

1 International Criminal Court
2 Trial Chamber VI - Courtroom 1
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing
8 Friday, 18 September 2015
9 (The hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good morning everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 We are in open session.
19 PRESIDING JUDGE FREMR: Thank you, court officer.
20 First of all, good morning, Mr Witness. Welcome back. I have to remind you that
21 you are still under oath, so you have to speak the truth and nothing but the truth.
22 I would also like to appreciate that yesterday you followed our guidance that you
23 answered all questions clearly, that you also observed pauses, so you facilitate the
24 role of the interpreters and also our role. So thank you for that and please carry on
25 in the same way today.

1 And perhaps one announcement to the public. I would like to emphasise that this
2 witness is under a high level of protection from the part of the Court. He is being
3 provided with voice distortion as an in-court protective measure, face distortion, also
4 with use of pseudonym. And part of this protection is also use of either private or
5 closed session in case there will be a risk that his identity may be released. So please
6 be ready that probably relatively often we will have to go to private session that will
7 not allow you to follow directly this hearing.

8 Now, Ms Samson, I guess you will proceed in examination of witness. So, please,
9 Ms Samson, you have the floor.

10 MS SAMSON: Thank you very much, Mr President. Regrettably, I request that we
11 move into private session for my first series of questions.

12 PRESIDING JUDGE FREMR: All right. Please, let's move to private session.

13 (Private session at 9.35 a.m.)

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21 (Open session at 9.56 a.m.)

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

23 PRESIDING JUDGE FREMR: Thank you.

24 Ms Samson, you may proceed.

25 MS SAMSON:

1 Q. Sir, I would like to ask you some questions about the UPC/FPLC at the time that
2 it was put into place as you mentioned. Could you please explain the organisation
3 of the general staff of the FPLC?

4 A. Yes, indeed; there was the chief of general staff, who was -- there was also the
5 chief of staff of operations. There was the deputy chief of staff in charge of
6 administration and logistics, but this post did not last very long. There was a G1, a
7 G2, a G3, a G4 and a G5. And at the outset, there were the brigade commanders,
8 there were the battalion commanders and various companies, and subsequently there
9 were sector commanders. That is all that I know about the organisation of the FPLC
10 with regard to its structure.

11 Q. Thank you. Starting with the very top of the structure, who was at the top of
12 the UPC/FPLC?

13 A. There was the president, there was the minister of defence, there was also the
14 chief of general staff as I just mentioned.

15 Q. Could you give the Court their names, please, at this time when the UPC was
16 first structured.

17 A. There was the president of the UPC, Thomas Lubanga. There was the minister
18 of defence, Chief Kahwa Panga Mandro. There was also the chief of general staff,
19 Floribert Kisembo. There was the deputy chief of general staff in charge of
20 operations and logistics, Bosco Ntaganda. There was the -- in charge of
21 administration and logistics Dilangu. There was the G1 Peter Zito. There was the
22 G2, the first of whose name Idriss, his first name was Idriss. There was the G3,
23 I think his name was John. And I do not know the other names. There was
24 also -- or, his other names.

25 There was the G4, and there was Maki Papy, who was his deputy. There was the G5,

1 Eric Mbavazi. Those -- that is what I know about the leaders of the UPC/FPLC.

2 Q. And I'd like to go over some of the names that you've mentioned and the roles
3 that they had. You mentioned the minister of defence, Mr Chef Kahwa Panga
4 Mandro. Do you know how long he remained in the UPC/FPLC?

5 A. Not for a long time. After that he set up his party, which was called FIPI at
6 first and then it was called PUSIC. He wasn't -- he didn't -- he wasn't the leader of
7 that ministry for very long in actual fact.

8 Q. And the chief of general staff, Mr Floribert Kisembo, can you explain in some
9 detail what his responsibilities were as far as you know?

10 A. Chief of general staff, Kisembo, when the UPC/FPLC had control over a
11 particular area, as chief of general staff, he would remain in Bunia and he would
12 handle administration and dealings with other authorities within the government and
13 political authorities, rather, of the UPC. Most of the time he remained in Bunia, that
14 is where he worked.

15 Q. And the deputy chief of staff in charge of operations you mentioned was
16 Mr Bosco Ntaganda. Can you please describe his responsibilities and role as far as
17 you know?

18 A. The deputy chief of general staff responsible for operations and organisation
19 was mostly in the field to see what the situation was for the troops, to take stock of
20 the situation. He also organised the troops in the field. That was his role.

21 Q. Do you know whether Mr Ntaganda had a residence in Bunia or not?

22 A. At first, he had an official residence in Bunia.

23 Q. Do you know what happened later?

24 A. Later on, he no longer wanted to live in the centre of town and he looked for a
25 residence outside of the town.

1 Q. And I would like to go a bit more slowly over some of the other positions that
2 you mentioned so that the Court understands what the responsibility and role of
3 those individuals was.

4 So you've mentioned G1. Can you please tell us what the G1 was responsible for?

5 A. The G1 was responsible for administration within the army. I would say that
6 he was responsible for managing the list of officers and he had to be familiar with the
7 troops, the staffing within the army. That's what he did.

8 Q. And the G2 position, what was the responsibility of that role?

9 A. The G2 was responsible for intelligence. This person would seek out
10 information, was briefed on what was going on in the field. Everything having to do
11 with intelligence came under his area of responsibility.

12 Q. You mentioned that this position was filled by a person whose first name was
13 Idriss. How long did that individual remain in this role to your knowledge?

14 A. Idriss was not there for a long time. He left. I no longer recall where he went.
15 He might have gone to Aru, but he didn't continue as G2 for a long time.

16 Q. Was there a replacement for him?

17 A. Yes.

18 Q. Who replaced Idriss as G2?

19 A. Someone who went by the name of Ali, Ali Mbuyi I think was the name.

20 Q. And the G3 position, what was the responsibility of that position?

21 A. The G3 was responsible for organising the units and handling the structure of
22 the units. That person was not there for very long in that position. That person
23 went to Aru later on.

24 Q. And what was the -- the difference between Mr Ntaganda's role as deputy chief
25 of staff in charge of operations and organisation and the G3 operations function, if

1 you know?

2 A. The G3 reported to the deputy chief of staff responsible for operations. So you
3 would -- I would say that that person, the G2s -- the G2 and the G3 reported to that
4 person.

5 Q. And you said that the individual who had that post, John, left. Do you know
6 who replaced him when he left?

7 A. Yes. Prince Mugabo took over as the G3.

8 THE INTERPRETER: Interpreter correction: In a previous reply the witness said
9 that the G3 reported to the chief of staff, not to the deputy chief of staff.

10 MS SAMSON:

11 Q. Do you know how long Prince Mugabo remained as G3?

12 A. Prince Mugabo did that job until June 2003. When he left Linganga, took over
13 from him as the G3.

14 Q. And the G4 position, what was the responsibility of that position, please?

15 A. The incumbent of the G4 position was responsible for logistics, that is to say
16 ammunition, guns, rations and fuel, the fuel for the vehicles. Those were the
17 responsibilities of the G4.

18 Q. And what were the responsibilities of the G5, please?

19 A. The G5 was responsible for the troops' morale. He was also responsible for
20 dealings between the army and the general population. Those were his
21 responsibilities.

22 Q. You mentioned that there were brigades, battalions and companies at this time
23 and that later there were sector commanders. Do you know at what point in time
24 sector commanders were created or existed?

25 A. I think it was in November or December 2002.

1 Q. Do you know how many sectors were created at that time?

2 A. There were three sectors.

3 Q. Can you name those sectors, please?

4 A. There was the northeast sector Aru, led by Jérôme. There was the southeast
5 sector as well in Mongbwalu, led by Salongo. And finally there was the south sector
6 around Irumu and that was led by Tchaligonza.

7 Q. For the record, could you repeat the region of the south sector?

8 A. The south sector was led by Tchaligonza.

9 Q. And which territory or area did it cover? I think you mentioned a place name,
10 but it wasn't captured.

11 A. You're talking about the south sector?

12 Q. Yes.

13 A. The south sector was -- well, rather, covered Kasenyi, Tchomia, Mahagi,
14 Nyankunde around Komanda and Shari, south of Bunia.

15 Q. Thank you. It might have been my misunderstanding. Did you say that
16 Mahagi was in the south sector, or did I get that wrong?

17 A. No. Mahagi was within the Aru sector.

18 Q. Do you know any of the brigade commanders under the sector commanders?

19 A. There was the Brigade Commander Alex Munyalizi. There was also brigade
20 commander Salumu Mulenda. There was brigade commander Manu and brigade
21 commander Mugisa, Paul. There was others, but now I don't know what their
22 names were.

23 MS SAMSON: Your Honour, the names weren't captured in the transcript. It may
24 be necessary to spell them.

25 Q. Sir, would you be able to spell the names of some of the commanders you just

1 mentioned for our transcript?

2 PRESIDING JUDGE FREMR: And as yesterday, Witness, if you prefer to have a
3 piece of paper and pen we can provide you with that. I don't know if there is
4 something on your table or not.

5 THE WITNESS: (Interpretation) I've written down all the names.

6 MS SAMSON:

7 Q. Thank you. Could you spell those names, please?

8 A. A-L-E-X. His other name was this: M-U-N-Y-A-L-I-Z-I. I can spell out the
9 second name.

10 Q. Yes, please.

11 A. S-A-L-U-M-U. His other name was this:

12 M -- correction -- N-U-L-E-N -- M-U-L --

13 THE INTERPRETER: Correction from the Swahili interpreter: M-U-L-E-N-D-A.
14 Mulenda.

15 MS SAMSON:

16 Q. And the next one, please.

17 A. M-A-N-U.

18 Q. And the last one, please.

19 A. M-U-G-I-S-A. And the other name P-A-U-L. Mugisa, Paul.

20 PRESIDING JUDGE FREMR: And I thank you, Witness, for assistance because it
21 makes our records precise. Thank you.

22 MS SAMSON:

23 Q. And, sir, one last question on the structure. To whom did the G3 report?

24 A. The G3 reported to the deputy chief of general staff responsible for operations.
25 This was the person who was his direct superior.

1 Q. Thank you. Now, I'd like to ask you some questions on a different topic now.

2 What means of communication did the UPC/FPLC have at its disposal?

3 A. The UPC/FPLC did have three means of communication: There were
4 Motorolas, there were a great many Motorolas within the movement. There were
5 the radiophonie, there weren't many of them. And then there were Thuraya satellite
6 phones. Those phones were used by the high-ranking officers.

7 Q. What was the approximate range of a Motorola radio?

8 A. There were two or three different kinds of Motorolas. There was one type that
9 could cover a range of 15 to 20 kilometres, and sometimes the antenna were modified.
10 The original antenna were changed and a metal antenna was added to the original
11 one to expand the range.

12 Q. When the antenna was modified, what was the expanded range capacity?

13 A. I remember there was someone who was in Dhego, he went up on a hill and he
14 was able to talk to someone in Bunia. And the two places are quite a distance away
15 from one another, namely, Dhego and Bunia.

16 Q. Do you know approximately how far they are from each other in kilometres?

17 A. I would say about 40 kilometres. And sometimes when someone was in
18 Komanda on a hill, that person could speak to someone who was on a hill in Bunia.
19 And Komanda and Bunia are about 75 kilometres apart.

20 Q. And you've mentioned radiophonie. Where were they based within the UPC?

21 A. There was one in Mongbwalu, one in Mahagi and also one in Aru. One in
22 Mongbwalu, Mahagi, Aru. The residence of the deputy chief of staff responsible for
23 operations. That person had a radiophonie in his residence.

24 Q. And did Mr Kitembo also have a radiophonie or not?

25 A. No, there was no radiophonie at the residence of the chief of general staff.

1 Q. For the radiophonie that was at the deputy chief of staff's residence, can you
2 explain how that worked, how it could be used, if you know?

3 A. This radiophonie was handled by an operator who was based at the deputy
4 chief of general staff's residence, and he was the individual supervising all other
5 operators. He was in direct contact with all other radiophonies within the FPLC and
6 he received all messages from all of those radios and he dispatched them.

7 Q. What is the range of the radiophonie, for instance, based at the deputy chief of
8 staff's residence, if you know?

9 A. This radiophonie was used to contact all those individuals based in Aru and
10 Mahagi and other locations. And its range was a lot more extensive than the
11 Motorola's range.

12 Q. Did you ever hear any messages transmitted over radiophonie?

13 A. The operator of the radiophonie had access to the logbook in which all the
14 messages were recorded, and his commander could also have access to this logbook.
15 Nobody else. It was only his hierarchical superior who could have access to this
16 logbook of messages.

17 Q. And I'll ask you in a moment about the logbook, but were you able to hear any
18 messages that were transmitted from one radiophonie to another?

19 A. No. To be in a position to follow conversations broadcast via radiophonie, one
20 had to possess one. So I was not in a position to have access to those messages.

21 Q. Is it possible to send a message from a radiophonie base to a Motorola?

22 A. It is impossible.

23 Q. Do you know the name of the individual who was the operator based at the
24 deputy chief of staff's residence?

25 A. I do not know all his names, but his call sign was Kilo. I do not know his

1 names.

2 Q. And you mentioned a logbook for the messages. Could you describe what that
3 was, please?

4 PRESIDING JUDGE FREMR: Mr Bourgon, you have the floor.

5 MR BOURGON: Thank you, Mr President. I'd like to have a foundation before we
6 can ask a question like this. The witness earlier answered that the operator had
7 access to the logbook as well as his commander and that they were the only two who
8 could have access to the logbook. And he said that he did not have a phonie himself.
9 So just before he answers the question as to how a phonie book -- a phonie book looks,
10 I'd like to know when he saw one and on what occasion. Thank you, Mr President.

11 PRESIDING JUDGE FREMR: Okay, why not.

12 Ms Samson, could you follow this?

13 MS SAMSON: Yes, certainly.

14 Q. Sir, have you ever seen a logbook of recorded messages?

15 A. During that very period?

16 Q. During the 2002-2003 period, did you ever come across or see a logbook of
17 recorded radio messages?

18 A. No, I did not see any. But I knew that radiophonies existed.

19 MS SAMSON: Your Honour, would it be possible to move into private session for a
20 few questions?

21 PRESIDING JUDGE FREMR: All right.

22 Court officer, please, let's move to the private session.

23 (Private session at 10.38 a.m.)

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- 20 (Closed session at 11.02 a.m.)
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- 25 (Recess taken at 11.02 a.m.)

1 (Upon resuming in open session at 11.33 a.m.)

2 THE COURT OFFICER: All rise.

3 Please be seated.

4 PRESIDING JUDGE FREMR: Before we resume the witness testimony, the Chamber
5 wishes to inform you that the decision on the Defence requests related to

6 Witness P-0901 has just been filed. You will be notified of the decision shortly, but

7 mindful of the fact that you are here in the courtroom busy following the current

8 testimony, the Chamber wishes to inform you already now that the request for

9 postponement of the cross-examination has been rejected. That is for the moment.

10 And now we have to go to the closed session in order Witness could be escorted to

11 the courtroom. So please let's go to the closed session.

12 (Closed session at 11.35 a.m.)

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18 (Open session at 11.38 a.m.)

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

20 PRESIDING JUDGE FREMR: Thank you.

21 Welcome back, Mr Witness. Ms Samson will be carrying on with your testimony,
22 with your examination.

23 Ms Samson, what kind of session do you request?

24 MS SAMSON: We can remain, your Honour, in open session for a short bit, please.

25 PRESIDING JUDGE FREMR: Then you may proceed, Ms Samson.

1 MS SAMSON:

2 Q. Sir, do you know the call sign that Mr Ntaganda used in 2002-2003 in the FPLC?

3 A. Yes, he used the call sign Tango Romeo.

4 Q. And do you know what call sign Mr Kisembo used in that same period?

5 A. Yes, his call sign was Zulu Mike.

6 Q. And did Mr Lubanga have a call sign to your knowledge?

7 A. We called him Number One.

8 Q. And do you know if Jérôme had a call sign?

9 A. Yes, but I don't remember what it was.

10 Q. Do you recall Mr Salongo's call sign?

11 A. We called him Tiger One.

12 Q. And what about Mr Mulenda, what was his call sign?

13 A. We called him Sierra Alpha.

14 Q. And what was Alex Munyalizi's call sign?

15 A. We called him Alpha Hotel.

16 Q. Do you recall Mr Manu's call sign?

17 A. Echo Mike.

18 Q. And Paul Mugisa, what was his call sign?

19 A. Papa Mike.

20 Q. Did Mr Rafiki have a call sign, and if so, what was it?

21 A. Romeo Kilo.

22 Q. Did Tchaligonza have a call sign?

23 A. Charlie Lima.

24 Q. And Kasangaki, did he have one?

25 A. Double Sierra.

1 Q. Was it possible in the FPLC for one person to have two call signs?

2 A. No. No, one person had one call sign.

3 MS SAMSON: Your Honour, with your leave, may we move into private session?

4 PRESIDING JUDGE FREMR: Court officer, please let's move to private session.

5 (Private session at 11.44 a.m.)

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1 (Closed session at 1.01 p.m.)

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20 (Open session at 1.02 p.m.)

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

22 PRESIDING JUDGE FREMR: Thank you.

23 Ms Samson, I would like to consult with you about the time perspective of the rest of

24 your examination because, as you may know, we would like be, as much as possible,

25 strict as concerned time. It is true that it is not -- your estimation was 10 hours and,

1 at least, from our point of view, it seems it is a reasonable estimation, so we would
2 like if you could stick on that. What is your view?

3 MS SAMSON: Yes, your Honour. There is a lot to cover with this particular
4 witness. However, I'm hopeful that I can complete the witness's examination within
5 the 10 hours. It will not be completed today, but I will spill over into Monday,
6 certainly the first session of Monday. I may ask your indulgence for a few minutes
7 beyond that, but I'll have a better sense by the end of the day.

8 PRESIDING JUDGE FREMR: According our measuring you have already exhausted
9 almost, almost six hours, so you still have four hours at your disposal, which means
10 that you can even use even part of the second session on Monday morning. But
11 I didn't want to surprise you at the last minute, so just to indicate that. Thank you.

12 MS SAMSON: Thank you.

13 PRESIDING JUDGE FREMR: So now we will break and we will reconvene at half
14 past 2.

15 THE COURT USHER: All rise.

16 (Recess taken at 1.03 p.m.)

17 (Upon resuming in open session at 2.32 p.m.)

18 THE COURT USHER: All rise.

19 Please be seated.

20 PRESIDING JUDGE FREMR: Good afternoon, everybody.

21 Now we are starting the last session of this week, and we will continue in
22 examination of our witness, which should be conducted by Prosecution completely by
23 Ms Samson.

24 Ms Samson, you have the floor.

25 MS SAMSON: Thank you, Mr President. I will try to stay in open session for some

1 time.

2 PRESIDING JUDGE FREMR: All right.

3 MS SAMSON:

4 Q. Sir, how many roads run from Bunia to Mongbwalu to your knowledge?

5 A. About three.

6 Q. And are you able to describe each of those roads and some of the villages you
7 have to pass through to reach Mongbwalu from Bunia?

8 A. The main road between Bunia and Mongbwalu goes by way of
9 Iga Barrière -- Iga Barrière, Nizi, Bambu, Kobu, Kilo, and then it goes on, continues
10 along to Mongbwalu.

11 Q. And for the sake of the record, could you repeat the name of the village you
12 mentioned after Iga Barrière?

13 A. I mentioned Nizi after Iga Barrière.

14 Q. And what is a second road to get from Bunia to Mongbwalu, please?

15 A. The second road between Bunia and Mongbwalu goes by way of Shari, Kunda,
16 Nyangarai, Kabakaba, Kilo, Mongbwalu.

17 Q. And again for the sake of the transcript, could you please repeat the first village
18 that you mentioned after Bunia?

19 A. I mentioned Shari when coming from Bunia.

20 Q. And the village after Shari that you mentioned, could you repeat it, please?

21 A. Kunda.

22 Q. Could you please spell Kunda?

23 A. K-U-N-D-A.

24 Q. And then you mentioned Nyangarai. And after that you mentioned another
25 village. Could you repeat the name of the village after Nyangarai?

1 A. Kabakaba.

2 Q. Could you please spell that?

3 A. K-A-B-A-K-A-B-A.

4 Q. And now, sir, could you please explain the route from Bunia to Mongbwalu on
5 the third possible road you mentioned?

6 A. The third road goes by way of Iga Barrière from Bunia. Then after that Nizi,
7 Mabanga, Tchele, Dala, Mongbwalu.

8 Q. The name of the village that you mentioned after Nizi, could you repeat it,
9 please?

10 A. I said Nizi, Mabanga, which is spelt M-A-B-A-N-G-A.

11 Q. And the village you mentioned that's after Mabanga, could you repeat that one,
12 please?

13 A. T-C-H-E-L-E.

14 Q. Thank you. Now, sir, if I showed you a map, would you be able to identify
15 these routes?

16 A. Well, if it's a map of the Ndjugu territory, I can identify these places.

17 MS SAMSON: Your Honour, I have hard copies of a map that I would like to ask the
18 court officer to put on the Elmo so we could look at it together and ask the witness to
19 mark some of the villages, please.

20 PRESIDING JUDGE FREMR: Court officer, please. Thank you.

21 MS SAMSON:

22 Q. Sir, can you see that map sufficiently well?

23 THE COURT OFFICER: Could you please tell us the level of confidentiality, please.

24 MS SAMSON: Indeed, it's public. And for the sake of the record, the map is a
25 section of a map that can be located at DRC-OTP-2080-0239. It's number 42 on the

1 list of documents.

2 Q. Sir, are you able to see the map clearly?

3 A. Yes.

4 Q. I would ask you to take a pen and actually mark the document that appears on
5 the machine to your left. Perhaps the Court Officer could assist you, because it may
6 be easier for you to see the locations from that spot. Could you please identify the
7 route that you were describing, the three roads, starting from Bunia and going
8 through to Mongbwalu.

9 A. The road that I see here goes from Bunia to Soleniama, Ikabarrier, Nizi, Bambu,
10 Kobu, Kilo all the way up to Mongbwalu. It's the only road that I can see here.

11 Q. Thank you. Thank you. Could you please take your pen and the ink side and
12 actually mark the road with your pen, please?

13 Sir, you can write on the map. I'm asking you to draw that road on the map, please.

14 A. The map that I have here right in front of me?

15 Q. Yes, please.

16 A. Well, the starting point here is Bunia, and then the road continues this way and
17 goes by Budana, then by Kole. Kole is a small village where there is a waterway, a
18 stream called Kole. Then the road goes onto Nyangarai. And from there it goes to
19 Buengwe. And that's the Banyali-Kilo collectivity. Then it goes to Kabakaba. And
20 then from there it goes just beside Itende and to Kilo, where there is a road that leads
21 towards Bambu.

22 Q. Thank you, sir. Now, could you please using your pen draw a line that will
23 represent that road directly on the map?

24 And if the Court officer could assist you, perhaps that would be helpful.

25 A. You see, here we are. This is the path that goes by way of Nyangarai.

1 Q. I would like you to draw on the map using the pen, please.

2 A. You want me to write on this map?

3 Q. Yes, that's right.

4 MS SAMSON: Your Honour, could I ask that the -- perhaps the image change
5 slightly given that the witness is hunching over onto the public screen? It may be
6 better for his own protection if --

7 PRESIDING JUDGE FREMR: Is it possible, court officer?

8 If I understood well, you want to take over the paper on his table?

9 MS SAMSON: It might be better --

10 PRESIDING JUDGE FREMR: Yes, yes, yes.

11 MS SAMSON: -- because I can see him.

12 PRESIDING JUDGE FREMR: I get the point, yes. So first just move back to your
13 original seat. You may just indicate the route. And then we will put your drawing
14 to that projector.

15 THE COURT OFFICER: Just for the record, the witness hasn't been shown at all,
16 either broadcasted.

17 MS SAMSON: Thank you.

18 THE WITNESS: (Interpretation) I marked that road on the map using my pen.

19 PRESIDING JUDGE FREMR: So court officer, could we now move this picture back
20 to this projector, just allow us, all of us to see Mr Witness' drawing? Thank you.

21 MS SAMSON: Your Honour, I find it difficult to see which is the marking done by
22 the witness.

23 Q. Sir, could I ask you to perhaps --

24 PRESIDING JUDGE FREMR: Maybe he can use a red colour, or something which
25 is -- maybe some marker would be better. I don't know. Yes, we do have a marker,

1 fine.

2 Now it seems to be much better.

3 MS SAMSON: Yes, that's much better.

4 Q. Could I ask you, sir, just to extend from Kilo to Mongbwalu so I can have the
5 marker going all the way to Mongbwalu, please?

6 Okay. And now, sir, could I ask you to do the same thing with the route that you
7 described going from Bunia to Mongbwalu via Bambu and Kobu.

8 Thank you. And could I ask you finally to do the same thing with the third route
9 that you described for us going via Nizi, Mabanga, Tchele and Dala.

10 Thank you, sir. Now, you indicated that the main road between Mongbwalu and
11 Bunia is the one that ran through Nizi, Bambu, Kobu. Could I ask you to draw a
12 number 1 next to that route.

13 A. The main road that goes to Mongbwalu by way of --

14 THE INTERPRETER: Correction: From Bunia, goes through Iga Barrière, Bambu,
15 Nizi, Kilo.

16 MS SAMSON:

17 Q. Yes. Could you please mark that road on the map with a number 1, please.

18 And could you please mark the second road you referred to today, which is the road
19 via Shari, Kunda, Nyangarai, Kabakaba, Kilo as number 2.

20 And then the third road that you've drawn, could you please mark it as number 3.

21 Thank you. Sir, when you were describing the operation to take control of
22 Mongbwalu, do you know which route Mr Ntaganda and Salumu Mulenda took to
23 go to Mongbwalu?

24 A. Are you talking about 2002, when the FPLC took control of Mongbwalu?

25 Q. I'm speaking about the moment just before the takeover of Mongbwalu by the

1 FPLC. So as they were -- as -- you were referring to troops going into Mongbwalu as
2 part of that operation, and I would like you to tell the Court which of these three
3 roads the troops took.

4 A. The third road.

5 Q. And if the first road was the main road, do you know why they didn't take the
6 first road?

7 A. It was difficult to take the main road because they would run into the resistance
8 on the part of the Lendu fighters.

9 Q. Thank you.

10 MS SAMSON: I have no further questions in relation to this map, your Honour.

11 And I would ask to move into private session with your leave.

12 PRESIDING JUDGE FREMR: Before that, you don't request to admit this map into
13 evidence?

14 MS SAMSON: Apologies. I do request to admit the map into evidence.

15 PRESIDING JUDGE FREMR: Mr Bourgon, any objection to that?

16 MR BOURGON: Mr President, I have no objections other than for the question
17 which led to -- which was to which the witness provided an answer. The question
18 was the road which was taken by, I'm looking at the line here "... which route was
19 taken by Mr Ntaganda and Mr Salumu Mulenda...?" Then the witness provided an
20 answer as to the FPLC.

21 If his testimony is that the road taken by troops, I have no problem with that. Is that
22 his testimony, or is his testimony that this is the route taken by Salumu and Ntaganda?
23 I think it makes a whole difference in terms of what can be made of this map.

24 PRESIDING JUDGE FREMR: Ms Samson, as to this objection, any comment?

25 MS SAMSON: I'm happy to clarify with the witness, your Honour, as to what it is

1 he meant. I was hoping to go into private session to get more information on the
2 basis of his knowledge. In public session, however, I can ask him what he meant.

3 PRESIDING JUDGE FREMR: Okay. So please maybe clarify this by this question,
4 and then we will decide about this.

5 Or maybe it's better not to forget, first of all, there were no objections against the
6 admittance of those, admission of those, of this map. So there is a ruling of the
7 Chamber that this sketch or map, enriched by sketch of the witness is admitted into
8 evidence. And as I said as to the numbering, you will be clear on Monday hopefully.
9 And now -- court officer, on that point.

10 THE COURT OFFICER: Thank you.

11 The third annotated version of the documents DRC-OTP-2080-0239 will be uploaded
12 under eCourt under the number DRC-REG-0001-0003 and would be released to the
13 parties as soon as practicable.

14 PRESIDING JUDGE FREMR: If understood where you said you would clarify this
15 point in open session? Yes, so please.

16 MS SAMSON: Yes. Thank you, your Honour.

17 Q. Sir, would you be able to clarify, please, the third road that you drew on the
18 map, is that the road that Mr Ntaganda and Salumu Mulenda took at the time of the
19 operation to take over Mongbwalu, or is it a road that FPLC troops took, but Mr
20 Ntaganda and Mr Salumu did not take that road?

21 A. They all took that route.

22 MS SAMSON: Thank you. Your Honour, in my submission that is clear.

23 However, if your Honours require or wish me to ask more questions on it, I'm happy
24 to do so.

25 PRESIDING JUDGE FREMR: I think we find it clear enough.

1 MS SAMSON: Thank you.

2 And with your leave, I would like to move into private session.

3 PRESIDING JUDGE FREMR: Court officer, please, let's move to private session.

4 (Private session at 3.05 p.m.)

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13 (Open session at 3.34 p.m.)

14 THE COURT OFFICER: We're in open session, Mr President.

15 MS SAMSON:

16 Q. Sir, do you know the circumstances surrounding Mr Kisembo's departure from
17 the UPC/FPLC?

18 A. There was a misunderstanding amongst the leaders, and that is why he left the
19 UPC/FPLC.

20 Q. Did Mr Kisembo speak to you directly about this misunderstanding?

21 A. Yes.

22 Q. What did he tell you about it?

23 A. I can answer that question, but right now it's difficult to do so.

24 PRESIDING JUDGE FREMR: I'm afraid we will have to come back to private session.

25 So let's move there.

1 And thank you, Witness, to indicate that. Thank you.

2 (Private session at 3.36 p.m.)

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- 25 (Closed session at 4.03 p.m.)

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5 (Open session at 4.04 p.m.)

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

7 PRESIDING JUDGE FREMR: Thank you. I just got message from Registry, they
8 would like to, for the sake of planning the third witness, to get some estimation also
9 from Defence.

10 At the moment, Mr Bourgon, are you able to provide us with some time estimation
11 about the duration of prospective cross-examination?

12 MR BOURGON: Yes, indeed I am, Mr President. I initially of course, according to
13 the Conduct of Trial Proceedings decision, I was supposed to take 10 hours, I
14 envisage that we'll be at least 10 hours. And as mentioned in my notice, where we
15 responded to the documents that the Prosecution intended to use with this witness, I
16 provided notice to the Chamber that I would be requesting probably more time,
17 although I could not of course provide that estimate at that time.

18 Now, based on the kind of testimony that we've been having over the past two days,
19 which is hearsay, hearsay and nothing but hearsay, of course, my cross-examination
20 is likely to take longer than expected. So for now, it's a minimum of ten hours, and I
21 will be able to tell you more on Monday morning, Mr President. Thank you.

22 PRESIDING JUDGE FREMR: Mr Bourgon, in response to that, allow me to quote
23 para 29 of our decision on conduct of proceedings:

24 "In principle, cross-examination should not last longer than the examination-in-chief.
25 The Chamber will decide on a case-by-case basis and only after having heard the

1 examination-in-chief whether additional time for cross-examination may be
2 warranted."
3 So we will come back to that after the end of examination-in-chief. But it's pretty
4 possible that we will not accept your request. So in such a case then you
5 would -- you should organise your cross-examination within those probably 10 hours.
6 But we will decide on that after the end of examination-in-chief.

7 Anything else?

8 MR BOURGON: Yes, Mr President. I don't understand. I just don't understand
9 why the Chamber is taking position like this. This is exactly what I put in my notice.
10 I understand that the decision and the conduct of proceedings says equal time. I'm
11 telling the Court today that I will take at least equal time. In trying to be -- take a
12 constructive approach with the Chamber, I'm telling the Chamber based on the kind
13 of evidence we've heard, I may very well need more time.
14 I'm trying to cooperate with the Court, Mr President, not to be disruptive, but to be
15 constructive.
16 If you prefer that I don't give any notice and that I show up next week and then at the
17 last minute after cross, after the examination-in-chief and then that I ask for more time,
18 I think it's much better if I warn you in advance. You may very well refuse, and I
19 know this, Mr President, but I'm trying to take a constructive approach. I'm trying
20 to be nice to the Court so that we can proceed with this trial. That's all I'm trying to
21 do, Mr President. Thank you.

22 PRESIDING JUDGE FREMR: Mr Bourgon, we appreciate that you are nice to us.
23 But, you know, any old warning doesn't mean necessarily that we will have to accept
24 your request. So as I said, we will consider that. But at the moment it is premature,
25 but I am just, you know, presenting my personal position. I would like to keep it as

1 a really rule, and exceptions from this rule means that the same time for both calling
2 and non-calling party. So the exemption should be absolutely extraordinary. So it
3 will depend. We will understandably deliberate on that. So it will depend on that.
4 But as I said, we will consider your request and we will see.

5 So if there are no -- anything else?

6 MR BOURGON: Thank you, Mr President. I do have a further issue before the
7 break for the weekend.

8 On first day of court on this week, on 15 September, I raised the issue that there had
9 been some inadvertent contacts between Defence investigators and the Prosecution
10 witnesses. And the issue was of course -- my colleague took the floor and made
11 some representation. There has been -- the Chamber also discussed the issue briefly
12 during the week.

13 Two days later, I invited my colleague from the Prosecution to please meet in order to
14 try and solve the matter so that it doesn't get out of hand. To this day I have not had
15 a reply to this request.

16 So accordingly today I met with the VWU asking them to convene a meeting in order
17 that they can be some kind of mediator so that we can all sit in the same room and try
18 to sort out what happened in those four inadvertent contacts so that we try to avoid
19 having this situation get out of hand.

20 The Court is well aware that we have had no investigation, no investigator since June.
21 We started to have an investigator last week. And now again our investigator, all of
22 our work is stopped because of these allegations and the fact that we cannot and
23 we're not able to sit and discuss these things.

24 So I've asked VWU to try to schedule a meeting. And they're not sure if that falls
25 into their mandate, and they will get back to me on Monday. Thank you, Mr

1 President.

2 PRESIDING JUDGE FREMR: Ms Samson, any reaction to that?

3 MS SAMSON: Yes, your Honour. I haven't had a chance yet to respond to that
4 particular email. It's been quite a heavy workload for me these last few days.

5 We are willing to meet if that would assist in some way. If the VWU would like to
6 be present, I think that could be of assistance as well, because we have significant
7 experience in investigative field practice and best practices, as does the Victims and
8 Witnesses Unit, and we're always ready to contribute in whatever way we can
9 constructively to ensure that the Defence also knows the best field practices and can
10 pass that on to their investigators, because the issue that arose over the last few days
11 has been quite serious and, unfortunately, the information doesn't match the
12 information that we've received from the Defence investigators. So we're looking
13 into the issue further. Our witnesses are not very pleased with the manner in which
14 they were approached. So that will be, as I mentioned, the subject of a filing to the
15 Chamber. However, I'm perfectly willing to meet with the Defence at any time.
16 Thank you.

17 PRESIDING JUDGE FREMR: So I guess also, Mr Bourgon, we are glad to hear that
18 because really Chamber especially would like to support the strength of permanent
19 and good contacts between all parties and the tendency to, if possible, to solve all
20 issues without dispute and without interference of Chamber, which is in some critical
21 cases ready to intervene.

22 So before we finish this session, I would like just to summarise that, you know, it was
23 the first week of this evidentiary stage. I know that each beginning used to be quite
24 tough, but I hope I can say that the Chamber would like to thank you, all of you,
25 because I think you were doing very well. So I would like to thank both parties,

1 both legal representatives, also to Mr Bahougne, the interpreters and court reporters
2 and also to the guards, and I hope that we will, we all will continue in this way next
3 weeks that will allow us to say that our proceeding is really conducted in an
4 expeditious and dignified way.

5 Thank you very much. I wish you a relaxed weekend and looking forward to seeing
6 all of you on Monday.

7 Court is adjourned.

8 THE COURT USHER: All rise.

9 (The hearing ends in open session at 4.13 p.m.)