

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor versus Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 2
8 Tuesday, 17 January 2017
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:47] The International Criminal Court is now in
11 session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:32:07] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:32:12] Thank you, Mr President. The situation in
16 the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06. We are in open
18 session.
19 PRESIDING JUDGE FREMR: [9:32:26] Thank you, court officer.
20 Now appearances, please, and you can limit to changes compared to
21 yesterday, if any.
22 MS SOLANO: [9:32:33] Good morning, your Honours. Same composition for
23 the Prosecution.
24 PRESIDING JUDGE FREMR: [9:32:38] Thank you, Ms Solano.
25 Defence.

1 MR GOSNELL: [9:32:39] Good morning, Mr President. No changes. Thank

2 you.

3 PRESIDING JUDGE FREMR: [9:32:42] Thank you, Mr Gosnell.

4 Legal Representatives for Victims, please.

5 MS PELLET: [9:32:50] (Interpretation) Thank you, Mr President. No

6 changes for the former child soldiers.

7 MR SUPRUN: [9:33:57] Good morning, Mr President, your Honours. No change

8 for the team dealing with the attacks. Thank you.

9 PRESIDING JUDGE FREMR: [9:33:03] Thank you, Ms Pellet, Mr Suprun.

10 Before proceeding with the testimony of the present witness, the Chamber

11 shall deliver a decision with respect to one of the 11 witnesses for whom

12 the Prosecution requested protective and special measures in filing

13 number 1579. The present decision concerns Witness P-773, whose

14 testimony is going to start tomorrow. For this witness the Prosecution

15 requests in-court protective measures, pursuant to Rule 87 of the Rules

16 in the form of face and voice distortion during testimony and the use of

17 a pseudonym. The Prosecution also seeks special measures under Rule 88

18 for the witness in the form of regular breaks and in-court assistance.

19 The Legal Representative for former child soldiers supports the request

20 in filing number 1599. The Defence opposes the protective measures

21 requested in filing number 1593. The Defence submits that the

22 Prosecution fails to demonstrate any objectively justifiable risk of

23 post-testimonial retaliation. It does not oppose the special measures of

24 regular breaks or in-court assistance, if and when necessary.

25 On 13 and 16 January 2017, the Chamber received respectively the VWU's

1 in-court protective measures and vulnerability assessments for P-773, in
2 which it was recommended that the same protective measures sought by the
3 Prosecution be granted. No special measures were recommended.
4 The Chamber recalls that an oral decision was issued on 17 November 2016,
5 granting in-court protective measures for Witnesses P-758 and P-761 and
6 the Chamber has had regard to the interrelated nature of those measures
7 and the ones sought for Witness P-773.
8 In assessing whether there exists any objectively justifiable risk, the
9 Chamber observes that it has previously held that the general security
10 situation in the region may be a relevant consideration in respect of
11 specific witnesses.
12 In this instance, it's noted that the witness and her family currently
13 reside in an area where former UPC/FPLC militia members and supporters of
14 the accused are present or continue to have influence.
15 While the witness is not reported to have faced any direct threats, the
16 Chamber recalls that threats to a witness or his or her family are not a
17 prerequisite to determining whether a witness faces an objectively
18 justifiable risk and that there are reported instances where other
19 witnesses, crime base as well as insider witnesses, were allegedly
20 threatened as a result of their involvement with the Court.
21 The Chamber further notes that given the nature of Witness P-773's
22 expected testimony, revealing the identity of this witness would also
23 risk exposing Witnesses P-758 and P-761, in respect of whom in-court
24 protective measures have already been granted as previously mentioned.
25 In this regard, the Chamber has also had regard to the VWU's assessment

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1 that public testimony would expose Witness P-773 to significantly
2 enhanced levels of risk and could trigger retaliation and that protective
3 measures would reduce such risk.
4 Finally, the Chamber notes that Witness P-773 is not currently in the ICC
5 Protection Programme.
6 In light of the above, the Chamber is satisfied that there exists an
7 objectively justifiable risk with respect to the security and well-being
8 of Witness P-773 and her family, warranting the protection of her
9 identity from the public. The Chamber further finds that the in-court
10 protective measures sought do not unduly infringe upon the rights of the
11 accused, given that the Defence will be able to see the witness give
12 evidence at trial and hear her voice without distortion via video link.
13 Accordingly, and pursuant to Rule 87 of the Rules, the Chamber grants the
14 measures of use of a pseudonym for the purposes of the trial and voice
15 and face distortion during testimony for Witness P-773.
16 Turning to the request for special measures for P-773. In light of the
17 assessment and recommendations provided by the V WU, the Chamber does not
18 find it necessary to order any special measures at this stage but will
19 monitor the situation during testimony carefully.
20 This concludes the Chamber's ruling.
21 And now, court usher, please bring the witness into the courtroom.
22 (The witness enters the courtroom)
23 WITNESS: DRC-OTP-P-0863 (On former oath)
24 PRESIDING JUDGE FREMR: [9:41:14] Good morning, Mr Witness. Welcome back.
25 THE WITNESS: [9:41:24] (Interpretation) Thank you.

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1 PRESIDING JUDGE FREMR: [9:41:26] Mr Witness, before we continue with the
2 rest of your testimony, I would like to -- it's my duty to remind you of
3 a few things.

4 The first one, the fact that you are still under oath which means that
5 you have to speak the truth and nothing but the truth. Is it clear to
6 you?

7 THE WITNESS: [9:41:53] (Interpretation) Yes.

8 PRESIDING JUDGE FREMR: [9:41:55] I would also like to highlight the fact
9 that today you will be cross-examined by the representative of the
10 Defence, and in this connection I want to stress that this Court is
11 governed by the principle of fair trial which, among the other things,
12 also means that both parties should be treated equally, which for you
13 means that you are expected to respond to questions put to you by the
14 Defence in the same way like you did yesterday with Prosecution.
15 And finally, a reminder concerning practical matters. Please don't
16 forget to keep pauses, at least three seconds, between the question put
17 to you and your answer. And also please don't forget to speak loudly
18 enough since it will facilitate the work of our interpreters.

19 Have you understood all that, Mr Witness?

20 THE WITNESS: [9:43:13] (Interpretation) Yes, I have understood.

21 PRESIDING JUDGE FREMR: [9:43:16] Very well. So now I am giving the floor
22 to Mr Gosnell.

23 Mr Gosnell, you may proceed. At the moment we are in the regime of the
24 open session. Can we remain in open session?

25 MR GOSNELL: [9:43:34] Yes, at least for the first subject, Mr President,

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1 I think.

2 PRESIDING JUDGE FREMR: [9:43:37] All right. Please proceed.

3 MR GOSNELL: [9:43:40] Thank you, Mr President.

4 QUESTIONED BY MR GOSNELL:

5 Q. [9:43:41] Good morning, Mr Witness. My name is Christopher Gosnell.

6 I'll be asking you some questions today for the Defence, and I'd like to

7 start by showing you a couple of photographs. And the first of these

8 photographs is tab 27 of our list, DRC-D18-0001-2928. And I note for the

9 record that the problem yesterday in respect of the consoles continues to

10 occur right now, since I don't seem to be able to pull up either of the

11 evidence channels. Oh, it does -- I do have a copy off my screen but

12 I'm --

13 PRESIDING JUDGE FREMR: [9:44:42] Maybe I can just check. Today the

14 problem is still pending with channels?

15 THE COURT OFFICER: [9:44:49] No, Mr President. This morning the testing

16 was done and everything was working. I guess it's solved now. Yes,

17 the --

18 PRESIDING JUDGE FREMR: [9:44:57] So, Mr Gosnell, hopefully you should be

19 also able to manage it yourself.

20 MR GOSNELL: [9:45:09] It seems to be fine, Mr President. Thank you very

21 much to the Registry for all the work that I know they've probably had to

22 overnight.

23 MS SOLANO: [9:45:20] Your Honour.

24 PRESIDING JUDGE FREMR: [9:45:22] Ms Solano, any objection?

25 MS SOLANO: [9:45:24] No, your Honour, but I do want to note that because

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- 1 this and other photographs are not yet in eCourt, we don't have metadata
2 that the Defence are required to provide for the photographs, including
3 the date on which the photographs were taken, and that may hamper my
4 ability to make timely interventions if any are required. Thank you.
5 PRESIDING JUDGE FREMR: [9:45:45] All right.
6 MR GOSNELL: [9:45:48] I'll provide the information in the course of my
7 questions, Mr President.
8 PRESIDING JUDGE FREMR: [9:45:52] I appreciate that.
9 MR GOSNELL: [9:45:58]
10 Q. Mr Witness, do you recognise what is pictured on this photo?
11 A. [9:46:08] Yes.
12 Q. [9:46:10] These are the stands of the Bambu football stadium;
13 correct?
14 A. [9:46:24] Yes.
15 Q. [9:46:27] You said yesterday, did you not, that the structure, the
16 roof over these stands had been destroyed during a UPC attack, didn't
17 you?
18 A. [9:46:46] Yes.
19 Q. [9:46:48] And to be precise, at page 31 of yesterday's transcript,
20 you said, and I quote:
21 "The roof of the stadium in Bambu was destroyed by a bomb."
22 And then at line 17 of page 31 of yesterday's transcript, it reads:
23 "Interpreter correction in the previous reply: The witness made mention
24 of the roof of the tribune, the stands of the stadium being destroyed."
25 Now, do you remember having spoken those words yesterday under oath?

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1 A. [9:47:35] Yes.

2 Q. [9:47:37] Now, this photograph was taken yesterday. Can you explain
3 to us why you said that the roof over the stands of the Bambu stadium had
4 been destroyed?

5 A. [9:48:04] This photograph, as you can see to my right, you can see
6 there is a hole. That hole wasn't there before.

7 PRESIDING JUDGE FREMR: [9:48:15] Just hold on, Mr Witness. We face some
8 technical problem because we can hear your voice from our assistant
9 equipment.

10 Now please proceed, Mr Witness.

11 THE WITNESS: [9:48:57] (Interpretation) To the right of the photograph, I
12 can see a hole which was caused by the bomb that I was referring to.
13 That hole didn't exist before. Then you can also see towards the centre,
14 the same arises. There was no hole there before.

15 MR GOSNELL: [9:49:44] Mr President, should I just pause while this issue
16 is resolved?

17 PRESIDING JUDGE FREMR: [9:49:47] Maybe, please. Hopefully we at least
18 find some temporary solution, just to block off the equipment because
19 it's a little bit disturbing, frankly saying.

20 THE COURT OFFICER: [9:50:12] I apologise for this inconvenience. We are
21 going to try, I think, to unplug the cable since the problem cannot be
22 fixed now. A technician is on his way to fix the problem.

23 PRESIDING JUDGE FREMR: [9:50:26] Is it possible to cover this by
24 something that would at least lower --

25 THE COURT OFFICER: [9:50:33] We're going to try, Mr President.

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1 PRESIDING JUDGE FREMR: [9:50:43] Yeah, I think legal text would be fine.

2 So now please proceed. I hope it's not disturbing too much. Legally

3 it's not a problem, it's only about some disturbance, but I think -- I

4 believe that we will make the final solution soon. But at the moment I

5 think please proceed.

6 MR GOSNELL: [9:51:03]

7 Q. Are you saying that you see a hole in the roof in the centre of this

8 structure?

9 Mr Witness, you've just given an answer, and you say:

10 "You can also see towards the centre, the same arises. There was no hole

11 there before."

12 Are you saying that you see a hole in the centre of this structure which

13 you are saying was caused by a bomb fired during a UPC attack?

14 A. [9:51:07] Well, what I said is that you can see a hole to my right,

15 and then in the middle, the borders are not -- they don't have the same

16 structure as before, so slightly to the centre and to the left.

17 MR GOSNELL: [9:52:30] May we have DRC-D18-0001-2929, tab 28. And I'm

18 still waiting for the document. It's D18-0001-2929, tab 28.

19 PRESIDING JUDGE FREMR: [9:53:23] Court officer, we are calling the next

20 document.

21 THE COURT OFFICER: [9:53:41] Just before the document being displayed, to

22 inform the Chamber, we can fix the problem in one minute. I've just been

23 informed that for that we need to pause because the whole system for the

24 problem has to be reset. So I don't know if you want to continue this

25 way or if you prefer to pause one minute and then the problem can be

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1 fixed.

2 PRESIDING JUDGE FREMR: [9:54:00] We will prefer to pause one minute. So

3 we can stay in the courtroom and just wait for one minute. It's fine.

4 All right.

5 (Pause in proceedings)

6 THE COURT OFFICER: [9:55:47] I have been informed that it has been solved

7 now. We can resume.

8 PRESIDING JUDGE FREMR: [9:55:53] Every morning there's some surprise

9 ready for us. All right.

10 Mr Witness, could you say: 1, 2, 3, through your mic. Mr Witness,

11 please say: 1, 2, 3.

12 THE WITNESS: [9:56:15] (Interpretation) 1, 2, 3.

13 PRESIDING JUDGE FREMR: [9:56:18] It's fine. Thank you very much, and we

14 now can proceed, Mr Gosnell. Sorry for that.

15 MR GOSNELL: [9:56:27] That's fine. Thank you, Mr President.

16 Q. [9:56:31] Now, Mr Witness, this photograph is a little bit more

17 close-up. Are you saying that there's some kind of structural damage to

18 the centre of this structure that you say is attributable to a bomb or,

19 in fact, by any munition fired during a UPC attack?

20 A. [9:57:07] On the photograph, if you look at the right, I think it's

21 visible but not in the centre. In any event, the impact of the bomb is

22 visible in the stands where people sit.

23 Q. [9:57:36] So you now would agree with me -- and I'm just focusing on

24 the centre for starters, Mr Witness, we're proceeding step by step. And

25 in your initial answer you asserted that you saw structural damage to the

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1 centre of this structure. Now having the benefit of this photograph, am
2 I right that you now agree that there's no visible damage to the centre
3 of this structure?

4 A. [9:58:12] In the middle, the damage was done to the place where
5 people sit, not to the roof.

6 Q. [9:58:24] And you've mentioned there's a hole on the right-hand side
7 of the roof, but we can see that the structure is largely intact;
8 correct?

9 A. [9:58:44] The hole is to my right on the roof, and you can see that,
10 to my right.

11 Q. [9:58:54] And the structure is largely intact; correct?

12 A. [9:58:06] To the right it is not intact. The roof is destroyed and
13 some of the seats or the places where people sit, some of those places
14 are destroyed, as one can at least see.

15 Q. [9:59:26] So you weren't exaggerating yesterday deliberately when
16 you said that the roof had been destroyed; is that your position?

17 A. [9:59:44] Exaggerating may actually be exaggerating. It may be too
18 much. What matters basically is to demonstrate that a bomb was launched
19 in that direction. I think that's what matters.

20 Q. [10:00:03] So are you admitting that you did exaggerate in order to
21 convey what matters, in your words?

22 A. [10:00:19] No, I did not exaggerate. If I said that in my
23 testimony, the idea was to demonstrate that bombs had effectively been
24 launched from the other side, from the UPC militia who launched those
25 bombs towards Bambu. That is evidence in the course of my testimony in

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1 that regard.

2 MR GOSNELL: [10:00:50] Mr President, I seek to tender these two
3 documents.

4 PRESIDING JUDGE FREMR: [10:00:55] Prosecution, any objection?

5 MS SOLANO: [10:00:57] No, your Honour.

6 PRESIDING JUDGE FREMR: [10:01:01] So those two photographs specified by
7 Mr Gosnell are admitted into evidence as a further Defence exhibit.

8 MR GOSNELL: [10:01:12]

9 Q. Yesterday, Mr Witness, you described an attack on Bambu and Kobu by
10 UPC combatants that occurred in January 2003 when they did not withdraw
11 after the initial attack, whereas up until that point there had been a
12 series of attacks followed by withdrawals. Do I understand that
13 testimony correctly, in general terms?

14 A. [10:02:04] Please can you repeat your question.

15 Q. [10:02:07] Yes. So you understand the purpose of my question, I'm
16 trying to establish a chronology with you, a sequence of events. And am
17 I correct that there was a period during which there were a series of UPC
18 attacks followed by retreats and that that occurred prior to January
19 2003; and then there was what you would describe as the last attack which
20 occurred in January 2003, when the UPC attacked and did not withdraw but
21 took up positions in Bambu and Kobu. Does that fairly summarise the
22 sequence of events that you described yesterday?

23 A. [10:03:12] If I talked about the last attacks, it was to point out
24 that thereafter there were no other attacks after the militia of the UPC
25 withdrew. Now, when it comes to chronology, these things happened a very

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1 long time ago and I don't have a clear recollection. But I recall that
2 it was in the month of February that the UPC forces withdrew from Kobu,
3 Bambu, and Kilo. But the exact date, I don't have it with me here, nor
4 in my mind. And this was actually marked by the killings in Kobu and
5 thereafter the war ended.

6 Q. [10:04:06] Witness, yesterday at page 16, starting at line 8, you
7 were asked the following question:

8 "Did the UPC remain in Bambu after those attacks or did they withdraw?"

9 And then your answer was:

10 "At first they would come and then they would retreat. If I recall
11 correctly, it was January 2013," which you later corrected, Mr Witness,
12 to 2003, "when they set up operations in Kobu and at that time they did
13 not retreat."

14 Now, Mr Witness, I understand that the chronology in your mind may not be
15 clear, but can we just understand, regardless of the exact dates, that
16 you do recall there were these two different phases: One phase in which
17 there were sporadic, repeated attacks followed by immediate withdrawals;
18 and then the second phase was this major attack which occurred in
19 January 2013, when the UPC took up positions in Bambu and Kobu. Is that
20 correct?

21 A. [10:05:33] The UPC had taken up positions in Bambu and Kobu. That
22 wasn't 2013. That was 2003.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 MR GOSNELL: [10:06:05] It should be private session, Mr President.
- 2 Sorry.
- 3 PRESIDING JUDGE FREMR: [10:06:09] Yeah, let's move into private session.
- 4 THE COURT OFFICER: [10:06:30] We are in private session, Mr President.
- 5 (Private session at 10.06 a.m.) *(Reclassified partially in public)
- 6 PRESIDING JUDGE FREMR: [10:06:32] We also will have to redact the
- 7 question on line 25 and following answer, beginning of answer. And for
- 8 the record at the moment when this question was put and answered, there
- 9 was nobody in the public gallery.
- 10 Now, Mr Gosnell, please proceed.
- 11 MR GOSNELL: [10:06:58] I apologise for that.
- 12 Q. [10:07:04] Mr Witness, do you remember my question?
- 13 A. [10:07:10] Yes.
- 14 Q. [10:07:12] Is that correct that (Redacted)
- 15 (Redacted)?
- 16 A. [10:07:27] (Redacted)
- 17 (Redacted).
- 18 Q. [10:07:40] Are you saying (Redacted)
- 19 (Redacted)?
- 20 A. [10:07:48] Yes.
- 21 Q. [10:07:52] (Redacted)
- 22 (Redacted)?
- 23 A. [10:08:09] (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 Q. [10:11:35] (Redacted)

2 (Redacted)?

3 A. [10:11:47] (Redacted)

4 (Redacted).

5 Q. [10:12:00] And then am I correct in understanding that you returned

6 to live in Bambu in November 2000?

7 A. [10:12:14] Yes.

8 Q. [10:12:16] How long after that was the first attack, according to

9 you, by the UPC on Bambu?

10 A. [10:12:36] At that time, 2000, 2001, there were hardly any attacks

11 but the road was cut. The people, the Hema people and the Lendu people,

12 did not communicate between each other. There wasn't through passage.

13 Everybody stayed in their area at that time. And it was from 2001 that

14 the UPC attempted to enter Bambu, and it was from that time that the UPC

15 started carrying out attacks. And I remember at that time, in 2001, the

16 Lendu population, because it was very difficult to survive in Bambu, they

17 were trying to find a corridor through which they could cross to the

18 other side where the UPC militia were residing. So going through the

19 bush, they were trying to find safe passage to the other side where the

20 Lendu people were so that they could get supplies, salt, et cetera, to

21 get table salt, et cetera --

22 Q. [10:14:15] Mr Witness --

23 A. [10:14:16] -- so it was a matter of supplies.

24 Q. [10:14:22] So am I correct that these -- that the UPC attacks,

25 according to you, started sometime in the year 2001?

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1 A. [10:14:38] Yes.

2 Q. [10:14:41] And did combatants, as far as you know, from Uganda, or
3 did Ugandan forces ever participate or collaborate with those UPC attacks
4 on Bambu?

5 A. [10:15:10] No. It was before that that the Ugandan forces
6 intervened. That was before, prior to, 2001.

7 Q. [10:15:29] And these UPC attacks in 2001, am I correct, that was
8 before Governor Lopondo had been chased away from Bunia?

9 A. [10:15:52] When the governor was chased away, I'm not sure about the
10 exact chronology of events.

11 Q. [10:16:04] (Redacted)

12 (Redacted)

13 (Redacted)?

14 A. [10:16:32] (Redacted)

15 (Redacted).

16 Q. [10:16:45] (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)?

21 A. [10:17:13] (Redacted).

22 Q. [10:17:16] (Redacted)

23 (Redacted)

24 (Redacted)?

25 A. [10:17:34] (Redacted).

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1 (Redacted).

2 Q. [10:30:00] (Redacted)?

3 A. [10:30:08] (Redacted).

4 Q. [10:30:15] (Redacted)

5 (Redacted)?

6 A. [10:30:38] (Redacted).

7 MR GOSNELL: [10:30:49] May we have DRC-OTP-2068-0255, which is the

8 witness' (Redacted) statement to the Office of the Prosecutor, it's tab 1. And

9 I would request that your Honours receive this in hard copy, as I will be

10 going through it for quite a number of questions. So if I could ask the

11 registrar to --

12 PRESIDING JUDGE FREMR: [10:31:23] Court usher, please assist to

13 distribute hard copies.

14 MR GOSNELL: [10:31:32]

15 Q. Now, Mr Witness, do you remember --

16 MR GOSNELL: [10:31:44] And if I could ask that that be called up to the

17 screen. I think I need to re-state the ERN number, DRC-OTP-2068-0251.

18 THE COURT OFFICER: [10:33:18] I'm just repeating just in case we don't

19 manage to find it. Is it DRC-OTP-2068-0251, because this is the first

20 page?

21 MR GOSNELL: [10:33:31] Correct.

22 THE COURT OFFICER: [10:33:32] Okay, so please for the next reference,

23 could you please give us the first page. Thank you.

24 MR GOSNELL: [10:33:38] Yes. I made a correction and gave the first page

25 the second time around, but I apologise for my mistake on the first time

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1 around.

2 THE COURT OFFICER: [10:34:04] The page 0255 is currently being processed.

3 MR GOSNELL: [10:34:09] Well, actually perhaps we should start with the

4 first page just for a moment, 0251.

5 Q. [10:34:22] Mr Witness, this is the first page of a statement you

6 gave to the Office of the Prosecutor in (Redacted). And am I correct that you

7 reviewed this document the week before last in preparation for your

8 testimony, with the assistance of an interpreter?

9 A. [10:34:58] Yes.

10 MR GOSNELL: [10:35:00] And if we could turn, please, to page 0263.

11 Q. [10:35:19] We see an interpreter's certification, and the

12 interpreter says the following, quote, at paragraph 5:

13 "(Redacted) has acknowledged that the facts and matters

14 set out in his Statement, as translated by me, are true to the best of

15 his knowledge and recollection and has accordingly signed his signature

16 where indicated."

17 And then if we could go to the previous page of that same document, which

18 is ERN 0262. Am I correct that we see your signature at the bottom of

19 the page next to the word "signed"?

20 A. [10:36:24] Yes.

21 Q. [10:36:26] And by putting that signature here, am I correct that you

22 were indeed indicating that the statement was true to the best of your

23 knowledge and recollection?

24 A. [10:36:48] Yes.

25 Q. [10:36:50] Let's please turn back to page 0255. Paragraph 19 of

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- 1 your statement discusses (Redacted), and I will read
- 2 this paragraph for you so that it will be translated to you in its
- 3 entirety.
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 Now, Mr Witness, neither in this paragraph nor anywhere else in this
- 15 statement do you refer to (Redacted);
- 16 is that right?
- 17 A. [10:38:54] (Redacted)
- 18 (Redacted)
- 19 (Redacted). I think that this was corrected but I
- 20 see that it still appears in the English version. We had corrected
- 21 paragraph 19 but I see it still appears in the English version.
- 22 Q. [10:39:40] Well, Mr Witness, for the purposes of the record and for
- 23 the Chamber, I can say that indeed you did make a correction when you
- 24 were speaking to the Office of the Prosecutor the week before last
- 25 regarding the information that you've just provided, but that's not my

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1 question. My question, instead, is about the absence of any reference to

2 what you have yesterday and today described (Redacted)

3 (Redacted)

4 (Redacted). Can you explain why there is no reference to (Redacted) in

5 the statement that you gave in 2014?

6 A. [10:40:40] When we corrected it, I mentioned the case of the

7 (Redacted), but I am surprised here that it doesn't appear. We had

8 corrected this.

9 Q. [10:40:56] But leaving aside the corrections that you made the week

10 before last, my question is: Why is it that in (Redacted), during an interview

11 that lasted three days with the Prosecution, which includes a paragraph

12 in which you refer to (Redacted) who (Redacted)

13 and who provided you information about (Redacted), why you would make

14 no reference to this massacre in your statement in (Redacted), during those

15 three days of interviews?

16 MS SOLANO: [10:41:44] Your Honour.

17 PRESIDING JUDGE FREMR: [10:41:46] Ms Solano.

18 MS SOLANO: [10:41:47] Your Honour, I note for the record that that is

19 slightly inaccurate. It wasn't really three days of interviews. The

20 witness was met over the course of three days, but on the first day the

21 witness was met for three and a half hours; second day, for approximately

22 five hours; and the third day for six hours. I just wanted to note that

23 for the record.

24 PRESIDING JUDGE FREMR: [10:42:07] All right.

25 MR GOSNELL: [10:42:11]

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1 Q. Have you had a chance to think about your answer, Mr Witness?

2 A. [10:42:28] When we made the correction, I do not know whether what I
3 mentioned was taken down and whether it appears here, so I don't know and
4 I can't find a way out. What I recall is that during those two weeks, we
5 made all those corrections regarding (Redacted) but it's still
6 appearing there.

7 It was suggested that whenever I made a correction to the point on the
8 (Redacted) -- *it's at that point
9 that I mentioned the massacre I had forgotten to talk about in (Redacted).

10 Q. [10:43:38] You're not saying that you told the investigators about
11 (Redacted), are you, or is that what you're saying?

12 A. [10:43:55] What you see on paragraph 19 is what I told the
13 investigators in (Redacted). But during the two weeks when we were making the
14 corrections, that is when I brought the correction to that paragraph.

15 THE INTERPRETER: [10:44:14] Mr President, in the previous answer, the
16 witness said that this is something that he had forgotten when he gave
17 the statement in (Redacted).

18 MR GOSNELL: [10:44:27]

19 Q. Mr Witness, how could you have forgotten an event of this nature in
20 (Redacted)?

21 A. [10:44:46] Well, I'm sorry, but in my life I have never appeared
22 before a Court. I have never appeared (Redacted) in a Court, and
23 that's why I did not remember. Furthermore, my memory is one that tends
24 to forget quite easily.

25 Q. [10:45:16] Can you --

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1 A. [10:45:21] Now, thirdly, when I deal with third parties, I don't
2 have the habit of expressing myself very clearly all the time. I tend to
3 forget a number of things.

4 Q. [10:45:46] Can you remember when this incident occurred, this
5 (Redacted)?

6 A. [10:46:00] I don't remember the exact date but what I know is that
7 (Redacted), that is when those things
8 happened.

9 Q. [10:46:16] So now you're telling us that (Redacted)
10 (Redacted); is that correct?

11 A. [10:46:38] It was at the time of (Redacted)
12 (Redacted). Now, as for the exact date, it must
13 have been in (Redacted) but I can't be more specific than that.

14 Q. [10:47:01] Regardless of the date, are you now telling us that this
15 (Redacted)
16 (Redacted); is that your testimony?

17 A. [10:47:23] Yes. Yes, that's correct.

18 MR GOSNELL: [10:47:26] Let's turn to the previous page, please, of this
19 document, paragraph 17 of the witness' statement.

20 Q. [10:47:39] Now, Mr Witness, on the previous page of your statement,
21 you start this section, which is entitled "(Redacted)
22 (Redacted)":
23 "(Redacted)
24 (Redacted)."
25 (Redacted).

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1 THE COURT OFFICER: [10:48:12] Mr Gosnell, excuse me to interrupt. Could
2 you please give us the ERN page.

3 MR GOSNELL: [10:48:18] 0254.

4 THE COURT OFFICER: [10:48:20] Thank you.

5 MR GOSNELL: [10:48:22] And I'll just re-read that sentence for the
6 purposes of translation.

7 Q. [10:48:28] (Redacted)

8 (Redacted)

9 "(Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)."

13 Then at paragraph 18 you talk about (Redacted). And then at

14 paragraph 19 is where you describe (Redacted).

15 MR GOSNELL: [10:49:15] Now, if we could turn, please, to page 0257.

16 Q. [10:49:28] Paragraph 35, there is a heading which is entitled:

17 "(Redacted)."

18 Paragraph 35 reads:

19 "(Redacted)

20 (Redacted)."

21 (Redacted)

22 (Redacted)

23 (Redacted).

24 Now, Mr Witness, I know that I've taken you through different pages of

25 your statement, but when I read paragraph 17 of your statement describing

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1 (Redacted)

2 (Redacted), I suggest to you

3 that you said during your interview with the Office of the Prosecutor

4 that (Redacted) occurred during that period of these repeated attacks

5 and withdrawals, (Redacted)

6 (Redacted). That's correct, isn't it?

7 A. [10:51:10] (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted).

12 Q. [10:51:50] I think you're missing my point, Mr Witness, which is

13 briefly this: (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted).

17 MS SOLANO: [10:52:17] Your Honour.

18 PRESIDING JUDGE FREMR: [10:52:19] Ms Solano.

19 MS SOLANO: [10:52:20] Your Honour, that is imprecise. The incident

20 involving the amputee does not appear in a section of the report under

21 the heading "Involving" -- I withdraw, your Honour. Sorry.

22 PRESIDING JUDGE FREMR: [10:52:38] Please be more careful next time.

23 Mr Gosnell, please proceed.

24 THE WITNESS: [10:52:57] (Interpretation) Now, (Redacted), he is the one

25 who (Redacted). It is from there on

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted).

5 MR GOSNELL: [10:53:42]

6 Q. Mr Witness, earlier today, just now when you were describing this

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)? Does that help

12 jog your memory about when this event occurred?

13 A. [10:54:40] The moment, the time, is very clear. What I said is that

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted).

22 Q. [10:55:42] Yesterday you described (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)?

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1 (Redacted).

2 My question is: (Redacted)

3 (Redacted), can you give us any explanation as to why this

4 information was not reproduced in the statement that you gave to the

5 Office of the Prosecutor in (Redacted)?

6 A. [11:05:39] That statement was given when the staff of the Court came

7 (Redacted)

8 (Redacted). But in paragraph 57, we are in the situation where those who

9 interviewed me were also seeking information about (Redacted)

10 (Redacted). So what I talked about here does not relate to the

11 events here. What we are looking at is the (Redacted),

12 whom I talked about before.

13 MR GOSNELL: [11:07:02] Mr President, I think we have to leave it there,

14 given the time, for the moment.

15 PRESIDING JUDGE FREMR: [11:07:07] Yes. Now, court officer, let's move

16 into open session.

17 THE COURT OFFICER: [11:07:23] We are in open session, Mr President.

18 (Open session at 11.07 a.m.)

19 PRESIDING JUDGE FREMR: [11:07:26] Thank you. So now we will take our

20 regular break for 30 minutes. So, first of all, please, court usher,

21 assist Mr Witness to leave the courtroom because then I would like to

22 briefly discuss one issue in his absence.

23 (The witness stands down)

24 PRESIDING JUDGE FREMR: [11:08:01] This issue is an issue of timing, since

25 I now got information that so far, Mr Gosnell, you used one hour, 18

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1 minutes, if I'm reading it -- that's 15, 15 minutes, which means roughly
2 that you still have at your disposal two hours because I'm including time
3 used by Prosecution plus time used by Mr Suprun generally. But we still
4 have before us the next session, for 90 minutes. But if you would be
5 able to finish your examination in 2 hours, then we would be open to
6 prolong the second session and not to adjourn just for the next 30
7 minutes. Do you have an estimation at the moment, Mr Gosnell?

8 MR GOSNELL: [11:08:56] I do hope that I could get through the -- may I
9 just ask what your Honour's proposal might be in terms of -- would it be
10 that your Honour would wish for me to extend even up to 30 minutes to
11 complete my cross-examination within the allotted time before lunch?

12 PRESIDING JUDGE FREMR: [11:09:21] Yeah, was to start and to -- normally
13 we have 90-minute session, but if you would be able to finish in two
14 hours, then you would like rather to take this two-hour session and not
15 to adjourn till the afternoon, because as I said the next witness is
16 anyway fixed for Wednesday. So not just to have 30 minutes in the
17 afternoon. If you would be available -- if you would be capable to
18 finish in those two hours, you would rather take this longer session.

19 MR GOSNELL: [11:09:47] I understand now, Mr President.

20 PRESIDING JUDGE FREMR: [11:09:49] At least please try and we will see.

21 MR GOSNELL: [11:09:51] Yes.

22 PRESIDING JUDGE FREMR: [11:09:51] If you will not be able to try, we will
23 simply adjourn.

24 MR GOSNELL: [11:09:54] I think the chances are very good. Perhaps we
25 could just come to the one hour and 30 mark, and I could provide your

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- 1 Honour with an update at that point.
- 2 PRESIDING JUDGE FREMR: [11:10:01] Yes. It's absolutely fine with us.
- 3 MR GOSNELL: [11:10:03] Thank you, Mr President.
- 4 PRESIDING JUDGE FREMR: [11:10:04] So now we break, and since it's 11.10,
- 5 we will resume at 11.40.
- 6 THE COURT USHER: [11:10:14] All rise.
- 7 (Recess taken at 11.10 a.m.)
- 8 (Upon resuming in open session at 11.43 a.m.)
- 9 PRESIDING JUDGE FREMR: [11:43:12] We are in open session. We are going
- 10 to continue with cross-examination of our witness by Defence.
- 11 Mr Gosnell, can we remain in open session or is there a need to move into
- 12 private?
- 13 MR GOSNELL: [11:43:31] At least for starters we'll have to stay in
- 14 private, Mr President, or move into private. Sorry.
- 15 PRESIDING JUDGE FREMR: [11:43:37] All right. Court officer, let's move
- 16 into private session.
- 17 THE COURT OFFICER: [11:43:50] We are in private session, Mr President.
- 18 (Private session at 11.43 a.m.) *(Reclassified partially in public)
- 19 PRESIDING JUDGE FREMR: [11:44:54] Thank you, Court officer.
- 20 Mr Gosnell, please proceed.
- 21 MR GOSNELL: [11:44:58]
- 22 Q. Mr Witness, yesterday you told us about (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 A. [12:16:30] (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted).

6 Q. [12:17:05] (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)?

10 A. [12:17:23] (Redacted).

11 Q. [12:17:33] (Redacted)

12 (Redacted)?

13 A. [12:17:50] (Redacted)

14 (Redacted).

15 Q. [12:18:12] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)?

20 A. [12:18:49] (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted).

24 Q. [12:19:14] You didn't have this victim application form with you

25 during your interview with the Prosecution in 2014, did you?

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1 A. [12:19:27] No, I didn't.

2 Q. [12:19:30] But you did have this application form with you and you
3 reviewed it the week before last, before your testimony here today;
4 correct?

5 A. [12:19:47] Yes.

6 Q. [12:19:48] And you were able to read this document in your own
7 language directly, without the assistance of an interpreter; that's
8 correct, isn't it?

9 A. [12:19:01] Yes.

10 Q. [12:20:03] But your statement to the Prosecution from 2014 which is
11 in English, you were not able to read directly yourself without the
12 assistance of an interpreter, were you?

13 A. [12:20:20] Yes.

14 Q. [12:20:22] I suggest to you, Mr Witness, that the reason why there
15 are details in this document that you have repeated here in this
16 courtroom which do not appear in your statement from 2014 is because you
17 were able to read this document in French, you remembered these details,
18 and you've repeated them here in Court, whereas you aren't able to
19 remember the details or the content or the omissions in your statement
20 from 2014. That's correct, isn't it?

21 A. [12:20:03] Yes, that's correct.

22 Q. [12:21:13] Aside from your lawyer, who else was present when you
23 filled out this form?

24 A. [12:21:31] We were mostly with the lawyer and his delegation. I
25 don't know their names.

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1 MR GOSNELL: [12:21:43] May we turn to the next page of this document,

2 which is ERN page 0064.

3 Q. [12:22:57] And there's a question number 8, which reads as follows,

4 and I quote in French:

5 (Interpretation) "According to the victim, which criteria should the

6 Court consider when it comes to the selection of a lawyer?"

7 (Speaks English) Please read the response.

8 A. [12:22:26] A Congolese lawyer who is familiar with the background of

9 this war to defend the interests of the Lendus.

10 Q. [12:22:42] Why did you say, Mr Witness, that you wanted a lawyer who

11 would defend the interests of the Lendus instead of saying that you

12 wanted a lawyer to defend your own personal interests?

13 A. [12:22:02] Well, if I spoke about the Lendus in general, it's

14 because I wasn't the only one who was being assisted by these people; it

15 was all the Lendu people. It wasn't just me.

16 Q. [12:22:32] And did your lawyer or anyone else tell you that you

17 could only obtain compensation for harm that occurred at a certain place

18 or a certain time?

19 A. [12:23:54] Please repeat the question, if you could.

20 Q. [12:23:58] Did anyone tell you that you could only obtain

21 compensation in respect of harms or damage suffered at a particular place

22 or at a particular time?

23 A. [12:24:25] The people mentioned that but we don't -- we didn't know

24 if that could be possible, if that could be done. It wasn't for me; it

25 was for the interests of all the Lendu people.

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Trial Hearing
Witness: DRC-OTP-P-0863

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted).

3 Q. [12:38:44] (Redacted)

4 (Redacted)?

5 A. [12:38:51] (Redacted).

6 Q. [12:38:56] (Redacted)

7 (Redacted)?

8 A. [12:39:13] (Redacted).

9 Q. [12:39:23] (Redacted)

10 (Redacted)?

11 A. [12:39:33] (Redacted).

12 Q. [12:39:38] (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)?

16 A. [12:40:02] (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted).

20 Q. [12:40:37] Yesterday you testified that the Lendu militia's only way

21 of obtaining firearms was by killing UPC fighters and killing their --

22 and seizing their arms; is that correct? Is that the way it was?

23 A. [12:41:08] Yes.

24 Q. [12:41:11] And you likewise testified, at page 22, that they

25 obtained union forms from UPC soldiers whom they had liquidated; correct?

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1 A. [12:41:32] Yes.

2 Q. [12:41:36] How did the Lendu militia distinguish themselves from
3 their opponents, from the enemy, if they were wearing uniforms that they
4 had stolen from the UPC or taken from the UPC?

5 A. [12:42:02] These uniforms, they didn't wear them when they were
6 carrying out attacks. They only wore them when things were calm.

7 Q. [12:42:19] So they just wore them to keep warm?

8 A. [12:42:29] Sometimes they -- they didn't wear that during attacks,
9 no.

10 Q. [12:42:39] And at the beginning of the conflict, before the Lendu
11 militia had managed to acquire some firearms from the UPC, your view is
12 that the Lendu militia had no firearms; right?

13 A. [12:42:05] At the start they didn't have firearms. When they killed
14 people, when they killed soldiers, UPC soldiers, then they would get hold
15 of such weapons.

16 Q. [12:43:27] And even after that started to happen, would I be correct
17 in understanding that they had far fewer weapons, firearms that is, than
18 the UPC, given that their only source of firearms was to kill UPC
19 fighters and steal their weapons?

20 A. [12:43:54] Yes.

21 Q. [12:43:58] Whereas the UPC had firearms and bombs; correct?

22 A. [12:44:08] Yes, yes.

23 Q. [12:44:10] And despite this inequality of armaments, the Lendu
24 militia managed to set up a front at the Shari bridge; correct?

25 A. [12:44:30] Yes.

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1 Q. [12:44:32] When was that front set up?

2 A. [12:44:41] The front was set up at the start of the attacks. When
3 attacks were happening repeatedly on Bambu, it was at that time that the
4 front was set up.

5 Q. [12:45:04] And the consequence of that front being set up is that
6 the UPC was denied -- what you've described as the UPC, was denied access
7 to the road between Shari bridge and Mongbwalu; correct?

8 A. [12:45:29] Yes.

9 Q. [12:45:31] Did any of your Lendu militia friends explain to you how
10 they managed to set up this front and effectively deny access to this
11 important road to Mongbwalu with only machetes and spears against a force
12 that was armed with firearms and bombs? Did they tell you how that was
13 possible?

14 A. [12:46:10] The aim of the front was to alert the Bambu population,
15 it wasn't to fight - as you've just highlighted - with their weapons.
16 They were heavily weaponed -- they were heavily armed, and they were
17 forced to enter there. The role of the Lendu militia was to inform
18 people or to alert them so that they would flee into the forest. And
19 there were Lendu militia with their arrows and they could still put up
20 resistance. They could also set up a counterattack so that they didn't
21 enter Bambu. People were going to the forest.

22 Q. [12:47:19] Has anyone suggested to you that you should not, during
23 your testimony or statements to the Prosecution, indicate that the Lendu
24 militia possessed firearms from sources other than stealing them from the
25 UPC?

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1 A. [12:47:53] No. Nobody's said that.

2 Q. [12:48:57] How many fighters, Lendu fighters, were there in Bambu,
3 according to you?

4 A. [12:48:11] I think at that time most of the young boys were
5 combatants, most of them; there was nothing to do.

6 Q. [12:48:27] Were they organised into military formations of any kind?

7 A. [12:48:36] They weren't organised into military formations. It was
8 just an organisation for the front.

9 MR GOSNELL: [12:49:55] I'd like to show a video which is

10 DRC-OTP-1033-0222. I think that means we'll have to be given control.

11 And the transcription and translation are respectively DRC-OTP-2061-0698

12 and DRC-OTP-2085-0452. And I believe that the interpreters have been

13 provided with transcriptions and translations. And we will show two

14 excerpts. The first is from 34 seconds to 44 seconds, and if I could ask

15 that the sound be activated.

16 (Viewing of the video excerpt)

17 THE INTERPRETER: [12:50:15] (Voiceover) "He is the brigade commander in

18 Bambu. I am the brigade commander in Bambu. Brigade commander Bambu in

19 Bambu."

20 MR GOSNELL: [12:50:27] Perhaps we should just rewind and go back to the

21 beginning because I don't believe that the man in the blue beret is being

22 referred to as the brigade commander in Bambu. Let's stop there.

23 Q. [12:51:05] Mr Witness, do you see a face on the screen in front of
24 you?

25 A. [12:51:11] Yes.

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1 Q. [12:51:12] Do you know this person?

2 A. [12:51:18] No.

3 Q. [12:51:21] You don't know him to be the brigade commander in Bambu?

4 PRESIDING JUDGE FREMR: [12:51:30] Ms Solano.

5 MS SOLANO: [12:51:31] I request a timestamp for the record of the image

6 we're viewing at the moment.

7 MR GOSNELL: [12:51:37] That's 34 seconds.

8 Q. [12:51:46] Mr Witness, you don't recognise him to be the brigade

9 commander in Bambu of the Lendu militia?

10 MS SOLANO: [12:51:56] Your Honour.

11 PRESIDING JUDGE FREMR: [12:51:57] Yes.

12 MS SOLANO: [12:51:58] Asked and answered.

13 MR GOSNELL: [12:52:04] Well, the English doesn't seem to have an answer.

14 MS SOLANO: [12:52:10] Your Honour, there's -- if I may --

15 PRESIDING JUDGE FREMR: [12:52:12] Please go ahead, Ms Solano.

16 MS SOLANO: [12:52:13] There's an answer on line 14 of page 67, and the

17 answer is "no," of the French version.

18 MR GOSNELL: [12:52:25] I'm sure that will be added to the English in due

19 course.

20 PRESIDING JUDGE FREMR: [12:52:30] Or you can just repeat it, I think,

21 it's not a big issue, so to be sure.

22 MR GOSNELL: [12:52:35]

23 Q. You don't recognise him, Mr Witness, to be the brigade commander of

24 the Lendu militia in Bambu?

25 A. [12:52:48] No.

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1 MR GOSNELL: [12:52:49] May we move, please, to six minutes and 33

2 seconds.

3 PRESIDING JUDGE FREMR: [12:52:53] Ms Solano.

4 MS SOLANO: [12:52:54] Your Honour, sorry, and I want to make a further

5 note for the record. At least where I could see, the image of the person

6 was gone after a certain point in time. When Mr Gosnell asked the first

7 question, the image was visible; but afterwards the channel seemed to

8 switch to just what was going on in the courtroom. So I just want to

9 note that the image was briefly before the witness.

10 PRESIDING JUDGE FREMR: [12:53:24] All right.

11 MR GOSNELL: [12:53:27] Can the Registry tell me whether the image is

12 there now? I just want to make sure we do this the --

13 THE COURT OFFICER: [12:53:36] No images.

14 MR GOSNELL: [12:53:37] Can we please restore the image?

15 PRESIDING JUDGE FREMR: [12:53:44] Court usher, please.

16 THE COURT OFFICER: [12:53:54] You can -- you have the control currently.

17 It doesn't work? It's there?

18 MR GOSNELL: [12:54:05]

19 Q. Mr Witness, can you see on your screen an image of a person?

20 A. [12:54:18] Yes, I can see.

21 Q. [12:54:20] Have you had a good look at that?

22 A. [12:54:28] Yes.

23 Q. [12:54:29] And that doesn't change any of the answers you've just

24 given, does it?

25 A. [12:54:39] That's correct.

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1 Q. [12:54:40] Thank you very much.

2 THE COURT OFFICER: [12:54:41] Just for clarification, it's evidence

3 channel 2.

4 MR GOSNELL: [12:54:47] Now may we move to 6:33. And this will be line

5 138 onwards from the translation.

6 (Viewing of the video excerpt)

7 THE INTERPRETER: [12:54:19] (Voiceover) "How many people do you currently

8 have with you together among your combatants? How many brigades? How

9 many brigades?

10 "Well, in my brigade that's here, I would say that there are many

11 soldiers at my disposition. It could be approximately 3.000.

12 "3.000? Hm. He says that in his brigade there are a lot, a lot of

13 soldiers, more than 3.000."

14 MR GOSNELL: [12:55:49]

15 Q. Mr Witness, this person has just said that there are approximately

16 3.000 soldiers at his disposal, and he is claiming to be the -- or a

17 commander in the Lendu militia. Do you have any reason to believe that

18 estimate is not correct as to the numbers of Lendu militia who were part

19 of a formation in Bambu?

20 A. [12:56:32] The person who has just spoken, that person is

21 responsible for the combatants there. He spoke about 3.000 soldiers.

22 The majority of young men at the time or young boys were combatants.

23 Q. [12:57:02] So I take it you recognise this man?

24 PRESIDING JUDGE FREMR: [12:57:07] Hold on, Mr Witness. Hold on.

25 Ms Solano.

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1 MS SOLANO: [12:57:09] I do apologise, your Honour, but can we please have
2 a timestamp of the image currently before the witness for the record.

3 PRESIDING JUDGE FREMR: [12:57:18] Mr Gosnell, please.

4 MR GOSNELL: [12:57:19] 7:03.

5 PRESIDING JUDGE FREMR: [12:57:22] So now, Mr Witness, please respond.

6 THE WITNESS: [12:57:34] (Interpretation) The boy who's just spoken, who
7 says that he had 3.000 persons, he was responsible for these young boys
8 who were trained for the front; that's to say, these people, they went so
9 that the population would be informed when there was an attack. Along
10 all roads towards Kobu, Bambu, there was no means of going out. So these
11 young boys organised themselves so that we'd be informed. We weren't in
12 that group of militia but we were informed by them.

13 MR GOSNELL: [12:58:37]

14 Q. Well, Mr Witness, do you or do you not, based upon this image in
15 front of you, recognise this person?

16 A. [12:58:53] The person right in front of me I don't recognise myself,
17 but the person you spoke about before is the one I recognise.

18 Q. [12:59:10] When you say the person you spoke about before, can you
19 explain to us to whom you're referring?

20 A. [12:59:22] At the start, at the start of the picture, at the start
21 of the video. His name, I don't remember his name. That's a person who
22 I remember at a particular time. The young boys, some of the young boys
23 enrolled to the army and they bent to Beni for training. And then some
24 groups went and returned among the Lendu population. And it's those boys
25 who were responsible -- oldest boy who was responsible for looking after

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1 those militia.

2 Q. [13:00:17] When you say "at the start of the picture," when

3 identifying the person whom you recognise, do you mean at the start of

4 this video that we have on the screen right now or --

5 A. [13:00:31] Yes. Yes, that's correct.

6 Q. [13:00:34] Then let's please go back to 6:33, and, Mr Witness, when

7 you see the person, please indicate and we will stop the video so we can

8 have a look.

9 (Viewing of the video excerpt)

10 A. [13:01:08] That's him. That's him.

11 MR GOSNELL: [13:01:11] And for the record, the timestamp is 6:35.

12 Q. [13:01:15] Now, seeing this face, does that remind you of his name?

13 A. [13:01:20] I can't remember the name, but I see his face.

14 MR GOSNELL: [13:01:31] Mr President, I see the time. I can certainly

15 finish within 30 minutes.

16 PRESIDING JUDGE FREMR: [13:01:40] Okay. Then if there are no objections

17 from the Prosecution, then we will proceed. Please go ahead.

18 MR GOSNELL: [13:01:48] Thank you, Mr President. Mr President, I would

19 ask that -- no, I withdraw that request. Thank you.

20 Q. [13:02:00] (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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(Private Session)

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1 (Redacted)

2 (Redacted)

3 (Redacted).

4 Q. [13:25:55] Yes. And I'm asking you about your knowledge based on
5 those interactions. Have you ever heard of a case where a woman said or
6 a man said that they had been raped by a woman?

7 A. [13:26:13] Men that had been raped by a woman? But women who were
8 victims of violence.

9 Q. [13:26:38] I'm not sure if my question has been understood,
10 Mr Witness. Let me try and clarify it. I am just asking you whether you
11 have any knowledge of any case where a woman was alleged by any victim to
12 be the perpetrator of rape.

13 A. [13:27:59] The question seems a bit hazy to me.

14 MR GOSNELL: [13:27:21] I'll move on to my last question, Mr President.

15 Q. [13:27:30] Mr Witness, you testified at page 26 of yesterday's
16 transcript about various ethnic groups in Ituri, including the Hema, the
17 Lendu, the Bira, the Nyali, and the Nande. Would you say that these are
18 the most populous groups amongst the ethnicities in Ituri?

19 A. [13:27:56] In Ituri in general, I don't have the demographic data.
20 I don't know the tribe that occupies the most or the largest part of
21 Ituri. I really don't have any data about that. But otherwise the
22 region where the war occurred, most were Lendu and the other tribes were
23 in the minority.

24 Q. [13:28:39] Have you ever heard of an ethnic group in Ituri called
25 the Hemba, H-E-M-B-A? Hemba?

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1 A. [13:28:55] Hembra? No. But Hema, yes.

2 MR GOSNELL: [13:29:06] Thank you very much, Mr Witness, for your
3 patience, and for yours, Mr President. That concludes my
4 cross-examination.

5 PRESIDING JUDGE FREMR: [13:29:15] Thank you, Mr Gosnell.

6 Now, Ms Solano, any need for redirect?

7 MS SOLANO: [13:29:25] No, your Honour. Thank you.

8 PRESIDING JUDGE FREMR: [13:29:27] Fine. So now let's move into open
9 session for the remainder of that.

10 THE COURT OFFICER: [13:29:34] We are in open session, Mr President.

11 (Open session at 1.29 p.m.)

12 PRESIDING JUDGE FREMR: [13:29:48] Thank you, court officer.

13 Mr Witness, this concludes your testimony. On behalf of this Chamber, I
14 would like to thank you because I can imagine that it was a rather
15 difficult experience. But I believe that your testimony will assist us
16 in our effort to find the truth in this case. So we thank you and we
17 wish you a safe journey home.

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

19 (The witness is excused)

20 PRESIDING JUDGE FREMR: [13:30:21] I see there are no further requests for
21 the floor.

22 Before we leave, I also have to thank the interpreters, court reporters,
23 and guards who supported us in this extended session. We will resume
24 tomorrow, 9.30, and we are going to hear Witness P-0773, who will, if I'm
25 not wrong, testify by video link.

Trial Hearing
Procedural Matters

(Open Session)

ICC-01/04-02/06

- 1 And now court is adjourned.
- 2 (The hearing ends in open session at 1.31 p.m.)

RECLASSIFICATION REPORT

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