23] Mr President, the microphone was occupied and
19 we didn't get the first part of Defence counsel's answer.

20 PRESIDING JUDGE FREMR: [12:26:31] Could you kindly repeat again your
21 answer because it was not captured because probably you switched on a little bit later.

22 So please start again.

23 THE INTERPRETER: [12:26:48] Yet again, Mr President, we missed first part of
24 counsel's answer.

25 PRESIDING JUDGE FREMR: [12:26:54] We face the same problem, so I was again

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 asked.

2 At least hopefully now you will have good luck start for the third time, please.

3 MS GRANDON: [12:27:06] (Interpretation) (Redacted)

4 (Redacted)

5 (Redacted) I will address those matters later (Redacted)

6 (Redacted).

7 PRESIDING JUDGE FREMR: [12:27:28] All right then.

8 MS GRANDON: [12:27:32] (Interpretation)

9 Q. [12:27:53] Mr Witness, I want to make sure that we are addressing the same
10 thing here. (Redacted) And I

11 pointed out to you that there is information available to the Judges, (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 MS SOLANO: Your Honour.

16 PRESIDING JUDGE FREMR: [12:28:48] Ms Solano.

17 MS SOLANO: [12:28:49] I hope I'm not premature but I don't see a question at the
18 end of what my colleague has just told the witness and I frankly wonder what this
19 witness is going to be able to say about -- about what he has just heard.

20 MS GRANDON: [12:29:08] (Interpretation) Mr President, if my learned colleague
21 would kindly allow me to put my question I will do so.

22 PRESIDING JUDGE FREMR: [12:29:17] All right. Go ahead.

23 MS GRANDON: [12:29:20] (Interpretation)

24 Q. [12:29:22] Are you -- are you -- did you receive this information, Mr Witness?

25 A. [12:29:38] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 PRESIDING JUDGE FREMR: [12:30:45] Ms Grandon, my -- one reservation from
10 my part, I don't think that Mr Witness should be asked to comment (Redacted)

11 (Redacted)

12 (Redacted)

13 MS GRANDON: [12:31:18] (Interpretation) Duly noted, your Honour.

14 Q. [12:31:34] The fact that (Redacted)

15 (Redacted) does that make you change your testimony, Mr Witness?

16 A. [12:32:02] No. I am not changing what they -- what I said. What I'm telling
17 you is the truth. (Redacted)

18 (Redacted)

19 That is what I told you yesterday. You asked me the question. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) That is what

25 happened.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 Q. [12:33:20] (Redacted)

2 (Redacted); is that correct?

3 A. [12:33:47] Yes, (Redacted)

4 (Redacted).

5 Q. [12:34:07] You explained that (Redacted)

6 (Redacted)

7 (Redacted); is that correct?

8 A. [12:34:36] Yes. (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. [12:35:04] (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 *Do you remember explaining this?

16 A. [12:35:49] Yes, I said that. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 That is what they said -- they did.

21 Q. [12:36:44] (Redacted)

22 (Redacted)

23 PRESIDING JUDGE FREMR: [12:37:01] Ms Solano.

24 MS SOLANO: [12:37:03] Your Honour, I don't really think that this witness (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 your Honour.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted) If something

6 must be asked, then I suggest that a simple question be asked, instead of (Redacted)

7 (Redacted). Thank you.

8 PRESIDING JUDGE FREMR: [12:37:47] Yes, Ms Grandon, you should probably

9 rephrase your question because, as I said, witness is not here to have some polemic

10 (Redacted). So can you just really put more -- even take into

11 account the kind of the witness we have in front of us. So please try to make is

12 simple and, again, try to focus on (Redacted)

13 (Redacted).

14 MS GRANDON: [12:38:29] (Interpretation) Mr President, I had no intention of

15 asking the witness to comment (Redacted)

16 (Redacted)

17 (Redacted)

18 PRESIDING JUDGE FREMR: [12:38:52] Yes, questions are fine. But in fact now

19 we are asking Mr Witness for explanation. It's my understanding of the question as

20 is put now. So I think witness is not here to give you explanation why (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 MS SOLANO: [12:39:28] Your Honour.

25 PRESIDING JUDGE FREMR: Ms Solano.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 MS SOLANO: And sorry, and if I may ask that the Defence please provide the
2 reference to the item of evidence that they are drawing this information from. Thank
3 you.

4 PRESIDING JUDGE FREMR: [12:40:02] Ms Grandon, just not to confuse you,
5 because even myself I can come with three, four explanation that could explain this
6 difference. But the only way you can just proceed is to say "according to (Redacted)
7 (Redacted)?" and that's it. But it's not up to him to
8 try to find explanation for that. If he is insisting on his previous testimony and
9 statement.

10 MS GRANDON: [12:40:33] (Interpretation) That was the question I wanted to
11 put to him, your Honour. And in answer to my learned friend, the document is the
12 (Redacted)

13 THE INTERPRETER: [12:40:51] Can counsel repeat? She is speaking far too fast,
14 especially when quoting numbers.

15 PRESIDING JUDGE FREMR: [12:41:00] Ms Grandon, we need to complete
16 reference to ERN. We have (Redacted). And the second part?

17 MS GRANDON: [12:41:10] (Interpretation) (Redacted).

18 PRESIDING JUDGE FREMR: [12:41:14] Thank you.

19 MS GRANDON: [12:41:22] (Interpretation)

20 Q. [12:41:25] Witness, are you still with me?

21 A. [12:41:33] Yes.

22 Q. [12:41:38] Do you maintain that (Redacted)?

23 PRESIDING JUDGE FREMR: [12:41:47] Ms Solano.

24 MS SOLANO: [12:41:48] Your Honour, apparently there's a divergence between
25 the word used in French and the word used in English. In the English transcript the

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0100

1 witness seems to have been asked whether he maintains that (Redacted).

2 That I have no objection to. But it appears that the question was actually different

3 and the question was: Do you maintain that (Redacted)?

4 Which is not what the witness has said. So as formulated in French, the question is

5 putting to the witness an answer that he did not provide as if it were his own.

6 PRESIDING JUDGE FREMR: [12:42:45] Ms Grandon, could you -- do you agree

7 with Ms Solano on that?

8 MS GRANDON: [12:42:55] (Interpretation) I maintain my question.

9 PRESIDING JUDGE FREMR: [12:43:02] Ms Solano.

10 MS SOLANO: [12:43:03] Your Honour, I maintain my objection because the

11 witness has not said before your Honours that (Redacted). He

12 provided an explanation as to (Redacted).

13 PRESIDING JUDGE FREMR: [12:43:18] You know, I am working with the English

14 version and I, as concerning which version, it was really as Ms Solano described it.

15 MS GRANDON: [12:43:31] (No interpretation)

16 PRESIDING JUDGE FREMR: [12:43:47] I got no translation of last part of --

17 THE COURT OFFICER: [12:43:53] Ms Grandon, you really need to respect the

18 5-second rule, please.

19 MS GRANDON: [12:43:59] (Interpretation) I will move on to something else.

20 THE INTERPRETER: Says counsel.

21 PRESIDING JUDGE FREMR: [12:44:02] All right.

22 MS GRANDON: [12:44:15] (Interpretation)

23 Q. [12:44:16] During your first meeting --

24 MS GRANDON: [12:44:24] Are we still in private session?

25 Q. [12:44:30] (Interpretation) During your first meeting with (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 "On Thursday morning at 8 a.m. I arrived Kobu. When I arrived there I saw many
4 victims scattered about. There were the bodies of men on the one side and women
5 on the other."

6 Do you remember that first meeting?

7 A. [12:45:46] What I can say is that all the bodies were at the same place. I
8 arrived late. Some of the bodies had already been taken away. Those who had
9 arrived before me took away some of the bodies. I arrived later but I found out all
10 the bodies were piled up at the same place.

11 Q. [12:46:17] Does that mean that the information in this document is incorrect?

12 A. [12:46:31] Ever since yesterday I have been telling you that all the bodies were
13 together, the bodies of the men and those of the women were together. So below
14 there were the bodies of the women, and a little bit above that, the bodies of the men.
15 The men had been beaten with sticks. Their skulls had been crushed. I believe they
16 used objects such as sticks and those sticks were thrown right next to those bodies.

17 Q. [12:47:30] In your statement of 2005, 0096-0020, paragraph 14, you explained
18 that during your meeting with (Redacted) was present. Do
19 you remember that?

20 A. [12:48:07] (Redacted)

21 (Redacted)

22 Q. [12:48:39] (Redacted)

23 A. [12:48:50] (Redacted)

24 Q. [12:49:04] (Redacted)

25 A. [12:49:15] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 me that there was a delegation from the ICC which had asked him to write down the
2 names of victims, those who had lost members of their families and who could be
3 witnesses. And that is how (Redacted)

4 (Redacted)

5 And that is how come they sent someone to look for me, because I was a bit far away.

6 So somebody came from Bunia and told me that "Your name had been given and you
7 have to come and talk about these people who had been killed in Kobu." And I

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [12:51:09] (Redacted)

14 A. [12:51:21] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. [12:52:14] (Redacted)

22 A. [12:52:46] (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 A. [12:59:05] (Redacted)

2 (Redacted)

3 Q. [12:59:20] (Redacted)

4 A. [12:59:37] (Redacted)

5 (Redacted)

6 Q. [13:00:10] (Redacted)

7 (Redacted)

8 (Redacted)

9 A. [13:00:47] The people that I met there, I know their names, but the names that
10 are written there are different. In the village we called them with -- using other
11 names. Sometimes names change in that way. Except the woman that I have
12 talked about, you have called that lady by the name that we use in Kobu to refer to
13 her. The others came from Sangi, Jitchu, Sayo, Ngabulo, so when they wrote their
14 names, it was not possible for me to know which name corresponded to whom.
15 Sometimes we refer to them using a particular name, and when they wrote down
16 their names, they might have written a different name.

17 Q. [13:02:04] Isn't it correct, Mr Witness, that (Redacted) brought you together
18 with other people on several occasions?

19 A. [13:02:32] Since he arrived, well, at the first meeting which I've already told
20 you about, I did not meet the ICC delegation. When we went to (Redacted).
21 Then thereafter I went back and I spent several days. There were other delegations
22 that came subsequently.
23 When I went to (Redacted), I knew where his house was and I would ask him about news,
24 and he would say there was no news so far and that he hadn't heard anything so far.

25 Q. [13:03:19] Were you in (Redacted) house?

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 A. [13:03:38] Well, when we went there, that is in (Redacted), it was at his place, and
2 he had given some money to his wife to go and buy some food, and then they would
3 buy some food and we would eat together. So we spent the night at his house as
4 well.

5 Q. [13:04:15] Mr Witness, do you remember complaining to the Office of the
6 Prosecutor about allowances that (Redacted) did not pay out to you?

7 A. [13:04:46] Well, (Redacted) was given some money and he spent the money for
8 his own business. He did not give us the money. You know, his wife was (Redacted)
9 woman, and so he and his woman would have a discussion, and she would go to the
10 market and then come back. She was the one who prepared food for us. So the
11 matter happened exclusively between himself and his wife and we did not know
12 what was going on, we did not know what they were talking about regarding us. So
13 that is what I said. He did not give any money to anyone. He spent the money for
14 his own personal needs.

15 Q. [13:05:43] Did he tell you that you were going to receive an allowance?

16 A. [13:05:54] Now, about allowances, what he said simply was that the money he
17 was given was for him to provide food for us and that the money was not meant to be
18 handed over to us, that it wasn't money intended to be given to us so that we could
19 take home. He said the money given to him was for food, for our food, not even for
20 providing hotel accommodation for us. Yes, yes, that's what he said.

21 Q. [13:06:51] When (Redacted) brought you people together, did you talk
22 about what had happened in February 2003?

23 A. [13:07:11] He put questions to each and every one of us, one after the other.
24 We were not all gathered together at the same time. Each one of us went in when his
25 turn came to answers questions.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 Q. [13:07:36] Were you all together before he called people in one after the other?

2 A. [13:07:55] He would call one person in while the others remained outside.

3 Q. [13:08:09] As you waited for your turn, did you have a discussion with the
4 other persons who were waiting as well?

5 A. [13:08:21] No. No. We talked about other things. No one talked to anyone
6 else about what their own experiences had been. We talked about other issues. We
7 did not talk about the reason why we had come to (Redacted) house. You see, his
8 wife was also there. We were sitting there and that's how it happened.

9 Q. [13:09:08] (Redacted)

10 A. [13:09:39] (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [13:10:04] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. [13:10:50] (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [13:11:25] (Redacted)

23 A. (Redacted)

24 (Redacted)

25 Q. [13:12:26] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 A. [13:12:35] Yes, I looked at some photographs yesterday.

2 Q. [13:12:48] Photographs on which according to you you were able to recognize
3 the banana plantation and the trees therein?

4 A. [13:13:06] I noticed that they had cut down the bananas and the trees that had
5 been planted around there. There were no longer any trees and the banana farm was
6 no longer visible. Everything had been felled or cut down.

7 Q. [13:13:53] Did you see those photographs before meeting the investigators of
8 the OTP for the first time?

9 A. [13:14:07] (Redacted)

10 (Redacted)

11 Q. [13:14:33] (Redacted)

12 (Redacted)

13 that you had knowledge of those photographs before the investigators showed you
14 the photographs; is that correct?

15 A. [13:15:06] It is the delegation which came from here that showed me those
16 photographs. They had brought those photographs with them to (Redacted) and they
17 showed me those photographs there. While in the village I had not seen any of those
18 photographs.

19 Q. [13:15:40] In your statement you indicate that you were aware that a young
20 man had made some photographs of the area at paragraph 36 of your (Redacted) statement.
21 That's what I'm referring to.

22 A. [13:16:03] The one who made the photographs of the dead bodies was not
23 there when I arrived. He had already left. Now, those who counted the dead
24 bodies, well, I was told that there were 70 dead bodies, but I wasn't there, I did not
25 participate in the counting of the bodies. There were 75 bodies, and when I arrived

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 those who had counted had already left. In fact, many people had already left by the
2 time I arrived.

3 PRESIDING JUDGE FREMR: [13:17:05] Ms Grandon, at this moment you have
4 reached time used by Prosecution. How much time you think you will need to
5 conclude?

6 MS GRANDON: [13:17:17] (Interpretation) Five or 10 minutes, Mr President.

7 PRESIDING JUDGE FREMR: [13:17:23] All right.

8 MS GRANDON: [13:17:31] (Interpretation)

9 Q. [13:17:41] In your (Redacted) statement, paragraph 45, you explained as follows:
10 "I do not recognize any of the bodies on the four photographs, nor do I recognize any
11 of the men in the background of the photograph standing."

12 Do you confirm that?

13 A. [13:18:13] What I said was that the banana trees had already been cut down
14 and that the trees that I saw were at a location I was familiar with. What I said was
15 that it is at that location that people had been killed. And because I could not see
16 clearly, I was not able to identify the people. However, I was able to recognize the
17 location and I said that it was at that location that people had been killed. I was able
18 to recognize the place because of the trees that had been cut down and the banana
19 trees that had also been cut down, and the trees were visible.

20 Q. [13:19:05] That made it possible for you to say that this was the Kobu banana
21 plantation because of the trees; is that the case?

22 A. [13:19:18] Yes.

23 Q. [13:19:28] I would like photo 0072-0473, I would like that photograph to be
24 shown to the witness.

25 Can you see the photograph before you, Mr Witness?

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 A. [13:20:31] Yes. Yes, I can.

2 Q. [13:20:36] Do you remember that this photograph was shown to you last week
3 during your working session with the OTP?

4 A. [13:20:47] Well, I don't know anything about this photograph. The only
5 photograph that I am familiar with is the photograph showing a place where the
6 banana trees and the trees were cut down. About any other photographs I have no
7 knowledge.

8 PRESIDING JUDGE FREMR: Ms Solano.

9 MS SOLANO: [13:21:12] I'm sure it was unwillingly done, your Honour, but this
10 photograph was not shown to the witness during his preparation session last week.

11 PRESIDING JUDGE FREMR: [13:21:23] Ms Grandon, you are not aware of that?

12 MS GRANDON: [13:21:26] (Interpretation) Page 5, preparation log, day
13 number 2:

14 (Speaks English) "The witness is shown DRC-OTP-0072-0473."

15 PRESIDING JUDGE FREMR: [13:21:45] Ms Solano.

16 MS SOLANO: [13:21:46] I'm mistaken. I apologise.

17 PRESIDING JUDGE FREMR: [13:21:50] All right.

18 MS GRANDON: [13:22:01] (Interpretation)

19 Q. [13:22:07] So you do not recognize that site?

20 A. *I don't know where that is.

21 Q. I didn't hear your answer, except I'm mistaken.

22 I didn't hear the witness's answer.

23 PRESIDING JUDGE FREMR: [13:22:45] Mr Witness, could you repeat your answer,
24 please.

25 MS SOLANO: [13:22:50] Your Honour.

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [13:22:52] Ms Solano.

2 MS SOLANO: [13:22:53] Excuse me, your Honour. His answer is registered in
3 the French transcript, so in my submission there's no need to ask him again.

4 MS GRANDON: [13:23:16] (Interpretation) Would it be possible to zoom in on
5 the person to the right of the photograph, please. Could you please scroll down.

6 Q. Do you see the attire or the dress the person to the right is wearing?

7 A. [13:24:06] Yes, I can -- I can see it, to the right. But I do not recognize this
8 photograph. I don't know this photograph. I know only one. *The other
9 photographs you are showing me, I don't know them. I know only the photograph
10 from Wadza. The other photographs you are showing me I do not know them.

11 Q. [13:24:39] The dress worn by that person is a traditional Hema attire. Does
12 that mean anything to you?

13 A. [13:24:52] I have been talking to you about things that happened in Lendu
14 people's places, not in the Hema areas. I could not go to the Hema areas.

15 Q. [13:25:09] The skirt this person is wearing is not the type of attire that Lendu
16 people would wear; is that correct?

17 A. [13:25:36] I really do not know anything about this photograph. How do you
18 expect me to say anything about it? I don't know anything about this photograph,
19 and that's it. I don't know anything. All I'm aware of is the photograph in Wadza,
20 so, please, it doesn't help me to show me photographs about Hema people.

21 MS GRANDON: [13:26:18] That will be all, Mr President.

22 PRESIDING JUDGE FREMR: [13:26:21] Thank you very much, Ms Grandon.
23 Now, Ms Solano, do you feel any need for redirect?

24 MS SOLANO: [13:26:29] No, your Honour. Thank you. I don't.

25 PRESIDING JUDGE FREMR: [13:26:32] So, Mr Witness, it concludes your

Trial Hearing
WITNESS: DRC-OTP-P-0100

(Private Session)

ICC-01/04-02/06

1 testimony. So I would like to thank you very much that you came and that you
2 patiently responded all questions put to you. So we thank you and we wish you safe
3 journey home.

4 Now, court officer, please escort Mr Witness out of the courtroom and in the
5 meantime we can return back into open session.

6 (The witness is excused)

7 (Open session at 1.27 p.m.)

8 THE COURT OFFICER: [13:27:23] We're in open session, Mr President.

9 PRESIDING JUDGE FREMR: [13:27:25] Thank you, court officer.

10 So two announcement concerning timing. So as I indicated, we will now break for,
11 as usually, for 90 minutes for lunch break, which means that we will resume at
12 3 o'clock. But our afternoon session will take just 90 minutes, so it means we are
13 going to finish at half past 4.

14 And the second -- Ms Grandon, you would like to react on this announcement,
15 please?

16 MS GRANDON: [13:27:59] (Interpretation) We will be applying for admission of
17 a document -- of what we submitted at the beginning, including the victim's
18 participation form, reference *2090-0038, Mr President.

19 PRESIDING JUDGE FREMR: [13:28:21] Ms Solano, your position.

20 MS SOLANO: [13:28:22] Your Honour, the Prosecution does not object to the
21 admission of the victim participation form. We do, however, object to the admission
22 of the -- as I understood the request was formulated at the beginning of the
23 hearing -- of this witness's statements. We certainly admit to admission of the
24 statements in full. And where specific portions of the statements have been put to
25 the witness, in our submission, they're already on the record and we did not find for

1 the most part, your Honour, that there were really contradictions.

2 I can give as one example when Ms Grandon put it to the witness that

3 Bosco Ntaganda was not mentioned in his statements, his answer at page 18, line 5

4 was, and I quote: "Even if I did not mention his name" et cetera, et cetera. So I didn't

5 really find that in the portions Ms Grandon was putting to the witness he was

6 disputing or contradicting his prior statements.

7 If the Defence want to flag specific portions to us we can of course comment on those,

8 but in principle we oppose the admission of any of this witness's statements for the

9 purposes of impeachment. And if the Chamber is minded to admit any of them,

10 I would like an opportunity to put on the record the fact that in one or two cases the

11 witness voluntarily made corrections to his prior statements during the witness

12 preparation session.

13 And that applies as well, your Honour, in relation to the victim participation

14 application form where the -- (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 PRESIDING JUDGE FREMR: [13:31:04] That's it?

23 THE COURT OFFICER: [13:31:05] Mr President, I would like to remind you that

24 we are in open session.

25 PRESIDING JUDGE FREMR: [13:31:11] All right. So please redact the last part of

1 Ms Solano's submission.

2 That's it, Ms Solano?

3 MS SOLANO: [13:31:21] Yes, your Honour. Thank you.

4 PRESIDING JUDGE FREMR: [13:31:24] Ms Grandon, any reaction from your part?

5 You are insisting, I guess, on your submission. And just to assure myself, so the

6 purpose is impeachment of this witness? All right. Give me a second. I will

7 briefly deliberate with my colleagues.

8 (Trial Chamber confers)

9 PRESIDING JUDGE FREMR: [13:32:07] So accordingly, our ruling, only the

10 victims participation form is admitted into evidence as a further Defence exhibit

11 because there is really a substantial discrepancy between the content and the witness

12 today's testimony.

13 As to the statements, Ms Grandon, really, you perfectly separated those parts that

14 according to the Defence were different and also witness again in details and several

15 times tried at least to respond it, and so we don't see any need to admit those

16 previous statements.

17 And now, as I indicated, so I said that we will sit from 3 to 4.30 in the afternoon.

18 And the second important issue that regards tomorrow's hearing, please note that we

19 will not sit in this courtroom, but in the courtroom number 3 which is, if I am not

20 wrong, on the sixth floor. If I am informed correctly, it should be just for Friday and

21 on Monday we are going to return back to this courtroom. Or am I wrong, court

22 officer?

23 Not confirmed yet. So what is sure, that we are sitting tomorrow in courtroom

24 number 3, and at the end of tomorrow's hearing, we will update you.

25 Now we adjourn, and resume at 3 o'clock.

1 THE COURT USHER: [13:33:53] All rise.

2 (Recess taken at 1.33 p.m.)

3 (Upon resuming in open session at 3.05 p.m.)

4 THE COURT USHER: [15:05:36] All rise.

5 Please be seated.

6 PRESIDING JUDGE FREMR: [15:06:03] Good afternoon, everybody. Since I see
7 some changes in composition of the parties, I would first like to get update on
8 appearances, starting with Prosecution.

9 MS SAMSON: [15:06:15] Good afternoon, Mr President, your Honours. For the
10 Prosecution today are Ms Marion Rabanit, associate trial lawyer; Mr Rens van der
11 Werf, assistant trial lawyer; and myself, Nicole Samson, senior trial lawyer.

12 PRESIDING JUDGE FREMR: [15:06:28] Thank you, Ms Samson.

13 Defence, please.

14 MR GOSNELL: [15:06:32] Good afternoon, Mr President. Christopher Gosnell
15 appearing for Mr Ntaganda, who is not present again this afternoon, assisted and
16 accompanied by Marlène Yahya Haage, Margaux Portier and Maria-Kim Vasconi.
17 Thank you, Mr President.

18 PRESIDING JUDGE FREMR: [15:06:52] Thank you, Mr Gosnell.

19 If I'm not wrong, as concerns legal representatives, no changes, am I right? Thank
20 you.

21 So our next witness, Dr Martrille, who is already with us in the courtroom, will testify
22 without protective measures and can therefore be referred to by name.

23 Dr Martrille, on behalf of this Chamber allow me to welcome you. Can you hear
24 me?

25 WITNESS: DRC-OTP-P-0935

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 (The witness speaks French)

2 THE WITNESS: [15:07:19] (Interpretation) Yes, Mr President, I can hear you very
3 clearly.

4 PRESIDING JUDGE FREMR: [15:07:38] Dr Martrille, this Chamber has been
5 established to try the case of the Prosecutor against Mr Bosco Ntaganda and you are
6 called today by the Prosecution to testify as an expert.

7 At the beginning I would like to provide some brief guidance. You are testifying
8 here without protective measures, and we will refer to you by name. You will be
9 soon asked questions by lawyers and, most likely, also by Judges in the courtroom.
10 Please listen carefully to those questions. We want you to tell the truth and we want
11 you to only testify within the sphere of your expertise.
12 You are before us as an expert on forensic pathology. However, if a potential answer
13 does not fall within your area of professional expertise, please indicate so.
14 Is that clear to you?

15 THE WITNESS: [15:08:44] (Interpretation) Yes, very clear, Mr President.

16 PRESIDING JUDGE FREMR: [15:08:53] Now, Dr Martrille, can you please read out
17 the solemn undertaking to tell the truth, which you now have in your hands.

18 THE WITNESS: [15:09:05] (Interpretation) I solemnly declare that I will speak the
19 truth, the whole truth and nothing but the truth.

20 PRESIDING JUDGE FREMR: [15:09:17] Thank you, Dr Martrille. You are now
21 under oath, and I am obliged to note that it's an offence within the jurisdiction of this
22 Court to give false testimony. Do you understand that?

23 THE WITNESS: [15:09:31] (Interpretation) Yes, Mr President.

24 THE INTERPRETER: [15:09:47] Microphone, Mr President.

25 PRESIDING JUDGE FREMR: [15:09:49] Sorry for that. Finally, a few practical

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 matters you should have in mind. I understood that you will be testifying in French
2 today, but everything will be also translated into English and it is therefore important
3 to speak clearly and at a slow pace to facilitate the interpretation. Please, it's very
4 important and sometimes cause troubles to some witnesses, please wait a few seconds
5 before starting to give your answer, at least 3 seconds between question is put and
6 your answer. Please have it in mind, very important.

7 And if you have any question yourself, please raise your hand. We will then give
8 you the opportunity to speak. Have you understood all that?

9 THE WITNESS: [15:10:41] (Interpretation) Yes, Mr President.

10 PRESIDING JUDGE FREMR: [15:10:46] Very well. It means we can proceed with
11 your testimony. So Prosecution will be asking you first.

12 Ms Samson, you have the floor.

13 And just a reminder about the time, if I am not wrong, we granted you 2 hours for
14 examination-in-chief.

15 MS SAMSON: [15:11:04] That's right. That's right, Mr President.

16 QUESTIONED BY MS SAMSON:

17 Q. [15:11:09] Good afternoon, Dr Martrille.

18 A. [15:11:14] Good afternoon.

19 Q. [15:11:15] My name is Nicole Samson and I'll be asking you questions today on
20 behalf of the Office of the Prosecutor. I'll first go through some of the questions
21 related to your identity. So could you please state your full name?

22 A. [15:11:32] My names are Laurent Martrille.

23 Q. [15:11:40] What is your date of birth?

24 A. [15:11:44] My date of birth is 6 February 1966.

25 Q. [15:11:51] Where were you born?

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 A. [15:11:55] I was born in Montpellier, in France.

2 MS SAMSON: [15:12:04] At this time I would like to provide Dr Martrille with a
3 binder of the relevant material that I may show to him during the course of his
4 examination.

5 PRESIDING JUDGE FREMR: [15:12:13] All right.

6 MS SAMSON: [15:12:14] I understand that similar binders have been provided to
7 the Chamber, the parties and the participants.

8 PRESIDING JUDGE FREMR: [15:12:21] Of the Chamber, I can confirm.

9 MS SAMSON: [15:12:35]

10 Q. [15:12:35] I am going to be spending some time now, Dr Martrille, going
11 through your expert qualifications to testify here today. You've had, I know, an
12 opportunity to review your CV yesterday.

13 A. [15:12:56] Yes, I did.

14 Q. [15:12:58] Since you provided your CV to the Prosecution in March 2015, I'd like
15 to know if there are any updates that you'd like to make in relation to your CV.

16 A. [15:13:11] I don't have any significant updates because I still hold the same
17 position in the Forensic Medicine Department, apart from maybe additional scientific
18 publications or a number of lectures that I may have given since that time.

19 Q. [15:13:38] I understand, sir, that you're on a list of experts at courts in France, is
20 that right?

21 A. [15:13:53] Yes. I am an expert with the Nancy Court of Appeal. I provide
22 forensic expertise from 2006 in Montpellier and 2011 in Nancy, and I am currently still
23 performing those functions.

24 Q. [15:14:18] And were you added as an expert to any other courts since you
25 provided your CV to us in 2015?

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 A. [15:14:34] Yes, I have been an expert for less than a year with the Administrative
2 Appeal Court in Nancy, that is a civil administrative court.

3 Q. [15:14:53] And, sir, you're a medical doctor, that's right, specialising in legal
4 medicine?

5 A. [15:15:03] Yes, that is correct. First I'm a medical doctor and then now I
6 specialised as, yeah, I specialised in legal medicine.

7 Q. [15:15:22] And you've made reference here today to your current position.
8 Could you please repeat the exact title you currently hold?

9 A. [15:15:33] I am currently chief of service for legal medicine at the Nancy
10 University Hospital. Additionally, I am Maître de conférence of medicine at the
11 University of Lorraine, in Nancy.

12 Q. [15:15:57] And Maître de conférence, is that an associate professor?

13 A. [15:16:02] Yes, that is correct, associate professor for Maître de conference,
14 which means that I offer lectures to students and I assist them in their research as
15 well.

16 Q. [15:16:24] Now, we've been using the term "legal medicine" to describe your
17 work. Could you please give the Court an explanation briefly as to what legal
18 medicine entails.

19 A. [15:16:45] Legal medicine in Europe, particularly in France, is quite specific.
20 Legal medicine deals specifically with the dead in matters such as autopsies. That is
21 part of my work. But in France the expertise also extends to living persons and
22 therefore legal medicine deals as a specialty with describing and dealing with injury
23 to people who are dead and who may still be alive. So there is legal medicine
24 pertaining to those who are still alive and legal medicine pertaining to those who
25 have already died.

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 Q. [15:17:43] And I understand that you also hold a Master's degree in
2 anthropology and that you are currently completing a PhD in anthropology; is that
3 right?

4 A. [15:17:55] Yes, that is correct. I did pursue a master's in anthropology in
5 addition to my legal medicine, and I continue to work on my PhD thesis in that area.

6 Q. [15:18:22] And can you briefly explain or describe the focus of those studies in
7 anthropology, what exactly have you been working on?

8 A. [15:18:31] Yes, the main topic of the master's is a study on age analysis of
9 skeletons, particularly from a histological point of view, and I'm not going to get into
10 any details.

11 Furthermore, there are also studies about bone trauma, and I do not -- and that deals
12 with what you find when skeletons are exhumed.

13 Q. [15:19:10] Now I'd like to focus briefly on your experience conducting autopsies.
14 According to your CV at page 9, between 2001 and 2009, you conducted
15 approximately 60 autopsies per year?

16 A. [15:19:33] Yes, indeed. At that time I used to work in Montpellier and I
17 conducted around 60 autopsies per year.

18 Q. [15:19:50] And since 2009 to the present day, approximately how many
19 autopsies per year do you conduct?

20 A. [15:19:57] On average, 150 autopsies per year. And there are only a few of us
21 in the department now, and so I have much more work than I used to in Montpellier.

22 Q. [15:20:20] Could you briefly tell us what it is that you're looking for when you
23 conduct an autopsy?

24 A. [15:20:26] Yes. What we are looking for mainly are two things, and I'm not
25 going to delve into the technicalities of an autopsy. But when the judges request, we

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 must find what the cause of death or causes of death are. That's the first thing.

2 Secondly, and this is linked as well, what is the method of death. I can explain the
3 difference between the cause of death and the method of death. The cause of death
4 can be trauma to the skull, which could arise from a fall from a building or from being
5 struck on the skull. So the cause of death in that case would be skull trauma.

6 But the method of death would be different. For one who falls from a high point, the
7 method might be suicide or homicide. So there are several causes of death, several,
8 many of them, in hundreds, which cannot always be mentioned. But there are only
9 five modes or methods of death. These include death from natural causes, death by
10 accident, death by suicide, homicide or, finally, death by undetermined or unknown
11 causes. So there's a distinction to be made between the cause of death and the
12 method or mode of death.

13 Q. [15:22:15] We touched briefly on the fact that you have been qualified as an
14 expert in courts in France. I think there are three courts in which you are listed as an
15 expert. Approximately how many times have you testified in courts in France?

16 A. [15:22:37] For about 10 years I worked in Montpellier and I used to testify about
17 five times per year. Now, since I came to Nancy it is 10 to 15 times per year. So
18 therefore we can say it's about a hundred times since I became an expert on behalf of
19 the appeals court.

20 Q. [15:23:12] We've also talked about your position as an associate professor where
21 you --

22 PRESIDING JUDGE FREMR: [15:23:17] Excuse me, Ms Samson. And if I am not
23 wrong I see that Defence does not or did not challenge the qualifications of this expert;
24 am I right, Mr Gosnell?

25 MR GOSNELL: [15:23:34] That's correct, Mr President.

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [15:23:36] So even -- I appreciate that you are very,
2 you are going in-depth as concerns all aspects of our witness, our witness
3 qualification, but really, I don't think that is so necessary, because even so far you
4 provided us with many arguments in favour of the --

5 MS SAMSON: [15:23:57] Thank you, Mr President. I can then at this time move to
6 qualify Dr Martrille as an expert before this Chamber as an expert in forensic
7 pathology.

8 PRESIDING JUDGE FREMR: [15:24:07] So taking into account the recent, Gosnell's
9 submission, we granted this request.

10 MS SAMSON: [15:24:22] And for the benefit of the Chamber, what I intend to do
11 next is have the expert Dr Martrille review the material that he provided to the Office
12 of the Prosecutor, ask several supplementary questions. I will then seek to admit the
13 report that he provided to us and, after that, I will continue with some questions
14 about the conclusions he reached in various, for each of the corpses he examined.

15 PRESIDING JUDGE FREMR: [15:24:49] It seems to be okay with the Chamber.

16 MS SAMSON: [15:24:54] Thank you, your Honour.

17 Q. [15:24:55] The binder of documents you have before you, Dr Martrille, I would
18 ask that you open and turn to tab 1. The first document is entitled "Rapport
19 d'Autopsies".

20 And can you confirm that this is a copy of the report that you provided to the Office
21 of the Prosecutor in March 2015?

22 A. [15:25:16] Yes, that is my report indeed.

23 Q. [15:25:29] Your report is in several parts at tab 1. And can you confirm that the
24 initial portion of the report contain your conclusions and the remainder of the report
25 at tab 1 are annexes that you have appended to your report; is that correct?

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 A. [15:25:52] Yes, that is correct.

2 Q. [15:25:59] And within the report you have included anthropological reports
3 prepared by Doctors Congram and Delabarde; is that right?

4 A. [15:26:14] Yes, that is correct. I prepared this report with their anthropological
5 opinion appended as an annex to the report.

6 Q. [15:26:33] If you turn, please, to the very last page of tab 1, and for the record I
7 will indicate that tab 1 is DRC-OTP-2081-0674. The last page contains a note that
8 you've also appended the original autopsy protocol forms; is that right?

9 A. [15:27:06] Are you referring to the list of photographs?

10 Q. [15:27:15] No. I'm referring to the very last page of the report at tab 1. The
11 registration number is DRC-OTP-2081-0876, and it is listed as page 56 of your report.
12 On it, it says "Original versions of the autopsy protocol forms". Do you see that?

13 A. [15:27:47] Yes, I do.

14 Q. [15:27:54] And I would like you, please, to look quickly at the documents
15 attached to tabs 2 to 10 of the binder before you, so that you can confirm whether or
16 not those documents are the original versions of the autopsy protocol forms that you
17 attached to your report and sent to the Office of the Prosecutor in March 2015?

18 A. [15:28:20] Yes, it is indeed the notes that I took at the time of the autopsies.

19 Q. [15:28:40] And to what extent do the notes and the autopsy protocol forms, were
20 these notes used to inform the conclusions you reached in the report itself?

21 A. [15:28:54] Those notes were taken during the autopsies, and it is on the basis of
22 the notes that I proceeded to draft my report, using as additional material the
23 photographs that were taken at the same time and the reports from the
24 anthropologists.

25 Q. [15:29:25] Dr Martrille, how many corpses did you examine as part of your

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 retainer by the Office of the Prosecutor?

2 A. [15:29:41] Nine cases. Nine corpses were, autopsies were conducted on nine
3 corpses.

4 Q. [15:29:58] And to what extent did you consult with the second pathologist who
5 was present on the mission, Dr Uhlin-Hansen in relation to those nine corpses or any
6 of the corpses that he was examining?

7 A. [15:30:26] While we were on the ground, we were organised as follows: We
8 had been given two autopsy tables which were at the very most 1 metre apart, and so
9 every day we worked in the same room and everything was recorded or filmed.
10 Each one of us worked on his own table with the help of an anthropologist.

11 Now, they might have been complex cases where the anthropologists would discuss
12 among themselves and the legal doctors would also discuss among themselves.

13 There were some complicated with soft tissue and complicated situations and we
14 would, in those circumstances, have to think together, work together, discuss issues
15 together relating to the cause and the mode of death.

16 And while the work was not always done that way, it happened often that when we
17 ran into some difficulty, we would have to work together and discuss the issues
18 together.

19 Q. [15:31:30] In what state did you find the corpses that you exhumed?

20 A. [15:31:42] So all the bodies, without exception, were in a skeletal state.

21 Q. [15:31:54] How does the skeletal state of a corpse affect how you determine
22 cause and manner of death?

23 A. [15:32:14] So the skeleton can give information which is very significant in order
24 to understand the cause an mode of death. However, in order to be as precise as
25 possible, obviously the presence of soft tissue through injuries that can be seen and

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 the internal organs as well, and that tissue, are fundamental when it comes to
2 determining the cause of death as well.

3 But the interest or the experience of forensics and numerous autopsies that are carried
4 out when you see internal injuries which you've seen and experienced, that means
5 you can interpret the bone injuries where they exist. So it's important to understand
6 that when there are bone injuries, you can interpret them. When they're not injured,
7 that doesn't mean that there's no traumatism there, it just means that if there was
8 traumatism, it hasn't affected or marked the bones. So of course you're very limited
9 in the interpretation of the cases, much more so than when there is soft tissue
10 available around the bone.

11 Q. [15:33:31] We'll have a chance to look at your conclusions on a corpse-by-corpse
12 basis in a moment, but right now would you kindly and briefly explain to the
13 Chamber the process by which you worked in the field and at evaluating cause and
14 manner of death, the steps that you took while you were in your morgue.

15 A. [15:33:57] It was decided that we wouldn't participate in the exhumations,
16 whereas in certain cases, in cases we sometimes participate in, sometimes forensic
17 experts are involved in exhumations as well. But there it wasn't useful.
18 So in terms of the configuration of the place and the competence of anthropologists in
19 the field, it was the case. So in the case of the autopsy we had these tables and we
20 were provided with the bones in separate bags, paper bags, and they had an
21 accompanying sheet which went with it. So the first stage was to take a photo of the
22 bag and then we took the bones out as well as any clothing, if it was present.
23 And following that, the anthropologist was responsible for the bones, would start
24 cleaning them from earth which would be around these bones, and that was done to a
25 large extent also in the field, and then the forensic expert would look at the clothing in

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 the first place. We'd go outside to wash and dry the clothing when we came back.
2 If the anthropologist needed help, then we could help to clean the bones and then you
3 would have the skeleton in an anatomical position, put them together in an
4 anatomical position and then carry out an inventory of the bones and then you would
5 do the profile to estimate the sex of the person, the height, the age, ethnic group, all as
6 far as possible.
7 And then when that was being done, we were also interested in the areas of trauma,
8 so there was quite a long time, it could take several hours to reconstruct the broken
9 bones, particularly at the skull area, because that's where a lot of traumas had
10 occurred.
11 So that was the role of the anthropologist first. But together we would look at the
12 bone fragments because it was useful to understand the injuries once the skull was
13 reconstructed. But it's also important to see the detached pieces to understand what
14 type of traumatism had occurred. And so once that the skull had been reconstituted
15 or put back together, then we would be able to speak about the cause of death and the
16 mode of death.
17 We also would try to -- I'll just say a quick word about this. You have ante-mortem,
18 perimortem, post-mortem. So important trauma for the course is perimortem, what
19 happened around the time of death knowing that, as for -- around a bone. After the
20 death of someone is also called -- is always called perimortem in an anthropological
21 sense because the bone acts in the same way, it remains supple. And that can last for
22 several weeks. So the perimortem aspect is a trauma carried out on a bone while it's
23 supple. But even if the person has already died, then it could be another injury.
24 That's a perimortem injury.
25 And what's less important, ante-mortem trauma, which for example there would

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 already be scarring, there might be for example a bone that was broken in a fall that
2 will already be -- have been there.

3 And there's post-mortem, and that's done at the time after the death, mainly during
4 the exhumation because the bones are damaged in the earth, and when you exhume
5 them, they can break and you make a difference between perimortem and
6 post-mortem breaks.

7 So once we carry out this work, I also have to say here that we were -- also cut
8 through certain skulls or sawed through certain skulls in order to look at the entire
9 skull to best understand the mechanics of the injury.

10 Now, once this work had been carried out, the bones were put in paper in which they
11 had been brought, without forgetting as well the dental record. We would also take
12 DNA samples, that's also -- we would also take femur and dental samples.

13 Everything was photographed of course. The bones were placed in the paper bags,
14 and everything was signed and referenced to ensure full traceability of the operations.

15 So it's very important to say at the request of the investigators we were asked -- we
16 were asked to explain to the local authorities with an interpreter what we were doing.

17 That was a request that was made. That's something that we did without any
18 problem of course. And that's what was done at the time of the examinations.

19 And afterwards we put the bodies back into body bags which were closed and they
20 were put into wooden crate so that they could be exhumed a second time.

21 Q. [15:39:51] Prior to admitting your report and annexes as evidence in this case, I
22 understand that there are several corrections or clarifications that you'd like to make
23 to your report and its annexes. So I would ask for you to turn to tab 1 that you're at
24 right now of your binder and at page 0707, are there any corrections that you wish to
25 bring to this page of your report?

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 A. [15:40:42] Yes, indeed. Page 34 of the report, there was an error on the last line
2 as we will see, there was an effective carbonisation with the bodies and this
3 carbonisation as described clearly with different anatomical parts, that was on the
4 right part of the skull at the tibia, and you can also see on the last page, I indicated my
5 error that it was on the left-hand side, tibia left, femur left. So it was right, on the
6 right-hand side, not on the left-hand side. And that's what I put in the report.
7 And you can see that perfectly on the photo.

8 Q. [15:41:35] So just to be clear at page 0707, which is page 34 of your report, in the
9 very last two lines, last paragraph of that page, it should read "partie droite du crâne,
10 de l'humérus droit, et du tibia droit"; is that right?

11 A. [15:42:05] Indeed, yes. You have to read the right part of the skull, the right
12 humerus and the right tibia, that is indeed correct.

13 Q. [15:42:14] And if you turn to page 37 of your report, which is page 0710, is there
14 a similar correction you wish to make to the conclusion?

15 A. [15:42:41] There too, same error came in. So you can read that there was a -- on
16 the left part of the body, there was an injury, and again, you have to read that it was a
17 right part of the body. So not a thermic injury mechanism on the left part of the
18 body, but on the right.

19 Q. [15:43:03] Thank you for that.

20 And if you move to page 35 of your report, which is the page 0708, under item
21 number 4, which is "Post-mortem injury," is there a correction you wish to bring to
22 this section?

23 A. [15:43:25] Yes, indeed. So this report had a few errors. So there weren't
24 post-mortem injuries that could be described. And in fact the post-mortem injuries
25 described in paragraph 4 correspond with another case. To explain why this error

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 came in, as there were numerous reports, there were copies that were made to make
2 sure that we had the same thing and what must have happened here is that I forgot to
3 take out this part. So it does not correspond with the case of FIB1 which corresponds
4 with this page.

5 Q. [15:44:23] So just to be clear for the record, if I look at the three paragraphs
6 under item number 4, "Post-mortem injury," is paragraph 1 correct or incorrect?

7 A. [15:44:35] Please could you repeat. I don't understand the question.

8 MR GOSNELL: [15:44:54] The Defence doesn't object if the Prosecution wants to
9 lead using the investigation note.

10 PRESIDING JUDGE FREMR: [15:45:00] No problem with this Chamber as well.

11 MS SAMSON: [15:45:03] Thank you to Defence counsel and to the Chamber.

12 Q. [15:45:07] Dr Martrille, under the fourth item "Blessures post-mortem" at
13 page - (Interpretation) "Post-mortem injuries" - (Speaks English) 35, is it correct that
14 the first two paragraphs are incorrect, but that the third paragraph about carbonised
15 areas is actually correct for this body?

16 A. [15:45:30] Yes, I've understood the question. So indeed, the first -- well, the two
17 paragraphs referenced by the photo do not belong to this case. However, the two
18 last lines, namely the "Carbonised area described in the preceding chapter are of
19 post-mortem nature; absence of traumatic trace compatible with animal activity,"
20 these are indeed compatible with this case.

21 Q. [15:46:10] And what is the correct conclusion on post-mortem injury for this
22 corpse, is it only the two lines that remain correct under this heading or is there
23 anything supplementary that needs to be added?

24 A. [15:46:28] At first sight there aren't -- well, there are perhaps post-mortem effects
25 resulting from exhumation, but I would have to refer to the anthropologist report.

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 From memory, I can't confirm to you that there is nothing. We'd have to look at the
2 anthropologist's report in order to sustain that.

3 Q. [15:47:06] That's fine. I'd like for you to move now please to page 2, which is
4 page 0675, to page 2 of your report. And under the second heading "General
5 Methodology," third paragraph, you've indicated that given the situation in the
6 morgue, you didn't have the means to perform X-rays, but that in any event in the
7 absence of soft tissue, X-rays would have been not useful.

8 I understand there is a clarification you wish to bring to that sentence.

9 A. [15:47:57] Indeed, your Honour. In most cases X-rays would be completely
10 useless. But there's a case, without being indispensable, it could perhaps, and I say
11 perhaps, it could have perhaps given additional information: F5-B1, we will see
12 where possibly it could make up a theory of ballistic trauma and we would have been
13 able to verify whether it's possible. But that wasn't a possibility. But we could have
14 looked for any type of fragments of a projective therein.

15 Q. [15:48:49] And in general, is it right that you wish to add information or clarify
16 whether the bodies you examined had been buried before or after they decomposed?

17 A. [15:49:12] Well, in accordance with the work of the anthropologists who carried
18 the exhumations, we saw certain cases at the start when we still didn't have any
19 forensic work to carry out. But we did see that the bodies were in anatomical
20 connection, all the bones were in the same connection with each other, which
21 indicated that the bodies had been buried before they composed. If the bodies had
22 decomposed first outside and then they were buried, you would have had or could
23 have had, if they had an advanced state of decomposition or if they were skeletons,
24 they wouldn't have been with such a precise anatomical position. That was a
25 clarification that I wanted to make in this regard.

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 Q. [15:50:12] And I also understand that there are two typographical errors you
2 wish to correct. If you turn, please, to page 4 of your report, which is 0677, in the
3 third bullet point from the top of the page, last sentence in the third bullet point?

4 A. [15:51:04] Yes, indeed. I indicated fragmented femur. What I wrote wasn't
5 French. And it was an untreated tooth. To carry out DNA tests you have -- the
6 tooth has to be intact. So we always try to get intact teeth, but that's something that I
7 wanted to specify here.

8 Q. [15:51:29] And so if I understand it as well, the last two words of the third bullet
9 point on page 4, it should say "sans soins". Correct?

10 A. [15:51:46] That's correct, yes.

11 Q. [15:51:57] And lastly, I would ask for you to turn, please, to an annex to your
12 report still in tab 1. It is at page 0829 of your report and 0830. And here we are in
13 the report of Dr Delabarde, which you annexed to your pathology report. And I
14 note that there are three different photographs on the pages 0829 and 0830, photos 34,
15 35 and 36, all of which appear to bear the same registration number.

16 So what I propose to do is show you photographs on your screen now, and you can
17 tell the Court which photograph corresponds to the ERNs, the registration numbers
18 that I will show you.

19 So I'd ask the court officer, please, to bring onto the screen photograph
20 DRC-OTP-2067-0470. It is in our binder at tab 95. But, Dr Martrille, I'd like you to
21 tell the Court whether or not the photograph you see represents photograph 34, 35 or
22 36 in Dr Delabarde's report?

23 THE COURT OFFICER: [15:54:00] Could you please let us know if the photograph
24 can be broadcast to the public?

25 MS SAMSON: [15:54:05] Yes, it can.

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 THE WITNESS: [15:54:26] (Interpretation) This photograph which is on the screen
2 corresponds with photograph 36 of the anthropologist's report.

3 MS SAMSON: [15:54:37] And if I could ask now the court officer to please bring
4 up document DRC-OTP-2067-0475, it's also a public document.

5 THE WITNESS: [15:56:01] (Interpretation) So the photograph on the screen at the
6 moment corresponds with photograph 34 in the anthropologist's report.

7 MS SAMSON: [15:56:11] And finally I would ask the court officer, please, to bring
8 up photograph DRC-OTP-2081-06 -- 0478. It's a public document. The ERN is
9 DRC-OTP-2067-0478.

10 Q. Dr Martrille, if you could move to tab 100 in your binder I think you'll find a
11 copy of your photograph I'm trying to show to you, tab 100 in your binder.

12 A. [15:58:07] Yes, indeed. This is the photograph that also appears on the screen,
13 and this corresponds with the photograph. But I no longer have the page because
14 I've closed the report of the anthropologist. Please could you remind me of it and
15 then I could tell you the exact number.

16 Q. [15:58:21] Certainly. 0830. Or 0829, one of those two pages.

17 A. [15:58:40] We have the photograph on the screen at the moment. The
18 photograph on the screen now corresponds with photograph 35 from the
19 anthropologist's report.

20 Q. [15:58:56] And if I could ask you, please, to turn within the anthropologist's
21 report to pages 857 and 858, I have a similar exercise with two photographs which
22 incorrectly bear the same ERN or registration number. Pages 857 and 858.

23 Court officer, if you could kindly bring up photograph DRC-OTP-2067-0637, it's a
24 public document.

25 Then, Dr Martrille, you could please let us know whether the photograph that will

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 appear on your screen is photograph 63 or 64 in Dr Delabarde's report.

2 A. [15:59:58] The photograph on the screen corresponds with photograph 64.

3 Q. [16:00:06] Thank you.

4 Mr President, given that the ERN, there is a typographical error in the report, this
5 particular photograph had not been admitted via the expert, Mr Sivignon, number
6 934. And therefore I ask that we admit this document, this photograph now,
7 photograph DRC-OTP-2067-0637.

8 PRESIDING JUDGE FREMR: [16:00:34] Mr Gosnell, any objection?

9 MR GOSNELL: [16:00:37] No, Mr President.

10 PRESIDING JUDGE FREMR: [16:00:40] So this photograph, ERN specified by
11 Ms Samson is admitted into evidence as a further Prosecution exhibit.

12 Ms Samson, you may proceed.

13 MS SAMSON: [16:00:51] Thank you.

14 Q. And the last error that I would ask for you to help us correct is at page 866, it's
15 page 70 of Dr Delabarde's report. And if you see photograph 75 depicted is an
16 image of the teeth of corpse TCH-1-F1-B1.

17 And, court officer, could I ask that you kindly bring up photograph
18 DRC-OTP-2067-0581. It's a public document.

19 I take it, Dr Martrille, that you can confirm that the photograph that corresponds to
20 0581 is not a photograph of dental, the teeth of the Tchudja corpse, F1-B1?

21 A. [16:02:25] Yes, indeed. This is another photograph of a complete body and
22 therefore does not correspond to a dental representation.

23 MS SAMSON: [16:02:40] And if I could ask the court officer, please, to display
24 publicly the photograph DRC-OTP-2067-0994.

25 Q. Dr Martrille, is this the photograph that's referred to in Dr Delabarde's report as

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 photo 75?

2 A. [16:03:25] Yes. The photograph on the screen does correspond to
3 photograph 75 of the anthropologist's report.

4 Q. [16:03:44] Now that the corrections and clarifications have been made, and
5 subject to those corrections, are you able, Dr Martrille, to verify that your report and
6 annexes are true and accurate, to the best of your knowledge and belief?

7 A. [16:03:57] Yes, indeed. This report is a true reflection, to the extent of my
8 knowledge, of course.

9 Q. [16:04:16] Do you consent to the admission of the report and annexes into
10 evidence in this case?

11 A. [16:04:24] Yes, yes, of course.

12 Q. [16:04:30] And will you be available for examination by the parties and the
13 Chamber about the report?

14 A. [16:04:42] Yes, yes, of course.

15 MS SAMSON: [16:04:46] At this time, Mr President, I would like to tender
16 Dr Martrille's report and annexes as found at tab 1 into evidence, along with the
17 autopsy protocol forms which he has confirmed were annexed to his report but have
18 been registered separately, under tabs 2 to 10 of the binder before you into evidence.

19 PRESIDING JUDGE FREMR: [16:05:10] Just to assure myself, court officer, is
20 specification now made by Ms Samson sufficient for you?

21 All right. Mr Gosnell, any objection?

22 MR GOSNELL: [16:05:25] None.

23 PRESIDING JUDGE FREMR: [16:05:26] Very well. In such a case documents
24 specified by Ms Samson are admitted into evidence as a further Prosecution exhibit.

25 Ms Samson, you may proceed.

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 MS SAMSON: [16:05:40] Thank you, Mr President.

2 Q. [16:05:42] Dr Martrille, at page 5 of your report, that's at tab 1, and page 5 ends
3 in ERN 0678, you conclude that the state of all of the bodies examined was compatible
4 with them having been dead for 11 years, although it was not possible to date the
5 death more precisely. How did you reach that conclusion?

6 A. [16:06:15] The word I heard was "correspond." Well, when you say
7 "correspond," it's an exact term. But the word used should be "compatible," because,
8 you see, there really is no way to assert a reliable date because it's not easy to date
9 skeletons which over the years have been affected by a number of factors. And that
10 is how a corpse becomes a skeleton. And it was from the investigations that it was
11 established that the post-mortem period could be around 11 years, and that is why in
12 the report we said it is "compatible to" and not "corresponds to" with the state of the
13 bodies and the skeletons.

14 Of course, it was not possible to establish a specific or even an approximate date in
15 this regard relating to the time or date of death.

16 Q. [16:07:38] Yes. In fact, my question was about compatibility and not exact.
17 Can you tell us based on which facts you zoned in on the 11 year time period?

18 A. [16:07:55] Well, I have just said that we came to that period of 11 years and
19 established it as being compatible on the basis of data collected from the investigators,
20 and that was compatible with what we saw. But there is strictly no element that can
21 enable one to say that it was approximately 11 years or so, or we could not have
22 established that in the conclusion. We simply say that it is compatible with, and it
23 could have been compatible with other dates.

24 In any event, it was compatible, in our view, with the time frame of 11 years.

25 Q. [16:08:47] And now I'd like to focus on the conclusions that you were able to

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 reach on each of the corpses that you examined. Although, before I do that, in
2 relation to your last answer, your conclusion that the date of death was compatible
3 with 11 years was -- covered, as I understand it, the nine bodies that you yourself
4 examined; is that right?

5 A. [16:09:15] Yes. The conclusions are the same given that the state of the bodies
6 or the skeletons was identical.

7 Q. [16:09:30] And to what extent are you able to extend that conclusion of
8 compatibility with an 11 year death period to the corpses that you didn't examine
9 closely, but that you were able to see in the morgue?

10 A. [16:09:46] The compatibility at around 11 years was applicable to all the bodies
11 that were brought to the mortuary which I or my colleague were able to examine and
12 to talk about and to discuss from time to time.

13 Q. [16:10:12] Now moving to the conclusions that you have reached for each of the
14 corpses, if you stay in tab 1, which is your report, and turn to pages 0679, 0682, they're
15 pages 6 to 9 of your report, were you and Dr Delabarde able to reach conclusions or
16 an opinion as to the age and gender of this corpse which, for the record, is
17 KOB1-F1-B1?

18 A. [16:10:56] Just one precision. It's not Dr Delabarde. Dr Congram is the one
19 you should mention.

20 Well, what I would say is that when it comes to estimating age, sex and height, that
21 was a matter that lay with the anthropologist. We had some discussions about cases
22 that might have been difficult depending on the nature of the remains, so I don't
23 remember any specific discussions in this particular case. Things seem to have been
24 very clear to the extent possible.

25 The anthropologist, of course, has to be cautious when dealing with such matters

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 because one cannot come to such conclusions very easily because we are dealing with
2 much younger material where it is difficult quite often to come to any very clear
3 conclusions as to the sex and to the height.

4 Q. [16:11:57] If -- I ask you please to look at page 9 of your report under the
5 conclusion section. You've indicated that -- you conclude that the corpse
6 KOB1-F1-B1 is a subject between 13 to 17 years, sex, "taille" and ethnicity
7 undeterminate, is that right? Indeterminate.

8 A. [16:12:35] Yes, that is correct.

9 Q. [16:12:38] Did you reach an opinion as to the cause and manner of death for this
10 corpse?

11 A. [16:12:47] Yes. We had a number of hypotheses based on the state of the
12 skeleton. It is more difficult to come to such a conclusion when there is soft tissue.
13 But in one of our sentences we stated that, except there were other causes of death
14 which do not affect the bones, such as, and I really can't come up with a quick
15 example, if there were causes other than those which do not leave any marks on the
16 bones, the most likely cause was trauma to the skull, to the cranium.

17 There were all sorts of trauma and all types of injury, and it would have been possible
18 then to confirm or assert through a number of hypotheses that these were trauma to
19 the cranium which would have led to such death. So the most likely cause, except
20 any other previous injury, would have been trauma to the skull.

21 Now, mindful of the gravity of these circumstances, the most plausible manner of
22 death would have been homicide, mindful of the nature of the injury that was
23 identified.

24 MS SAMSON: [16:14:33] I'd ask the court officer, please, to kindly display photo
25 DRC-OTP-2067-0615. It's a public document.

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 Q. [16:15:18] Dr Martrille, this photograph, does it assist you in explaining the
2 injuries? I can move to a different photograph, if that's better.

3 MS SAMSON: Court officer, could you please display DRC-OTP-2067-0166.

4 THE WITNESS: [16:15:36] (Interpretation) This photograph is not the photograph
5 of that corpse. This is F3-B2. That's not the right photograph.

6 MS SAMSON: [16:15:50] I think, madam court officer, you've just reversed the order
7 of the ERN. It's 0165.

8 Q. [16:16:06] This one is 0166. It's of the same corpse. I can also show 0165. But
9 does this photograph assist in explaining the nature of the injury that you saw to the
10 skull?

11 A. [16:16:23] This is not the best photograph. But I can explain what you see on
12 the photograph. It is not the two main injuries that we need to look at. However,
13 on this photograph, and I don't know how to use this equipment to point out what
14 I'm talking about on the screen -- is this possible?

15 MS SAMSON: [16:16:49] Could I ask for some assistance to help the witness in
16 annotating the photograph?

17 Court officer, could you please display 2067-0165, and I'll ask Dr Martrille if -- that
18 will be a better image for him to use.

19 THE WITNESS: [16:17:50] (Interpretation) Very well. This is a more useful
20 photograph. Now here in this area we see a number of fragments, community of
21 fragments of the skull. And if you look at this area you can see a number of other
22 fragments of the radium. And so you can see here that there are several fragments
23 in the -- on the photo. But quite generally, when you look at the convergence of the
24 fragments, you can identify the point of impact. And right here you have other
25 types of fractures which are surrounding the point of impact.

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 And when you have a blunt *force trauma, then you can be able to see that this point
2 of impact cannot be easily identified because of the lack of fragments of bone.
3 Now, in spite of the reconstruction of the skull, you see that there are a number of
4 pieces that cannot be pieced together, and so these are specific types of distortions
5 that occur in cases of blunt *force trauma. Multiplicity of fragments and all the other
6 types of fragments that have been put together again lead to the conclusion that there
7 was blunt *force trauma to the skull from a very violent source.

8 MS SAMSON:

9 Q. [16:19:43] Could these same injuries have resulted from post-mortem damage?

10 A. [16:19:51] Apparently, no. Post-mortem injury usually arise from "tafonomie"
11 or exhumation, and they show different white markings because of the fresh injury to
12 the bones. And in that case you can see that the corners of the bones are identified in
13 a specific perimortem manner.

14 Now, if you look at what the anthropologists did, they worked carefully, and where
15 there was a violent blow to the skull, you will not have the same types of
16 fragmentation. And in such cases the bones would simply collapse and so, quite
17 clearly, these were perimortem injuries.

18 Q. [16:20:54] Thank you. I would like now to move to your conclusions on the
19 second corpse that you examined, which is KOB1-F1-B2. Your conclusions are
20 contained at pages 10 to 13 of your report, at tab 1, ending in ERN 0687 through to
21 0686.

22 What conclusions did you and, in this case, Dr Delabarde reach in relation to the age
23 and sex of this corpse?

24 A. [16:21:47] It was quite probably a male subject of some 20 to 30 years old, height
25 about 1 meter 60, more or less 40 centimetres, probably by way of African origin, by

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 way of compatibility.

2 MS SAMSON: [16:22:22] Mr President, on a technical matter, the annotated
3 photograph that we just looked at, DRC-OTP-2067-0615, that ought to be admitted
4 into evidence as a separate photograph due to the annotations.

5 PRESIDING JUDGE FREMR: [16:22:41] I think so because at least so far we
6 conducted in this way.

7 MS SAMSON: [16:22:49] Yes. And I made an error, it's 0165 at the end.

8 PRESIDING JUDGE FREMR: [16:22:54] All right. Mr Gosnell, any objection?

9 MR GOSNELL: [16:22:58] None, Mr President.

10 PRESIDING JUDGE FREMR: [16:22:59] So photograph annotated by Mr Witness as
11 specified by Ms Samson is admitted into evidence as a further Prosecution exhibit.

12 THE COURT OFFICER: [16:23:14] The document will bear the number
13 DRC-REG-0001-0035.

14 PRESIDING JUDGE FREMR: [16:23:24] Thank you, court officer.

15 MS SAMSON: [16:23:27]

16 Q. [16:23:28] Dr Martrille, did you reach an opinion as to the cause and manner of
17 death for this corpse, KOB1-F1-B2?

18 A. [16:23:36] Yes. In this case the most likely causes of death, of course, in the
19 absence of any other injury which may have not left any traces on the bones, was
20 skull *blunt force trauma from blunt trauma, violent trauma arising from at least two
21 shocks, one behind the skull and the other on the right side of the cephalic extremity.
22 Now, this could be interpreted, that is those two traumas to the skull could be
23 identified from an analysis of the bones and I think I could show you on a photograph
24 how it can be ascertained that there was, first, a first blow and then a second blow.
25 There is a rule that can be applied, it's simple but can also be seen on the screen.

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 Now, what happens is that each new fracture ends where an old fracture existed.
2 So when there's a new blow, the new fractures end where the other blow had been
3 established and, therefore, we are able to establish a chronology, the chronology in
4 the particular case at hand, and that is why we came to the assumption that this body
5 was struck twice, one in the back and one in the front, and then because of the nature
6 of the injury and the significance of the impact, the most plausible cause of death in
7 this case would have been homicide.

8 Q. [16:25:34] You referenced the benefit of having a photograph to help explain
9 your conclusions. So I would ask the court officer, please, to display photograph
10 DRC-OTP-2067-0206. It can be displayed publicly.

11 Dr Martrille, does this photograph assist? If not, I can pull up a different one for
12 you.

13 A. [16:26:35] Yes, it is useful to the extent that it enables us to see the posterior view
14 of the skull and therefore gives us an occipital view. And on this photograph, once
15 again you can see the fractures which I will point out, here, the radiating fractures
16 which go from here and then lead to a point of impact that, as you see from the
17 convergence of those fractures at this level, which is the posterior part of the skull,
18 and then here you can see the other fractures which are concentric, so to speak, as
19 opposed to the radiating fractures which I mentioned earlier.

20 MS SAMSON: [16:27:41] Once again, your Honour, I seek to admit this annotated
21 photograph into evidence.

22 PRESIDING JUDGE FREMR: [16:27:45] Defence, any objection?

23 MR GOSNELL: [16:27:47] No, Mr President.

24 PRESIDING JUDGE FREMR: [16:27:48] So this photograph annotated by
25 Dr Martrille, specified by Ms Samson, is admitted into evidence as a further

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 Prosecution exhibit.

2 THE COURT OFFICER: [16:28:07] And it will bear the number DRC-REG-0001-0036.

3 PRESIDING JUDGE FREMR: [16:28:18] Ms Samson.

4 MS SAMSON: [16:28:20] Mr President, I intend to do, with your leave, one more of
5 these corpses and I can quickly finish the remainder in the morning, with your leave.

6 PRESIDING JUDGE FREMR: [16:28:27] Very well. Please proceed.

7 MS SAMSON: [16:28:31]

8 Q. [16:28:31] Dr Martrille, could you please turn to pages 14 to 17 of your report,
9 ERN 0687 to 690. These are your conclusions in relation to corpse KOB1-F1-B3.

10 And in particular at page 17, could you please indicate your and Dr Delabarde's
11 conclusions as to the sex and gender of this corpse.

12 A. [16:29:24] Here, this was a young subject and that is why we say that it was
13 more likely to be a male. And here, when you are dealing with young subjects, it is
14 difficult, more difficult, to determine the sex than when dealing with an adult body.
15 So this must have been a male, 13 to 17 years -- from 12 to 13 years old and because of
16 that young age, height was difficult to determine, but the body was compatible with
17 African ancestry.

18 Q. [16:30:03] For the purposes of the transcript, it's been captured here as 12 to 13
19 years old. Is that what you said, 12 to 13 years old, or did you say something else?

20 A. [16:30:14] No, I said 12 to 17. 12 to 17. I might have misspoken. But it is 12
21 to 17, not 12 to 13.

22 Q. [16:30:40] And, Doctor, did you reach any conclusions as to the cause and
23 manner of death for this corpse?

24 A. [16:30:49] Yes. The injuries on this body were of a nature to lead to a major
25 skull trauma, a blunt *force trauma, and we were able to identify two areas of trauma,

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 one to the right of the cranium and the other to the left frontal part, to the front of the
2 skull.

3 Now, in the absence of any other injury which would not have affected the soft tissue
4 or led to death before that trauma, the most probable cause of death was trauma to
5 the skull from two blunt *force traumas to the skull, and again, mindful of the serious
6 nature of the injury and the circumstances, the most plausible manner of death again
7 was homicide.

8 MS SAMSON: [16:32:02] If I could ask the court officer to display photograph
9 DRC-OTP-2067-0252, publicly.

10 Q. Dr Martrille, please let me know if the photograph appearing on your screen is
11 a good illustration for you to explain your conclusions.

12 A. [16:32:30] Yes. You can see on this photograph the cranial trauma, frontal left,
13 with probably the area of impact -- I'm sorry, the area of impact, where there's this
14 little missing piece of bone and there, too, you have the presence of radiating fractures
15 as well. And it would possibly appear that there's another fracture which radiates
16 from the cranial trauma from the right. And this point here indicates that this frontal
17 cranial trauma arrived secondly, after the cranial trauma; though on the right-hand
18 side parietotemporal. And this is why I said that it has affected already a previous
19 break or fracture.

20 Q. [16:33:47] Thank you.

21 Mr President, I would ask that we admit the annotated photograph, with your leave.

22 PRESIDING JUDGE FREMR: [16:33:59] Mr Gosnell?

23 MR GOSNELL: [16:34:02] No objection, Mr President.

24 PRESIDING JUDGE FREMR: [16:34:04] Very well. So this photograph annotated
25 by Mr Martrille and specified by Ms Samson is admitted into evidence as a further

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 Prosecution exhibit.

2 And, madam court officer, please, could you inform us about the ERN.

3 THE COURT OFFICER: [16:34:25] The document will bear the number

4 DRC-REG-0001-0037. For your information, the document are currently uploaded
5 and will be released to you shortly.

6 PRESIDING JUDGE FREMR: [16:34:40] So we will break now. Mr Witness,

7 Dr Martrille, I would like to thank you. We will break now and we will continue

8 tomorrow with the rest of direct examination and cross-examination by the Defence.

9 And it's my duty to remind you that in the meantime you must not discuss content of
10 your today's testimony with anybody else.

11 Thank you very much. And now, court officer, please guide Dr Martrille out of the
12 courtroom. Because I would like, the very end, just to touch few organisational
13 issues.

14 Court officer, may I know how much time used Ms Samson so far?

15 (The witness stands down)

16 PRESIDING JUDGE FREMR: [16:35:39] So according my information it lasted 1 hour
17 23 minutes, which would mean that, Ms Samson, you still have 37 minutes. Do you
18 think you will need all that time or do you think you will be shorter?

19 MS SAMSON: [16:35:55] I believe it will be shorter. I do want to do the same
20 exercise with the remaining six, I think six corpses. But it's moving very quickly.
21 And then I have no further questions.

22 PRESIDING JUDGE FREMR: [16:36:07] All right. So for the sake of planning,
23 Mr Gosnell, Defence has been granted 4 hours. In light of the direct examination do
24 you suppose that you will need all that time?

25 MR GOSNELL: [16:36:22] I would be very surprised if I exceed 20 minutes,

Trial Hearing
WITNESS: DRC-OTP-P-0935

(Open Session)

ICC-01/04-02/06

1 Mr President.

2 PRESIDING JUDGE FREMR: [16:36:27] All right. I want to say that you are
3 famous by efficient way of your cross-examination, but it's really very, very fine with
4 us.

5 What is important, it means that we all should be ready to start with the testimony of
6 the next witness, and this is Witness P-105. And again, because some people were
7 not with us during the previous session, also again reiterate the change in the
8 courtroom. Tomorrow we are sitting not here but in the courtroom number 3. So
9 we will see you tomorrow, 9.30, in the courtroom number 3.

10 THE COURT OFFICER: [16:37:12] All rise.

11 (The hearing ends in open session at 4.37 p.m.)

12 RECLASSIFICATION REPORT

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