

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 Judge Chang-ho Chung
6 Trial Hearing
7 Friday, 25 September 2015
8 (The hearing starts in open session at 9.36 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: Now appearances, please, starting with Prosecution.
19 MS SAMSON: Good morning, Mr President, your Honours. For the Prosecution
20 today are Mr Eric Iverson, Trial lawyer; Mr James Pace, assistant trial lawyer;
21 Ms Selam Yirgou, case manager; and myself, Nicole Samson, senior trial lawyer.
22 PRESIDING JUDGE FREMR: Thank you, Ms Samson.
23 Now Mr Bourgon, Defence.
24 MR BOURGON: (Interpretation) Good morning, your Honours. Good morning
25 to everyone here in the courtroom. Representing Mr Bosco Ntaganda, who is

1 present this morning, we have Margaux Portier, Isabelle Martineau,
2 William St-Michel, Veronique Talbot and myself, I am Stéphane Bourgon. Thank
3 you, your Honour.

4 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

5 Now Legal Representatives of Victims, please.

6 MR SUPRUN: (Interpretation) Good morning. The victims of civilian attacks are
7 represented by myself, Dmytro Suprun, OPCV.

8 MR ABDOU: (No interpretation)

9 PRESIDING JUDGE FREMR: Thank you very much both of you. Thank you very
10 much both of you. And I am also noting that we have the witness in the courtroom.
11 And as concerns his duty counsel, he is not present in the courtroom, but he is
12 available by phone.

13 Before we will continue with testimony of the witness, with his cross-examination,
14 I would like just to make one clarification as concerns possible changes within the
15 teams during the hearing.

16 So generally maybe to be absolutely clear, generally if somebody needs to leave
17 during the break, it is no problem, it is no need to ask for permission, but only to
18 inform the Chamber for the purpose of the precise record, but if somebody needs to
19 leave during the session, either please ask for prior permission, or if it would be
20 something urgent, you have to ask orally during the session the Presiding Judge for
21 permission.

22 I was also informed there is some idea to change or switch members of the team after
23 the end of the testimony of this witness. It would be for sure possible. Moreover,
24 we anyway plan to have some short break between those two testimonies which
25 would allow to make those changes.

1 So now I think nothing prevents us from continuing in cross-examination of the
2 witness. So, Mr Bourgon, you may have the floor.

3 MR BOURGON: (Interpretation) Thank you, your Honour.

4 WITNESS: DRC-OTP-P-0901 (On former oath)

5 (The witness speaks Swahili)

6 QUESTIONED BY MR BOURGON: (Continuing)

7 Q. Witness, good morning.

8 A. Good morning.

9 PRESIDING JUDGE FREMR: Mr Bourgon, sorry, my fault.

10 Again, Mr Witness, I know it's just routine. You are a very experienced witness
11 today, but I have to again remind you that you are under oath, you have to speak just
12 the truth and nothing but the truth.

13 Mr Bourgon, you have the floor.

14 MR BOURGON: (Interpretation) Thank you, your Honour.

15 Q. Witness --

16 Your Honour, I'll try to remain in open session for a few questions and then I will be
17 asking to go into private session.

18 Mr Witness, when we parted ways yesterday, I put it to you that you knew that just
19 before the operation conducted against Manu, Manu had deserted

20 Commander Jérôme's forces and returned to Uganda. I would put it to you this
21 morning, according to the information that I have here, that you knew at that time
22 Manu had stolen a vehicle from Jérôme so that he could go to Uganda. Are you
23 aware of this?

24 A. No, I don't know about that. I didn't -- I don't have that information.

25 Q. And when Manu decided to rejoin the FPLC once again before the attack upon

1 Mongbwalu, he went to Bunia with a vehicle. Were you a witness of that? Did you
2 see that?

3 A. I remember there was a double -- a dual cabin pickup, kind of a jeep vehicle, it
4 was black in colour, but I really don't know about the circumstances under which that
5 vehicle arrived there.

6 Q. Now, I believe you know that Bosco Ntaganda confiscated that vehicle and
7 handed it over to Thomas Lubanga; is that not so?

8 A. I don't know.

9 Q. Now, you know which vehicle was being used by Mr Lubanga in 2002 and 2003.
10 Are we talking about the same vehicle?

11 A. No. The vehicle that Thomas Lubanga was using during that time was not that
12 vehicle.

13 Q. Can you confirm, Mr Witness, that when Bosco Ntaganda was travelling
14 towards Aru he travelled by plane with this person, with Manu; isn't that so?

15 A. I know that he went to Aru, but I have no idea who he was travelling with.
16 I don't know anything about that delegation that went with him to Aru.

17 THE INTERPRETER: Overlapping speakers.

18 MR BOURGON: (Interpretation)

19 Q. Sir, your testimony today is that you didn't know that Manu - and I'm speaking
20 specifically about Manu - that he rejoined the FPLC and he travelled by plane to Aru;
21 is that so?

22 PRESIDING JUDGE FREMR: Mr Bourgon. Mr Bourgon, please observe pauses. I
23 got that message from the interpreters that you were probably too fast.

24 Mr Witness, you may answer.

25 THE INTERPRETER: Many thanks from the interpreters.

1 THE WITNESS: (Interpretation) I don't know whether Manu had deserted
2 Jérôme's troops to go to Uganda. I didn't have that information. He went to Bunia
3 and then he travelled with a Afande Bosco to Aru. I don't remember.

4 MR BOURGON: (Interpretation)

5 Q. Thank you, Mr Witness. Thank you, Mr Witness. Now, before we discuss or
6 turn to the operation in Mongbwalu, I'd like to ask you a few questions about the
7 objective of that particular operation. When my learned friend asked you a number
8 of questions about this, at first you said, and I'm quoting from page 54, lines 23 to 28,
9 transcript 28, that "Anyone who controlled this town also controlled the gold." I'd
10 like to ask you for confirmation.

11 Now, this -- these remarks you made to the investigators from the OTP would
12 indicate that you knew that the mine in Mongbwalu had been destroyed well before
13 that time and was not in operation; is that not the case?

14 A. The plant in of itself was not in operation. However, there were some people
15 who were digging sort of in an amateurish fashion, they were still digging for gold.

16 Q. Now, the destruction of the mine had nothing to do with the activities that
17 occurred in the fall of 2002.

18 A. The destruction of the mine I -- I have no idea. I don't know when it closed
19 down, but I know that when the FPLC controlled Mongbwalu the gold prospectors
20 were still doing their work, but in a sort of amateurish kind of way.

21 Q. Witness, I'm going to repeat my question. I'm trying to find out whether the
22 destruction of the mine was related to the FPLC's activities in the fall of 2003, I'm
23 talking about the mine which was destroyed.

24 A. No, no. I think that the mining operations, the plant was closed down even
25 before the FPLC arrived.

1 Q. Now, once again, regarding the objective of the operations in Mongbwalu, you
2 mentioned - transcript 28, page 55, lines 2 to 4 - that when the FPLC went to
3 Mongbwalu there were APC soldiers there and Lendu combatants. Now, several
4 witnesses gave testimony to that effect. I would like to know whether you can
5 confirm that in actual fact Mongbwalu was the headquarters of the APC; isn't that so?

6 A. The headquarters of the APC was in Beni in the North Kivu region. Some
7 commanders such as Lompondo and others who, when they were driven away went
8 to -- from Bunia, went to Mongbwalu. Amongst these people a few now -- well, one
9 is a colonel within the FAP -- in the armed forces, a colonel now. He was the last
10 commander of the APC in Mongbwalu. His name was Pépé, Commander Pépé.

11 Q. Thank you for those details. I would like to confirm something. Now, to
12 follow up on your answer that HQ of the APC was in Beni. Now, from the military
13 point of view was the centre of the APC in 2002, was that indeed Mongbwalu?

14 A. I have no idea. I do know that the HQ of the APC was in Beni.

15 Q. Can you confirm, given the position you held at that time, I won't mention
16 which position it was, the objective was to regain control of Mongbwalu and the main
17 goal was to -- was to attack the APC in Mongbwalu; was that not so?

18 A. The objective of the Mongbwalu operation, I have no idea, but to my
19 knowledge -- well, in my opinion, FPLC wanted to control Ituri and Mongbwalu and
20 is -- is in Ituri and it is one of the main towns in the Ituri region, that is one of the
21 reasons why the APC wanted to control Mongbwalu, but none of the authorities
22 clearly said that the objective was to attack -- what the objective of the attack on that
23 town was.

24 Q. Do you agree with me that to take control of Mongbwalu meant that you had to
25 attack the APC who were there?

1 A. It is true that the APC was in Mongbwalu and some Lendus as well as the
2 civilian population were in Mongbwalu. That is what I know.

3 Q. I would put it to you that the objective of the attack was to attack the APC who
4 were there in the -- in Mongbwalu. Do you agree with me? They were wanting to
5 attack the apartment in Mongbwalu.

6 PRESIDING JUDGE FREMR: Ms Samson, please.

7 MS SAMSON: Mr President, the witness has stated that he did not know the
8 objectives of the attack. I don't think this line of questioning is going to get us very
9 far.

10 PRESIDING JUDGE FREMR: Objection sustained.

11 Mr Bourgon.

12 MR BOURGON: (Interpretation)

13 Q. Before moving on to another matter related to the objective of the attack, now
14 during your testimony you said that there was an airport in Mongbwalu. I would
15 put it to you that in order to control that town it was very important to take control of
16 the airport. Would you agree with me?

17 A. The Mongbwalu airport is in the town itself and if someone controls
18 Mongbwalu it's natural for them to also control the airport.

19 Q. After the operation led by the FPLC to regain control of Mongbwalu and -- well,
20 in light of the position that you held, I won't mention that position, can you confirm
21 that subsequent to this operation, when the APC was driven out, that Kisembo moved
22 the headquarters of the APLC to Mongbwalu?

23 THE INTERPRETER: Interpreter correction: APC, not APLC.

24 THE WITNESS: (Interpretation) If I understood you, you're saying the FPLC
25 headquarters Kisembo sent from Bunia to Mongbwalu, is that what you said? I'm --

1 THE INTERPRETER: Overlapping speakers.

2 MR BOURGON: (Interpretation)

3 Q. Now, during the testimony some people like the G1s, G2s, G4s, G5s, these
4 people, the staff, working with Kisémbó were moved to Mongbwalu once the APC
5 had been driven out.

6 A. I know that once Kisémbó went to Mongbwalu, but I don't know whether at
7 some particular time the headquarters of the FPLC had been moved to Mongbwalu.
8 I have no idea.

9 MR BOURGON: (Interpretation) If we could move into private session,
10 your Honour.

11 PRESIDING JUDGE FREMR: All right. Court officer, let's move into private
12 session, please.

13 (Private session at 9.58 a.m.)

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10 (Recess taken at 11.04 a.m.)
11 (Upon resuming in open session at 11.33 a.m.)
12 THE COURT USHER: All rise.
13 Please be seated.
14 PRESIDING JUDGE FREMR: So we will continue with the final part of
15 cross-examination.
16 Mr Bourgon, you would like to proceed in private or open session?
17 MR BOURGON: (Interpretation) Unfortunately, I have to go into private session,
18 your Honour.
19 PRESIDING JUDGE FREMR: All right. Let's move into private session, please.
20 (Private session at 11.34 a.m.)
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11 (Open session at 11.58 a.m.)

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

13 PRESIDING JUDGE FREMR: Thank you.

14 Mr Bourgon, you may proceed.

15 MR BOURGON: (Interpretation) Thank you.

16 Q. Witness, I would put it to you that you were aware of a certain action taken by

17 Afande Bosco that is well-known with the FPLC and it was during an operation led

18 by the FPLC in Komanda. During this operation Afande Bosco Ntaganda, having

19 been informed that members of the FPLC had engaged in looting, ordered that these

20 goods be brought together and burnt in front of other FPLC members and that the

21 members of the FPLC who were responsible for the looting be whipped in public as

22 an official punishment. And this had been approved by Kisembo. Do you have

23 any knowledge of that event?

24 A. Where did that happen?

25 Q. During an operation in Komanda.

1 A. Where were these goods brought together and then burnt? That's what I'd like
2 to know.

3 Q. I can't be any more specific than that right now. I'm asking you if you are
4 aware of this offence and the measures taken by Afande Bosco Ntaganda when he
5 learned that soldiers had engaged in looting?

6 A. Since I don't know where that took place, I don't remember. Well, did it take
7 place? I don't know. If you could tell me where, perhaps I could -- perhaps that
8 would jog my memory.

9 Q. I would suggest, Witness, that it took place precisely in Komanda. Does that
10 refresh your memory?

11 A. I didn't get to Komanda at the time. That's kind of far from Bunia, some 75
12 kilometres from Bunia. So if something happened there, I would not be in a position
13 to be aware of it.

14 Q. Let me suggest to you a second event that was the subject of a lot of publicity
15 and a lot of talk amongst the FPLC. One event -- during one event an FPLC member
16 was publicly executed in front of other FPLC members as an official punishment
17 approved by Thomas Lubanga himself. That took place in Ndromo camp. Do you
18 remember that event?

19 A. If I followed you, you're referring to Commander Dilangu, is that what you're
20 referring to?

21 Q. Yes, indeed.

22 A. Yes. Well, you'll see in my statement I gave to the OTP investigators I
23 mentioned that event. You can see that.

24 Q. Since we're referring to that event, do you know that the victims of that looting
25 also were given the opportunity to attend the public execution and the goal was to

1 give a very clear message to the FPLC members that looting was forbidden? Can
2 you confirm that?

3 A. (Redacted) and I
4 learned that that person was accused of having stolen property in a private home.
5 Since he was a former APC soldier, for the APC soldiers, it was thought that he was
6 executed because he was from the APC. So, yes, I heard about that event indeed.

7 MR BOURGON: (Interpretation) Your Honour, I would like to go into private
8 session for one last session.

9 PRESIDING JUDGE FREMR: Court officer, let's move into private session. Thank
10 you.

11 (Private session at 12.05 p.m.)

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Trial Hearing

(Closed Session)

ICC-01/04-02/06

- 1 (Redacted)
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- 24 (Private session at 12.27 p.m.)
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Trial Hearing

(Private Session)

ICC-01/04-02/06

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Trial Hearing

(Closed Session)

ICC-01/04-02/06

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Trial Hearing

(Closed Session)

ICC-01/04-02/06

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Trial Hearing

(Private Session)

ICC-01/04-02/06

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Trial Hearing

(Private Session)

ICC-01/04-02/06

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Trial Hearing

(Private Session)

ICC-01/04-02/06

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Trial Hearing

(Private Session)

ICC-01/04-02/06

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Trial Hearing

(Private Session)

ICC-01/04-02/06

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Trial Hearing

(Private Session)

ICC-01/04-02/06

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Trial Hearing

(Private Session)

ICC-01/04-02/06

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Trial Hearing

(Private Session)

ICC-01/04-02/06

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18 (Open session at 1.08 p.m.)
19 THE COURT OFFICER: We are in open session, Mr President.
20 PRESIDING JUDGE FREMR: Thank you.
21 First issue concerns our upcoming ruling on admission or request from the
22 Prosecution to admit audio into evidence.
23 I will just assume -- I thought that both parties are standing by their previous
24 positions? Ms Samson.
25 MS SAMSON: Yes, your Honour.

1 PRESIDING JUDGE FREMR: Mr Bourgon.

2 MR BOURGON: Yes, Mr President, we object.

3 PRESIDING JUDGE FREMR: And the second issue, we also are going to examine
4 the third witness. As concerns this witness, I got some indication that that maybe
5 would be some submissions concerning this witness concretely as regards the
6 language. Prosecution, could you provide us now with this submission.

7 MS SAMSON: Your Honour, I can. The examining lawyer is going to make the
8 submission for your Honours, but further to the email that I forwarded on yesterday,
9 the Prosecution wishes to examine the expert in Spanish.

10 It is a language that the witness himself will be speaking, so the interpretation has
11 already been provided for.

12 Under Article 50(3), the Prosecution makes a request to the Chamber exceptionally.

13 As we noted in our email, the Chamber in the Lubanga case had also asked questions
14 of the witness in Spanish and, since we're not requesting the full hearing be held in a
15 known working language of the Court, we submit that Rule 41 isn't applicable.

16 So that's the extent of it, your Honour. We have very limited questions to ask the
17 witness, in fact just to ensure that he -- his reports are his own, his transcripts are his
18 own, to clarify a few other issues, but it is expected to be short and we thought it
19 could be done more efficiently if the examining lawyer could also speak in Spanish.

20 PRESIDING JUDGE FREMR: And, in such a case, what would mean short?

21 MS SAMSON: There are very few, if any supplementary questions. We are
22 following the Chamber's direction that we will not be permitted more than 30
23 minutes. And we are exclusively dealing with the tendering of the material into
24 evidence and having the witness testify that he is -- that he accepts the procedures of
25 Rule 68.

1 And I don't have an exact estimate but it's certainly the -- however long that
2 procedure would take is basically the extent of the Prosecution's examination.

3 PRESIDING JUDGE FREMR: Thank you.

4 Mr Bourgon, any submissions concerning this witness?

5 MR BOURGON: Mr President, I would prefer if my colleague could address the
6 Chamber on the issue. I believe that it is our intention to oppose the questioning of
7 the witness in a different language, but I'm not in a position at this stage, I apologise
8 to make the argument, and I would like to -- I would prefer if my colleague would be
9 authorised to prevent these submissions.

10 PRESIDING JUDGE FREMR: Mr Bourgon, I don't see that it should be such a
11 complex issue. So are you really not able to respond to Ms Samson because I think
12 that she, in fact, asking something what is generally available according to Article
13 50(3), she also gave the main reason, expeditiousness of the hearing. If you have
14 some objection, okay, but I think it shouldn't be so really demanding to present such
15 objections now.

16 MR BOURGON: Mr President, with a view to what my colleague presented and to
17 make things happen more quickly, we do not object.

18 For this witness we reserve our position to make an objection later on. We believe
19 that the procedure is not being done according to the Rules, but we have no objection
20 for this witness to be questioned in a different language for today.

21 Mr President, I do have some exhibits to have admitted regarding the witness who
22 just finished his testimony.

23 PRESIDING JUDGE FREMR: So maybe also please submit those requests and we
24 will just then decide about all those issues after our break. Could you just also come
25 with this request now.

1 MR BOURGON: Yes, Mr President.

2 We are -- we seek to have admitted into evidence, based on the list that we provided
3 the Chamber with, the following items: Number 1; number 2; number 7; number 10;
4 number 11; number 12; and number 17.

5 As regard these exhibits, Mr President, we seek that they be admitted on the record,
6 but for the sole purpose of impeachment and not for the truth of their contents. That
7 is very -- it is a very important distinction for us. And if the Chamber was -- took the
8 view that it can only be admitted for the truth of its content, then of course we would
9 not seek admission into the record of these exhibits. I think it's just for the assistance
10 of everybody.

11 In terms of the other documents, I have documents number 21; document 50; 51;
12 including the translation of this document that we would ask that it be admitted into
13 evidence at this time.

14 Thank you, Mr President.

15 PRESIDING JUDGE FREMR: I doubt, Ms Samson, that you are able -- are you able
16 to react at the moment?

17 MS SAMSON: Well, your Honour, it is a bit difficult, but number 51 on the
18 Defence's exhibit list is the document that was shown to the witness purporting to be
19 his notebook, which it isn't, and which the Defence objected to the Prosecution
20 seeking to put to the witness or admit into evidence because it had no connection
21 with the witness. So my question is: Is the Defence seeking to admit this document
22 for the truth of its contents, or is it seeking to admit the document, just the page of the
23 document that was shown to the witness?

24 The witness didn't describe the document or say what it is. So I would like to know
25 the limits of the production it -- of this document is.

1 MR BOURGON: Mr President, the witness, when we opposed the Prosecution's
2 intention to adduce the document into evidence, we were not fully aware of the
3 relationship that existed between the witness and the document. In this case, the
4 witness was -- did answer questions when he was interviewed by the Prosecution and
5 today in Court he recognized his answers in relation to this document. So at a
6 minimum, we would ask that the document be admitted in evidence as a normal as
7 evidence, and if not at a minimum that the document be admitted for the purpose of
8 impeachment. Thank you, Mr President.

9 PRESIDING JUDGE FREMR: Ms Samson.

10 MS SAMSON: Simply that, your Honour, the -- the witness did indicate during his
11 statement that he'd never seen the document before. But in any event your Honour
12 we certainly intend to seek to introduce that exhibit at a later time for the truth of its
13 contents. So if your Honours are minded to do it now that is also fine with us.

14 PRESIDING JUDGE FREMR: No, I think we will anyway probably wait for your
15 position, even to other -- other pieces of evidence, but there are very many, so I think
16 we have to postpone decision on that anyway.

17 So now we will adjourn and we will reconvene at half past 2.

18 MS SAMSON: Your Honour, if I could just --

19 PRESIDING JUDGE FREMR: Yes.

20 MS SAMSON: -- say one thing quickly? My apologies to the Court. I have to be
21 absent in the afternoon. So I will not be here for the expert's testimony. And there
22 is one very small issue that I wanted to raise at some stage, and it is schedule for the
23 next evidentiary block. We have seven witnesses scheduled to come.
24 Your Honours will notice that there is a slight change in order of the second, third
25 and fourth witness, which my friends from the Defence have agreed to.

1 Looking at anticipated Rule 68(3) motions for two witnesses, I fear that we may have
2 extra time at the end of that session if we don't add more witnesses to the session.

3 So I raise it now, because I understood that my friends from the Defence may have
4 difficulty if we add witnesses, but I'm also mindful of court time and I don't want to
5 waste time. If we have extra time I can bring a witness forward.

6 PRESIDING JUDGE FREMR: Mr Bourgon.

7 MR BOURGON: Thank you, Mr President.

8 I stand to be corrected. I thought that any Rule 68(3) applications were to be made at
9 the time when the four weeks list was submitted. So we are not -- we have not been
10 informed of any requests for any of these witnesses to appear according to Rule 68(3).

11 As I did mention before, to us it makes a difference in our preparation, but I cannot
12 say now until of course I know which witnesses we are talking about. We are agreed
13 to the change in a witness list and we will do our best to cooperate with the Court.

14 As soon as we know which witnesses are 68(3), and if there is additional time for a
15 witness, then why not? We want to contribute and we want to get this trial as
16 quickly as possible, as long of course as it is not something that will cause us
17 prejudice that we cannot be ready, in which case we will not hesitate to inform the
18 Chamber of our position. Thank you, Mr President.

19 PRESIDING JUDGE FREMR: We appreciate that, Mr Bourgon.

20 Thank you, and we will reconvene at half past 2.

21 THE COURT USHER: All rise.

22 (Recess taken at 1.19 p.m.)

23 (Upon resuming in open session at 2.35 p.m.)

24 THE COURT USHER: All rise.

25 Please be seated.

1 PRESIDING JUDGE FREMR: Good afternoon, everybody.

2 I see you all have to take appearances again because I see there are some changes.

3 Prosecution please, could you just amend, give us amended appearance.

4 MS SOLANO: Good afternoon, your Honours. To my left is Eric Iverson, trial

5 lawyer; next to him, Kristy Sim, assistant trial lawyer; behind me, Laura Morris,

6 assistant trial lawyer; Paula Sacchi, legal assistant; Selam Yirgou, case manager; and

7 I'm Julieta Solano, trial lawyer.

8 PRESIDING JUDGE FREMR: Thank you, Ms Solano.

9 Now Defence.

10 MR BOUTIN: (Interpretation) Good afternoon, your Honour, ladies and

11 gentleman. This afternoon the Defence team for Mr Bosco Ntaganda, who is here

12 with us, we have an intern, Maître Chloé Grandon, legal assistant, and myself,

13 Luc Boutin, counsel. Thank you.

14 PRESIDING JUDGE FREMR: Thank you, Mr Boutin.

15 Now Legal Representatives of Victims, please.

16 MR SUPRUN: (Interpretation) There's no change for the two groups of victims.

17 Same as this morning.

18 PRESIDING JUDGE FREMR: Thank you very much.

19 I would like to start with a couple of issues in follow-up from the testimony

20 completed this morning.

21 At the end of the session Mr Bourgon tendered a number of items, some for the

22 limited purpose of assessing credibility rather than for the truth of their contents.

23 The Chamber appreciates that the Defence may have grouped the request in this

24 manner for efficiency purposes. The Chamber notes over the lunch-break that the

25 Prosecution has indicated by way of email that it does not object to the request.

1 However, the scope of the admissions requested is not fully clear to the Chamber.

2 The Defence is therefore directed to file a request identifying per item for which
3 admission is sought the scope of admission.

4 The Chamber would also like to advise that going forward parties should seek
5 admission on an item-by-item basis, which facilitate the other party in responding
6 and the Chamber in subsequently considering the request.

7 The second item, the Chamber's oral decision on the admission of the audio recording
8 sought to be admitted by the Prosecution during the testimony of Witness P-901. So
9 the oral ruling is following:

10 On 21 September 2015, the Prosecution played excerpt of audio recording
11 DRC-OTP-0162-0115 and asked Witness P-0901 to comment on these excerpts. The
12 Prosecution afterwards requested admission into evidence of the audio recording as a
13 whole for the truth of its contents. This was opposed by the Defence.

14 On 24 September 2015, the Prosecution provided clarification as to the origin of the
15 audio recording and how it came into Prosecution's possession. The Chamber
16 indicated that it would rule on the request for admission into evidence following the
17 completion of the cross-examination of the witness. In this regard, the Chamber
18 notes that the Defence has briefly addressed the audio recording in its
19 cross-examination.

20 The Chamber recalls that in the Decision on the Conduct of Proceedings, it indicated
21 that it would consider documents tendered for admission on the basis of their prima
22 facie relevance and probative value and any prejudice that their admission may cause
23 to a fair trial or to the evaluation of the testimony of a witness.

24 Considering the content of the portions of the audio played and the comments by the
25 witness thereon, the Chamber considers that these parts are prima facie relevant.

1 The Chamber notes that the witness has confirmed that he had followed the
2 conversation on the Motorola at the time of the events in question. The Chamber
3 further notes that the witness was able to recognize some of the persons who could be
4 heard on the recording and was able to comment on the places and events that were
5 mentioned on it. The Chamber considers that this provides adequate prima facie
6 authentication for the purposes of admission.

7 The Chamber further considers that admission of the recording is not prejudicial to
8 the fairness of the trial. However, it notes that the witness was not in a position to
9 explain the circumstances in which the recordings was made or to attest to its chain of
10 custody. The Chamber also observes that the excerpts of the audio played only
11 represent a particular segment of a conversation. These are amongst the factors
12 which the Chamber will consider when weighing the evidence. The Chamber will
13 need to consider the audio in context, recognizing that no one piece of evidence can
14 be presumed to provide a complete picture -- this is the case with many items of
15 evidence, but may be of particular relevance in the case of intercepts, such as the
16 present one. Having said that, the Chamber admits into evidence the portions of the
17 audio which were played in the courtroom for the truth of their contents. The
18 Registry is requested to indicate in the metadata of the item which excerpts are
19 admitted.

20 As to the corresponding portions of the transcripts of the audio and the translations of
21 these portions, the Chamber recalls the procedure as set out in paragraph 57 of the
22 Decision on the Conduct of Proceedings and urges the parties to follow this
23 procedure in order to facilitate the use of audio or video recording during the
24 proceedings. Through use of that procedure, in the absence of any objection on the
25 accuracy of the transcripts and translations, they could be admitted into evidence at

1 the same time as the video or audio to which they relate. It is not clear whether this
2 procedure was followed in the present instance. The Chamber therefore considers
3 that the related transcripts and translations should not be now admitted. However,
4 the Prosecution may, as it indicated it would, seek to tender the transcripts and
5 translations by way of a Bar table, which will enable the Defence to make any
6 submissions as to whether the transcript and translation correctly captures what was
7 said on the audio recording at that time. The Chamber also notes that the admission
8 now of only the portions of the recordings played in court is obviously without
9 prejudice to either party tendering the remaining portions of those recordings
10 through appropriate means at a later time.

11 This ends the Chamber's ruling.

12 Now, before the next witness is -- Mr Iverson.

13 MR IVERSON: Thank you for the floor, Mr President. I'd just like to ask for a
14 slight clarification. On page 77, line 24 of the transcript, I'm just going to go to it
15 very quickly here, it reads that "The Chamber considers these parts are prima facie
16 irrelevant." I heard "relevant." I would just ask if your Honour could make a
17 clarification. Thank you.

18 PRESIDING JUDGE FREMR: I can confirm or rather correct it was "relevant." So
19 thank you for that remark.

20 Now, before the next witness is called in, I would like to recall decision number 845
21 rendered by us on Monday.

22 We decided that Witness P-931, who will be called to testify today, may do so as an
23 expert witness in the present proceedings. And as part of this ruling it was also
24 decided that the use of Rule 68(3) of the Rules is, in principle, appropriate in
25 circumstances for the admission of the prior recorded testimony and exhibits

1 stemming from the witness' involvement in the Lubanga case. This was, however,
2 subject to the witness agreeing before the Chamber to the introduction of the prior
3 recorded testimony and attesting to its accuracy.

4 This expert witness will testify today without protective measures and then -- or,
5 therefore, we all can call him or refer to him just by his name, which is
6 Mr Roberto Garretón.

7 There are also two other matters to be addressed before the witness is brought in.

8 We understand from the court officer that the witness has requested to bring a memo
9 with him into the courtroom, presumably, we think so, to refer to during his
10 testimony.

11 Now I'm turning to Prosecution. Prosecution, could you please provide further
12 information on this?

13 MS SOLANO: I cannot, your Honour, not under the heading "memo." The witness
14 was shown a memorandum from the Hema community during his preparation
15 session; however, he does not to the best of my knowledge have a copy of that
16 memorandum himself. He did, however, give me reason to believe during the
17 preparation session that he might like to have with him his expert report, possibly
18 some of his notes, and I wonder whether there is perhaps a confusion as to what
19 exactly this is that the witness wishes to bring in. But if it is indeed a memorandum,
20 I cannot help your Honours.

21 PRESIDING JUDGE FREMR: Okay, maybe it would be better to ask witness himself.
22 So thank you for the moment.

23 So it is probably even premature to ask Defence for any submission. We will wait
24 for witness explanation. Is it okay, Mr Boutin?

25 MR BOUTIN: Yes, absolutely, your Honour. We absolutely support your decision

1 on this.

2 PRESIDING JUDGE FREMR: Thank you.

3 And the second issue I would like to deal with is the question of the language of the
4 Prosecution's examination.

5 We note that the Defence withdrew its objection to the Prosecution conducting its
6 examination in Spanish, so the Chamber considers that this is justified in the
7 circumstances and grants the request.

8 So now, court officer, please have the witness brought in.

9 And I recall that we will remain in public session today unless otherwise ordered.

10 Court officer, please.

11 (The witness enters the courtroom)

12 PRESIDING JUDGE FREMR: Mr Garretón, Mr Witness, good afternoon. I
13 welcome you on behalf of this -- I will repeat that. Mr Garretón, good afternoon.
14 Welcome. I would like to welcome you on behalf of this Chamber.

15 I know that it is not your first time you are coming before the Court, but anyway I
16 will have to start with some procedural matters and I will have to give you some
17 instructions.

18 This Chamber has been established to try the case of the Prosecutor against
19 Mr Bosco Ntaganda, and you are called today by the Prosecution to testify as an
20 expert to assist us in our search for the truth.

21 You will be asked questions both by Judges and lawyers in the courtroom and in this
22 connection I would like to stress the following: Please listen carefully to those
23 questions. If you don't understand feel free to ask for the question to be repeated or
24 rephrased. You are before us as an expert on the background and context to the
25 situation and conflict in Ituri. However, if you do not know an answer or you do not

1 feel that it falls within your area of professional expertise, there is nothing wrong with
2 saying that. Do you understand all this, Mr Garretón?

3 WITNESS: DRC-OTP-P-0931

4 (The witness speaks Spanish)

5 THE WITNESS: (Interpretation) Yes, your Honour, I do.

6 PRESIDING JUDGE FREMR: Thank you.

7 Now, court officer, please, can you administer the solemn undertaking to tell the
8 truth.

9 THE COURT OFFICER: It is already on the witness bench, Mr President.

10 PRESIDING JUDGE FREMR: So then, Mr Witness, could you kindly read this
11 undertaking.

12 THE WITNESS: (Interpretation) Your Honour, I solemnly declare that I will tell
13 the truth, the whole truth and nothing but the truth.

14 PRESIDING JUDGE FREMR: Thank you very much, Mr Garretón. So now you are
15 under oath, and as you have just promised you have to speak the truth. It is my
16 obligation to remind you that it is an offence within the jurisdiction of this Court to
17 give false testimony.

18 Now, there are a few practical matters you should have in mind when giving your
19 testimony. I understand that you will be testifying in Spanish today, but everything
20 we say here in the courtroom is written down and interpreted into English and
21 French. It is, therefore, important to speak clearly and to speak at a moderate or
22 rather slow pace. We want to make sure that the interpretation and transcript will
23 be precise.

24 To allow for the interpretation, everyone has, including us, everyone has to wait a few
25 seconds before starting to speak. So I recommend to you when a question is asked,

1 please observe a pause maybe until three seconds and then only give your answer.

2 If you have any questions yourself, please raise your hand and let us know and we
3 will give you an opportunity to speak.

4 Mr Garretón, have you understood all that?

5 THE WITNESS: (Interpretation) Yes, your Honour. I've understood everything
6 you've said.

7 PRESIDING JUDGE FREMR: Very well, Mr Witness.

8 Now, before we start, I'm sure you are aware that the Prosecution has made an
9 application pursuant to Rule 68(3) of the Rules of procedure and evidence to admit
10 certain materials into evidence in this case, such as transcripts and reports, stemming
11 from your involvement in the Lubanga case. This means that if the Chamber grants
12 the application, the Prosecution would be relying on these items in the present
13 proceedings and will just question you for a short period in examination-in-chief.
14 Thereafter, the Defence would be permitted to question you on the contents of your
15 prior testimony and report as well as any matters raised by the Prosecution in their
16 questions to you today.

17 The Chamber has ruled that such a course of action is in principle permissible subject
18 to you agreeing today to the introduction of these materials before the Chamber and
19 attesting to their accuracy. Do you understand?

20 THE WITNESS: (No interpretation)

21 PRESIDING JUDGE FREMR: Very well.

22 THE WITNESS: (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: Very well. So now I can --

24 THE WITNESS: (Interpretation) Yes, I understand fully, your Honour.

25 PRESIDING JUDGE FREMR: Now I can give the floor to Prosecution so they can

1 take you through the materials it seeks to have admitted pursuant to Rule 68(3) of the
2 Rules.

3 Prosecution, you have the floor.

4 MS SOLANO: Thank you, Mr President.

5 PRESIDING JUDGE FREMR: Sorry, hold on.

6 One question to you, Mr Garretón. We were told that you would like to use or to
7 bring to the courtroom some memo. Could you inform us about that?

8 THE WITNESS: (Interpretation) Your Honour, it's a text with a certain number of
9 quotes from my own report just to help me remember. There's nothing of particular
10 interest. It's just so that I don't forget certain elements.

11 PRESIDING JUDGE FREMR: Prosecution, any comment on that?

12 MS SOLANO: Your Honour, I plan to take Mr Garretón to the portions of his
13 testimony and his reports that I will ask him questions about, so for my purposes it's
14 not necessary for him to consult his notes.

15 PRESIDING JUDGE FREMR: But don't you mind if he would use this?

16 MS SOLANO: I have no objection whatsoever if he feels better to have them there
17 and my friends from the Defence do not object.

18 PRESIDING JUDGE FREMR: Mr Boutin, what is your position on use of memo by
19 Mr Witness?

20 MR BOUTIN: Thank you, Mr President. Defence do not want to take a hard line
21 on this; however, before the witness is allowed to use his memo, I would like to have
22 a look at the document so I can be confident that he is not going overboard.

23 PRESIDING JUDGE FREMR: Okay, maybe I think the Chamber will start. If you
24 don't mind, Mr Witness, we would like just to absolutely briefly look at this memo
25 just to review what it is about.

1 So court officer, please, could you please ask Mr Witness to --

2 THE COURT OFFICER: Mr President, I believe the memo is still with the VWUS.

3 I could give them a call so that it's brought to the courtroom as soon as possible.

4 PRESIDING JUDGE FREMR: Okay, so maybe -- please, Prosecution.

5 MS SOLANO: Your Honour, may I suggest that we begin and while the VWS makes

6 the document available, and maybe the witness will find it is not necessary.

7 PRESIDING JUDGE FREMR: I would tend to agree with Ms Solano.

8 THE WITNESS: (Interpretation) That's not a problem at all.

9 PRESIDING JUDGE FREMR: Mr Boutin.

10 MR BOUTIN: Yeah, I agree, Mr President, that we should start and see where it

11 goes.

12 PRESIDING JUDGE FREMR: Thank you very much.

13 So I am coming back to my previous comment, so I am now giving floor to

14 Prosecution so you can take Mr Witness through the materials you seek to have

15 admitted pursuant to Rule 68(3), please.

16 MS SOLANO: Thank you, your Honour.

17 (No interpretation)

18 PRESIDING JUDGE FREMR: Ms Solano, just maybe be a little bit slower, because I

19 guess we could have a problem with translation. So first the same instruction that I

20 gave to Mr Witness, please rather use slow pace and also please try to observe some

21 even short, but three seconds maybe, pauses between your question and the answer.

22 And maybe which is not obviously clear to you, but we will have to wait for

23 translation. So even if Mr Witness is, you know, responding, or it takes some time,

24 then we get the translation. So make some pauses just not to -- to avoid any

25 overlapping. Okay? Thank you very much.

1 MS SOLANO: Yes, your Honour.

2 QUESTIONED BY MS SOLANO: (Interpretation)

3 Q. You're name and occupation, please.

4 A. My name is Roberto Garretón and I'm a Chilean lawyer.

5 Q. Your occupation?

6 A. Currently I'm retired. The National Institute of Human Rights in Chile, I'm a
7 member of that appointed by an MP. But I'm still a lawyer, and I work in the field of
8 human rights, and that for the last 42 years.

9 Q. Between which year and which year, please, have you worked as a special
10 rapporteur for the Congo?

11 A. I began as a rapporteur for Zaire in 1994, and on that date the Human Rights
12 Commission, as it was dubbed in the day, now it is called a council, but that
13 committee appointed me in that capacity for Zaire. I finished my assignment then.
14 I was appointed by Mary Robinson, who is the High Commissioner, so that I
15 therefore will be her representative in Latin America. And that was in 2001.

16 Q. So between 1994 and 2001, how much time did you devote to your work as a
17 rapporteur especial?

18 A. UN special rapporteurs, well, it's not really a fully-fledged profession. You're
19 not paid for it. You don't receive any money for that. You're doing it just for the
20 honour of doing it. And so you earn your money elsewhere, in your own country
21 based on your profession, and at that time I was still a lawyer and I practiced as a
22 lawyer in Chile.

23 Now, in the Human Rights Committee, I devoted on average at least, well, without
24 talking about missions on site, because obviously, obviously you devote 100 percent
25 of your time when you're on mission, but I devoted at least two hours a day to that

1 job that was entrusted to me, that mandate. And I spent, what, my two -- well, I
2 made two or three telephone calls per week to Geneva -- sorry, per day in Geneva.

3 Q. Over the last few days, have you had an opportunity of re-reading your
4 transcription of your oral evidence in Lubanga as well as your expert report in
5 addition to another number of documents which was given to you during your oral
6 evidence in the Lubanga case?

7 A. Yes, I did. I validated my evidence that I gave in a courtroom, if it wasn't this
8 one, similar to this one in 2006 in the Lubanga case.

9 Now, the transcription of the proceedings was given to me, so I approved them, and
10 then I sent them back to the Court. Well, first off, I drafted the document for the
11 Lubanga case and then I sent to the Court and that document was then amended, but
12 it still applies to the current proceedings.

13 In addition to that, I re-read the entirety of my evidence -- it is this binder on my right,
14 it is quite big, quite lengthy -- in order, once again, to jot down one or two comments
15 in the margin basically to jog my memory about certain events that may have slipped
16 my mind in the meantime.

17 And I must say that I validate and perfectly agree with the evidence I provided in the
18 Lubanga case such as it has been approved and, as I said, and with the amendments
19 that have been written down in the margin, I validate that as well. And I would
20 agree with my oral evidence, I validate that as well such as it was written down and
21 such as I've been able to see it in its written format.

22 Q. Mr Garretón, we're going to try and finish your oral evidence today, and this is
23 why I'm going to put one or two questions to you about your document. And
24 I would ask you to be very concise in the answers you provide, and be very precise in
25 your answers. If I need more details, well, in that case I will ask you afterwards for

1 those additional details. Could you just look at the binder and turn to document
2 number 5. This is the document DRC-OTP-2028-3132.

3 A. ICC-01/04-02/06, is that the one you're referring to, Counsel?

4 Q. It's the document which when in addition to the number you've just read out on
5 the side you will see number 5. Can you see that? It is tab number 5 and it is the
6 document that is located after that number 5 in the binder that you have.

7 Do you recognize that document as being the transcription of your evidence in the
8 Lubanga case?

9 A. Yes. That's what I just said a moment ago.

10 Q. Now we're going to focus on one or two excerpts of that evidence, and I just ask
11 you whether you have any amendments to make. On the lower part you'll see -- of
12 the page you'll see a bar code, and above that bar code you will see a number, a
13 reference that starts with DRC-OTP and then eight figures. Do you see?

14 Now I'm going to cite the last four documents, which directs us to the page. And
15 this transcription also bears a more straightforward number in the middle of the page,
16 it is page 1. Can you see the lower area of the page, right in the middle, you'll see a
17 number. All right, so I'm going to be reading out that particular number, but I'll also
18 read the last four figures of the number on the bottom right so that this is clear for the
19 transcript. Is that clear?

20 A. Yes.

21 Q. Could you then move to page 26, and we're talking about 0157.

22 THE INTERPRETER: From the English booth, message: Could the exchanges
23 please be less quick?

24 THE WITNESS: (Interpretation) Yes.

25 MS SOLANO: (Interpretation)

1 Q. Could you tell me please whether you ask -- whether you're asking here for any
2 modification or amendments? Amendments on the name of the place here as being
3 Ntoto? What amendment would you like to bring if you wish to bring one?

4 A. Now, if my memory serves this is an instance which is well known, even before
5 I was appointed rapporteur. This was Ntoto, Ntoto.

6 PRESIDING JUDGE FREMR: Message from interpreter booth: They have
7 sometimes a problem, to keep your pace, so please slow down a bit. Thank you.

8 MS SOLANO: Yes, your Honour.

9 Q. (Interpretation) Mr Witness, can I ask you to answer quickly and concisely,
10 and if I wish to have extra information, I'll ask you.

11 A. Yes. You need to change "Manto" to "Ntoto," N-T-O-T-O.

12 Q. Now we're moving to page 36, 0167, that's the reference, on line 3, what we can
13 read, "In the end, I didn't do it." Do you wish to make a correction of that particular
14 excerpt?

15 A. I'd have to place myself back into the proper context. But I don't know what
16 you're referring to. If you just bear with me, I'll re-read the last few lines of the
17 preceding page. Please do bear with me. I'm reading it in my own mind.

18 I think there is a mistake here, yes, because "I didn't do it," that's what I -- in inverted
19 commas.

20 If reference is being made to my assignment, "my mission," inverted commas, in
21 Rwanda, well then no, it's a bit more complicated than that in fact, because my
22 assignment in the east of Congo in the border region, bordering, therefore, on
23 Rwanda, but I didn't have any -- any authorisation to enter into the area and
24 Mobutu's palace. I could go into Goma area, and there was the leader of the rebels,
25 who was a Rwandan, who was controlling that particular area.

1 Now after discussing about whether we should go or not, I said, "Well, let's go, let's
2 go into that area," I said, so that we can check whether, yes or no, there was 150,000
3 people who had died -- 550,000 people who had died in the refugee camps managed
4 by the High UN Commission for Refugees or not. So there are 500,000 deaths in
5 those camps. So it was a bit frustrating actually, this assignment, because --

6 Q. Question --

7 A. What I mean is the assignment took place.

8 Q. Thank you very much.

9 Now, could I ask you to move to page 50, and 0181 is the number.

10 A. Just bear with me a second. Yes, I've got there now. Thank you.

11 Q. All right. Then so on line 14, we can see the word "Aule," A-U-L-E, is that
12 number right or not?

13 A. No, that's not the right word. When I re-read this particular document I realise
14 that reference is being made to -- to the AFDL, the Democratic Alliance -- the AFDL,
15 Alliance of Democratic Forces for Congo.

16 Q. Thank you. Can we now move to page 55, ERN 0186. Line 23, "Katuna" is
17 written here. Is that the right word?

18 A. No, no, it's not the right word. I can't remember exactly what that
19 was -- that was to refer to, but "Katuna" up in the air, it doesn't ring a bell, but it
20 doesn't strike me as right. But the number of cities that I visited as a rapporteur, I
21 mean I can tell you many of them, but that name doesn't ring a bell, Katuna.

22 Q. Mr Garretón, do you remember any other amendment that you'd like to bring to
23 the transcription that you think is crucial?

24 A. No.

25 Q. All right then, let's now move to tab 6, ERN DRC-OTP-2088-0223. Now, can

1 you confirm, Mr Witness, that this is also part of your testimony in the Lubanga case
2 that you were able to review recently?

3 A. Yes, yes, yes, it's the same thing.

4 Q. All right then, taking those corrections into account, that you just referred to, do
5 you confirm that this transcript is an accurate record of the evidence you provided in
6 the Lubanga case?

7 A. Yes, I'm persuaded of the fact, Madam Prosecutor.

8 Q. I'd like now to move to the document at tab 4, this is an expert report,
9 DRC-OTP-2083-0583.

10 A. 0583?

11 Q. Yes. And on the fifth page you can see your name featuring there. Are you
12 there yet, Mr Witness? And I think your -- it's 0587 where you see your name. It is
13 on --

14 A. At page 4?

15 Q. Yes. And there are some words underlined in red? Do you know why?

16 A. Paris, New York, Washington. Well, let's have a look. Now, I was a
17 rapporteur and I did certain assignments in Paris. In New York it wasn't really an
18 assignment per se. I went to submit my reports to the General Assembly.

19 Q. Do forgive me, but is it possible that those words highlighted in red are
20 corrections that you built into the transcript after -- well, during the Lubanga case?

21 A. Yes, but there's a finer point here that I'd like to explain.

22 Yes, I did say that I went to these cities, Brussels, et cetera, because I did run
23 investigatory surveys there. Paris, as well I went off to talk to a refugee that was
24 working at UNESCO. In New York I went to submit reports, but I didn't go to
25 gather information in New York.

1 Now in Washington, yes, that was to gather some reports. And in Montreal that was
2 a seminar in fact that I attended, but it wasn't to gather information, nor in view of
3 drafting a reporter.

4 Q. Thank you. Could I now ask you to look at the pages in this report and you
5 will see that there are other words highlighted in red.

6 THE INTERPRETER: Message from the English booth: Could the speakers please
7 slow down.

8 THE WITNESS: (Interpretation) Page 5?

9 MS SOLANO: (Interpretation)

10 Q. Could you please look at the entirety of the page. You will see that there a
11 number of words that are highlighted in red. I would just like to know whether you
12 acknowledge them as being those corrections that you yourself made to your expert
13 report after giving evidence in the Lubanga case.

14 A. (No interpretation)

15 PRESIDING JUDGE FREMR: Sorry, sorry. Sorry to interrupt you again. I would
16 like to ask, I know it's not easy to keep the right pace, but please again I got a message
17 from the interpreters' booth that they have a problem to keep your pace, so please
18 both of you try to slow down. Thank you.

19 THE WITNESS: (Interpretation) Okay, so, yes, Lendu and Hema those who added,
20 I say that without a doubt, added with regard to the number of ethnic groups present
21 in the area, so I think that -- that these remarks are absolutely correct.

22 MS SOLANO: (Interpretation)

23 Q. Do you remember at the end of your oral evidence in the Lubanga case, do you
24 remember having provided any corrections to your expert report?

25 A. Yes, of course. I do remember. I don't remember the finer detail. I don't

1 remember which corrections I made, but I did provide some corrections. That's
2 right.

3 Q. Were you able to review this particular copy that you've got in front of you now
4 of your -- the copy of your expert's report over the last few days?

5 A. Yes. Yes, I have. Let me just add the following: Looking in the finer detail
6 I would say though that the word "Lendu" is in a parenthesis with other names of
7 other ethnic groups of Sudanese origin, but the word "Hema" is in the parenthesis
8 with other ethnic groups which are described as Nilotic, and that's right.

9 Q. Thank you very much. Let's now move to tab 10 in your binder, please. This
10 bears the ERN DRC-OTP-2084-0408. Tab 10, please, Mr Witness, in your binder.
11 This is -- no --

12 A. It's a map?

13 Q. No. It's the document after the map, in fact, that I'd like to take you to. This
14 is a report which bears the date 27 May -- March 2001. And in the document you can
15 see your name. Is this your report after your DRC assignment in addition to your
16 visit to Bunia in March 2001?

17 A. Yes, that's exactly the case.

18 Q. Have you had an opportunity to re-read that report recently, Mr Witness?

19 A. Well, I'm a bit confused here because the report here features in English, but I
20 thought it was only -- it only existed in French and the French text corresponds to the
21 text that I drafted after my Congo assignment in addition to the visit I made to Bunia.

22 Q. After having re-read that report then recently, could you confirm then that that
23 it is accurate?

24 A. Well, a rapporteur's work is always considered to be accurate and faithful to the
25 truth, and if I wrote what I wrote, well, then it's because I thought that the report was

1 indeed accurate.

2 Q. Right. Let's move to the map that is at tab 9, DRC-OTP-2087-1820. This is a
3 map of the Congo. Mr Witness, do you remember referring to this map during your
4 testimony in the Lubanga case? Do you remember having seen this map during
5 your evidence?

6 A. I remember seeing a map. So I imagine it's this one because I saw so many
7 maps I can tell you of the Congo. And I think this one here is pretty accurate in
8 terms of the scale, size of things. I think the map is perfect. But was it the one that I
9 referred to during my oral evidence? I don't know. I mean, I can't -- I have no way
10 of knowing, but this is a good map. That's all I can say.

11 Q. Thank you.

12 MS SOLANO: Your Honours, I seek to admit in evidence the documents I have
13 shown Mr Garretón. The ERNs are DRC-OTP-2088-0132 for the first part of the
14 French version of his -- the transcript of his testimony in Lubanga.

15 The next ERN is DRC-OTP-2088-0223, and that's the second part of his testimony in
16 Lubanga.

17 DRC-OTP-2083-0583, which is the witness's expert report with corrections in French.

18 DRC-OTP-2084-0408, which is his 27 March 2001 report.

19 And the map, DRC-OTP-2087-1820.

20 PRESIDING JUDGE FREMR: Thank you very much. Just confirmation from
21 Mr Garretón.

22 Mr Garretón, could you kindly confirm that you agree that those items would be
23 admitted into evidence in the Ntaganda case and you can just confirm their accuracy?

24 THE WITNESS: (Interpretation) Absolutely, your Honour, yes.

25 PRESIDING JUDGE FREMR: Thank you.

1 What is the position of Defence?

2 MR BOUTIN: (Interpretation) No objection, your Honour. No objection at all.

3 PRESIDING JUDGE FREMR: Thank you.

4 Give me a minute.

5 (Trial Chamber confers)

6 PRESIDING JUDGE FREMR: Give us a second, please. We have to make some

7 minor arrangement.

8 (Pause in proceedings)

9 PRESIDING JUDGE FREMR: Thank you for your patience. Now I can render an
10 oral decision on the Prosecution's request number 7793, filed pursuant to Rule 68(3) of
11 the Rules which I note was not opposed by the Defence.

12 In light of Mr Garretón's declaration this afternoon and in accordance with its
13 preliminary ruling number 845, the Chamber grants the Prosecution request. All
14 documents sought to be admitted, meaning the documents contained in annexes B, C,
15 F and G of the request are admitted into evidence. And I am referring here to the
16 two transcripts of ERN number DRC-OTP-2083-0622, it is English version, and as
17 concerns French version, it's number 2058-0132.

18 Then the other one is of number DRC-OTP-2083-1056 of the English version and
19 2088-0223 of the French version.

20 Then the two reports. The first one is ERN DRC-OTP-2083-0583 and
21 DRC-OTP-2084-0408.

22 And the last item is the map of the DRC, ERN number DRC-OTP-2087-1820.

23 And the Registry shall ensure that the excerpts admitted are clearly identifiable by
24 striking through any excerpts not sought to be admitted as reflected in annex A to the
25 request.

1 Sorry, now I have to correct myself. I have been told that I made one mistake. So
2 DRC-OTP-2088-0132 instead of, as I wrongly said, 2058-0132. Too many numbers.
3 So I hope that now I am correct.

4 Finally, the Chamber considers that the English version of the report prepared by
5 Mr Garretón for the Court would also be of assistance. Accordingly, the Chamber
6 instructs the Registry to amend the English version of the report contained in annex E
7 to the request in accordance with the modification made by Mr Garretón to its French
8 version, as reflected in annex D to the request. The amended English version of the
9 report shall be released in Ringtail and admitted into evidence. This concludes our
10 ruling on this matter.

11 Now, we now should proceed with your testimony, Mr Garretón, but Ms Solano in
12 fact you probably had been informed that the Prosecution had been allocated 30
13 minutes. So do you have any additional questions? If yes, please, you have to take
14 it in five minutes.

15 MS SOLANO: I can use five minutes, your Honour. Thank you.

16 Q. (Interpretation) Very well. Now, document 2083, the document that has your
17 name, that is entitled "Professional Path," now is this the document you provided to
18 the Prosecution?

19 A. I was asked for this document from The Hague. Now, I don't know whether it
20 was the Court itself or the Prosecution that asked for it. It does correspond to what
21 I've done in the past. Yes, I have no difficulty in saying that.

22 Q. Thank you. Now, if we could move to the third page of this particular
23 document 05 -- 0353, in the middle of the page, subparagraph (e). Could you explain
24 to the Bench what you wrote in subparagraph (e)?

25 A. When I was asked to come and testify before the Court for the second time I was

1 somewhat surprised by the questions that were put to me. I am a lawyer. The
2 questions seem to be dealing with evidence used by the reporters when they prepare
3 their special reports. I wish to specify that rapporteurs are not sent out to hold a trial
4 or to pass down judgment on a crime. We are provided -- correction, we are asked
5 to report back on a particular situation on a group, authorities in a particular area to
6 determine whether or not they respect human rights.

7 Q. Thank you. Now, to come to such a conclusion, I would like to know whether
8 this particular subparagraph does properly explain your methodology?

9 A. Yes, of course. This is not sort of a report for a system with two parties facing
10 off; for example, one party asking me questions, another one asking questions. A
11 special rapporteur is the owner of his own report, and usually these people are very
12 concerned about human rights and we do our best to draw up a good report and thus
13 we have to present such reports to the human rights committee. Now the human
14 rights commission, I believe. That is what I know and that is what I believe.

15 Q. Thank you.

16 A. Just a moment. The human rights commission may say that a particular report
17 is true or not, if a reporter might be lying or is not doing a good job of his work, or
18 whatever, and his mandate may be renewed or not. And I can tell you that my
19 mandate was renewed for eight years with the approval of Rwanda sometimes, the
20 Congolese government. But the international community, in all, did renew my
21 mandate because Mary Robinson, the High Commissioner for Human Rights,
22 was -- actually appointed me to be her representative in the Caribbean and Latin
23 America.

24 Q. Now, your methodology was a matter of listening to the various parties
25 suspected of human rights violations?

1 A. Yes, exactly.

2 Q. Thank you. Now your mission to the Ituri region in March 2001, and we see
3 that document in the binder, tab 10, document 2084. Could you look at paragraphs
4 47 to 51, could I ask you to be so kind as to read out these particular paragraphs and
5 could you tell us whether this excerpt -- well, you indicate that you spoke with the
6 parties who were suspected of being responsible for clashes between the Lendu and
7 Hema communities in Bunia in 2001. Page reference 420, 421.

8 A. Would you like me to read the entire paragraph?

9 Q. No. Please just read it to yourself and then if you could please explain to the
10 Bench whether you had this opportunity to consult the parties who were involved in
11 the incident in January 2001, 19 January 2001.

12 A. I drafted this entire report from the very first line to the very last line with the
13 help of my assistant, a French national, and a person from Mali. We analysed all the
14 various interviews that we conducted and I believe there is a list of people that we
15 had discussions with. List of high-level figures -- no, no. In actual fact we had
16 meetings with the Lendu community, with the Hema community, we met with the
17 bishop of Bunia, the Catholic bishop of Bunia who came with a priest. I believe he
18 was the dean or the vice-dean of the Catholic seminary in Bunia.
19 We had a number of meetings as well with the Hema community, a very tense,
20 indeed, a very tense meeting. There is an expression, you know, that is often used in
21 African conflicts, for example. At one point mention was made of the moderate
22 Hutus, the moderate Tutsi or the non-moderate members of various groups. In this
23 part of the world, people talked about the moderate Hema, the moderate Lendu.
24 Amongst both parties -- well, we were told, no, that meeting was not with the
25 moderate people, it was with the more aggressive people.

1 And the group with the Hema community was difficult because we started on the
2 assumption that we were -- because they assumed we were opposed to them. I was
3 there with an official from the KANUR (phon), and I'm speaking in the plural, but in
4 actually fact I was responsible and it was a very, very tough meeting indeed. And
5 the meeting ended on a sour note. Reference was made to the Lendu. I was very
6 much struck by the comments. I was told that they were poor farmers. I remember
7 it all very clearly. It was said, "Oh, well, if they were good farmers, we wouldn't
8 have all this trouble."

9 The meeting with the Lendu community was much calmer, relatively short.

10 I believe it lasted about an hour, no more than that, with the mass, more than two
11 hours. And I can insist on this particular point.

12 I did have a discussion with the bishop and the person who came along with him,
13 namely, the dean of the seminary, and it was a very, very tough, stormy meeting. In
14 the middle there was -- they had a piece of paper and they thrust the paper at me in a
15 very threatening way, and I was very, very surprised that the bishop would do this.

16 I am a catholic myself. I was very taken aback by such an aggressive gesture.

17 I could sense a great deal of bitterness and serious concerns. When I went back to
18 Kinshasa after that, I asked for an interview with the apostolic of the Vatican.

19 PRESIDING JUDGE FREMR: Thank you, Mr Garretón. I guess this question has
20 been responded.

21 Ms Solano, last question, if any. Do you have any last question?

22 MS SOLANO: No more questions, your Honour.

23 PRESIDING JUDGE FREMR: Thank you very much, because we, it's no secret, we
24 are in some time constraints now.

25 Mr Boutin, you are in a delicate situation. You know, it's up to you. There were

1 some common concerns to make maximum effort to finish this witness today. Do
2 you think we'll be able to? Because we can slightly come over the 4 o'clock, but maybe
3 not more than 15 minutes. Do you think you will be able to manage it in 25 minutes?

4 MR BOUTIN: I would like to be able to do it, but considering the pace that we've
5 been going so far, I think that it is unrealistic to believe I can wrap up my cross in 15
6 minutes.

7 PRESIDING JUDGE FREMR: Okay, we can't push you. I don't know what is the
8 maximum. I think the maximum limit is -- maybe I can consult court officer.

9 (Pause in proceedings)

10 PRESIDING JUDGE FREMR: You know, I was just now informed by the court
11 officer that the deadline for us should be, because our tape, which in fact is limiting us,
12 could be 4.35, subject to the approval of the interpreters and type recorders. So do
13 you think you could try to finish by 4.30 if possible? Please try, I think.

14 MR BOUTIN: Yes, yes.

15 PRESIDING JUDGE FREMR: Because it will be probably not very reasonable to
16 keep Mr Witness for ten minutes more.

17 MR BOUTIN: My preference, Mr President, would be to carry on.

18 PRESIDING JUDGE FREMR: Please go ahead.

19 MR BOUTIN: Could you just allow me one minute so I can set up my --

20 PRESIDING JUDGE FREMR: Maybe question to the interpreters and type recorders,
21 I just said "subject to your approval." So would it be rather, you know, a
22 catastrophic scenario, would it be fine with you to continue until half past 4?

23 THE INTERPRETER: Message from the interpreters: I believe that is possible.

24 PRESIDING JUDGE FREMR: Thank you very much. We appreciate it a lot.

25 Mr Boutin, the floor is yours.

1 MR BOUTIN: Thank you, Mr President.

2 PRESIDING JUDGE FREMR: Maybe, Mr Witness, maybe one wish from my part.

3 Your narrative is very, very interesting to us, but please, because we are in some time
4 pressure, try just to limit yourself just on the response exactly answering the question
5 put. Even if, you know, sometimes you add some very interesting fact, but, you
6 know, we are in time constraints. Please keep it into account. Thank you.

7 QUESTIONED BY MR BOUTIN: (Interpretation)

8 Q. Good morning, sir. I am one of the Defence lawyers for Mr Bosco Ntaganda.

9 I do have a few questions for you, some clarification. Now, of course, I read your
10 report. It was very interesting. And you certainly stressed or at the very least you
11 seemed to stress greatly the role of Uganda in the Ituri region; is that correct or am I
12 mistaken?

13 A. Is that a question you're putting to me?

14 Q. Oui.

15 A. Well, you can analyse the -- you must consider that when you analyse the
16 conflict, now it's not just a matter of the Hema population having historical ties to
17 Rwanda. They are related. The same Hema people also live in Rwanda. And I
18 mean, the role is quite clear, the presence of Uganda is absolutely clear, the Ugandan
19 army and also the influence of Museveni in the Congo, in particular in this region.
20 What's more, the presence against Museveni on the part of two movements, NALU
21 (phon) and SPD, I don't remember the exact UAPD, I believe, that were fighting in
22 Uganda. There were a great many deaths in the Bunia area because of Uganda.
23 The children were taken to Uganda, children who had been abducted and
24 transformed into child soldiers. So if you discuss Bunia without discussing Uganda
25 you are giving an entirely one-sided view of the region. That is my reply to you.

1 Q. Now, your report to the Court to the effect that political military groups had
2 political objectives, and you must realise that many people believe that the conflicts in
3 Ituri were only based on ethnicity. If I understand correctly, your position is that the
4 conflicts were based or caused by political considerations and perhaps economic
5 considerations, financial considerations. Would that be correct?

6 A. Counsel, when these conflicts occur, well, if we speak of the Lendu or the Hema,
7 yes, well, the conflict was ethnic in origin; otherwise the fact that you would have a
8 meeting with a community or an ethnic group that has a common culture shared by
9 members of one community and with another ethnic group as well, the Lendu and
10 the Hema told us, all of us, that we, the Hema, or they would say we, the Lendu, we
11 think this, we think that.

12 So it was quite clear. The conflict, which was referred to -- well, the first time I heard
13 the word "Lendu," that was in 1999. And I really didn't attach any particular
14 importance to that word "Lendu" or the word "Hema." The first time I heard the two
15 words together, that was during a conflict that I did not attach much importance to.
16 There was very little talk about it. There were very few wars going on in Congo, but
17 this in actual -- this particular conflict was special.

18 In 1999, I remember putting a footnote in my report, and in each report that followed
19 there was more and more material, more and more information to give. And I
20 realised the conflict was the Lendu versus the Hema, the Hema versus the Lendu, in
21 other words, an ethnic conflict.

22 Q. In your report you mentioned that when you visited -- let me start again. In
23 your report, you said that when you visited Ituri region in March 2001, at that time
24 there was, of course, considerable violence in the region towards local people and a
25 great deal of destruction was committed. And you seem to be suggesting that the

1 Ugandans were mostly, for the most part responsible for these events. I'm referring
2 to page 20, last paragraph of your report, the report that you prepared for the Court.
3 Have I correctly understood what you have been saying?

4 A. Yes, yes, that is what I think. Did I put it in those particular terms? I believe
5 that is the case, but I would prefer to look at my report again. Which page were you
6 mentioning?

7 Q. I believe it is --

8 THE INTERPRETER: Inaudible.

9 MR BOUTIN: (Interpretation)

10 Q. 2086-0606.

11 A. It will take a while for me to find this particular excerpt.

12 Q. Four.

13 THE INTERPRETER: Overlapping speakers.

14 THE WITNESS: (Interpretation) Oh, that is my report?

15 MR BOUTIN: (Interpretation)

16 Q. Yes.

17 A. The paragraph, the page?

18 Q. Page 20, last paragraph, page 20.

19 A. Which part?

20 Q. Well, the paragraph that goes on to page 21, where you mention in your opinion
21 according to the information that you had at the time, and you mention or you give
22 numbers, the number of possible deaths and people displaced, apparently major
23 material harm was also done.

24 So these are things that you were able to conclude after working as the special
25 rapporteur. This is quite a specific conclusion that you've come to?

1 A. Yes. Yes, the fact is each time I give a number, especially numbers like this,
2 15,000 deaths, every time I did that it was based on numerous sources of information.
3 Let me tell you that all information that you get is not necessarily precise. Some
4 people talk about 15,000 deaths, whereas in fact there were 10,000. But these are
5 large numbers nonetheless. So this is a number that was close because it dates back
6 to January -- March 2001 and I was there in January, so you see that corresponds to
7 the suffering that the populations underwent.
8 There were reports presented by NGOs, there was information coming from
9 witnesses; for example, I participated in the events that took place on January 19th.
10 And in a particular a town would say a witness. So, you see, the impression that I
11 had was that people were speaking in good faith. And each time I had to tell them
12 and I did so each and every time. I told those who came to testify that -- well, I
13 asked them if they could confirm what they were saying, or corroborate what they
14 were saying, and I told them that if that was not the case I could not include that
15 information in a report.
16 So I can't deny that there could be a large margin of error, but I did see people who
17 were suffering. I saw prisons that were overflowing, I saw the violence, the verbal
18 violence. I saw all of that.
19 And don't forget that a rapporteur is not a judge, a rapporteur is something else.
20 Slowly, but surely a rapporteur gleans an impression. And of course he could be
21 mistaken, although he of course endeavours not to be mistaken because, of course, if a
22 rapporteur makes frequent mistakes then his mandate will not be renewed.
23 Q. This answer leads me to a question which refers back to a question put to you
24 by my colleague regarding the methodology that you used. You referred to an
25 informal methodology that there were no specific standards that would enable you to

1 evaluate a statement made by someone from one community or another, whether it's
2 the Lendu or another, to verify whether a statement was true or not; is that -- would
3 that be correct to say that?

4 A. Yes. Yes, that risk does exist, but certain numbers have been recognized in
5 history; there were 5 million deaths during the Second World War. Many many
6 Jews died. We know that. Even if the exact figure is not precise, it gives us an
7 order of magnitude. This kind of thing occurs. And the kind of thing that
8 happened to me -- of course, I had to evaluate what I was told with what I had
9 available. I didn't have any agents in the Congo and, even less, I didn't have a
10 representative in Bunia. I didn't have any of that, so how was I to proceed? Well, I
11 had to talk to people here and there, I spoke to lawyers, I spoke to people in religious
12 orders, I spoke to inspectors, I spoke to the governors at the time, I went to prisons, I
13 spoke to military soldiers and slowly but surely, little by little, I developed certain
14 impressions. And that's how one works in this field. I would not condemn anyone
15 saying they've killed 50,000 people or 15,000 people, that's not my task.

16 Q. So as a rapporteur you didn't have a real team, you didn't have the logistics, you
17 didn't have the means to actually confirm, according to what you're saying, the
18 information that was brought to you; in other words, it was up to you to determine on
19 the basis of your experience, on the basis of comparison of the various bits of
20 information you were given, it was up to you to decide what you would accept as
21 truth and what you would reject; is -- in saying that, is that in keeping with basically
22 what you did?

23 A. Yes, but - but - you have to realise how my mission started out, that is the
24 mission that took me to Bunia. It so happens that after the events that occurred on
25 January 19th, the Security Council of the United Nations invited me to New York. It

1 wasn't the Human Rights Commission, it was the Security Council of the UN. And
2 the Security Council told me the following, they said, "Mr Garretón, we trust you.
3 We have information that came to us. We know there have been battles, there's been
4 violence in a region called Bunia. Mr Garretón, we are asking you to organise a
5 mission and to go on site, to organise that mission."

6 It was the Security Council that was to finance that mission. It wasn't the Human
7 Rights Commission. It was the Security Council who sent me on that mission asking
8 me to then return to New York and to hand in a report.

9 They gave us some contextual elements as regards to what had occurred on January
10 19th. They gave us information on the killings, on the violence. So I drafted my
11 report. I spoke with the bishop and the bishop was particularly violent. It was
12 incredible. And I wasn't responding to the Human Rights Commission, no, I was to
13 report to the UN Security Council. And the Security Council believed me. The
14 Security Council believed the information contained in my report.

15 Q. I have no intention to doubt your good faith in the way you proceeded in your
16 inquiry, but basically what I was saying is that as a rapporteur your task was to set
17 faith in information that you could not necessarily verify and it was your decision, it
18 was on your own -- of your own behest that you were to decide which information
19 you would accept as true and which you would reject; is that correct?

20 A. Yes.

21 Q. I believe you mentioned in your report, and here I'm referring to the March
22 27, 2001 report, the most recent report, following your visit to Bunia, mid-March, you
23 mention the fact, this may be somewhat of an anecdote but you mention that in some
24 cases you were shown photographs and both communities, the Hema and the Lendu,
25 showed you photographs the same photographs, saying that this corresponded to

1 massacres that had occurred in their communities, and you set those aside. Do you
2 remember that?

3 A. Yes, I remember perfectly well and I also remember the photographs.

4 Q. So because of the kind of work you were doing you were exposed considerably
5 to manipulation on the part of pressure groups, whether they be ethnic groups, or
6 political groups, or other; is that -- is that correct?

7 A. Indeed, we received information. Of course the governments put pressure on
8 us, they tried to discredit us. Each time I spoke with them -- I never talked to
9 Mr Mobutu, but I did talk to Kabila, as well as the governor of Bunia. And I spoke to
10 other political leaders as well who were amongst the leaders of the DRC.

11 Of course they all deny, all of them deny everything and then they say we're the ones
12 who are lying, but there is a certain level of universal control, if you will. I think that
13 if you take a look at the serious NGOs that work in the field of human rights
14 and -- they all draw the same conclusions and they are serious NGOs.

15 We're not talking here about the opinion of one rapporteur. And it is not a verdict
16 either, it is a report. It is a report that enables one to communicate facts, facts that
17 people live through, facts that we've heard about and facts that need to be known.
18 That's the whole purpose of the work of a rapporteur.

19 Now, if we were to lie, and of course I understand you're not suggesting that I lied,
20 but the fact is were we to present false numbers we would lose our credibility. My
21 credibility has never been objected to.

22 Mobutu, the first time I went to the Congo he objected as well. And Mr Kabila also
23 prevented me from entering the Congo for two years. For two years I couldn't get
24 into the DRC simply because he said I was a liar. And then after two years, well, he
25 invited me to come back again, and he even apologised.

1 THE INTERPRETER: Overlapping speakers.

2 MR BOUTIN: (Interpretation) For the purpose of the transcript, I referred to
3 photographs and this is mentioned under DRC-OTP-2084-0408, in particular
4 paragraph 48 of that document on page 0421 of the previous reference.

5 THE WITNESS: (Interpretation) Could I make a comment, Counsel?

6 MR BOUTIN: (Interpretation)

7 Q. If the Court allows.

8 A. Of course. Well, this reference to photographs shows how transparent I have
9 been. It shows how difficult it is for a rapporteur to obtain perfectly truthful
10 information if some people lie. And when I mention those photographs I indicated
11 very clearly that the information that I had came from sources. I didn't invent that
12 information.

13 Q. Mr Garretón, the purpose of a rapporteur is political in nature, vis-à-vis, the
14 state authorities. It is not as you stated to determine the truth of certain facts that are
15 brought to you. So what one can see in this report is a form of warning to the
16 international community. But the information needs to be independently verified
17 because the information may not be fully precise or correct.

18 A. Yes, that's -- that's correct.

19 MR BOUTIN: (Interpretation) Your Honour, I just have a few additional questions.
20 I should be able to finish in five minutes.

21 PRESIDING JUDGE FREMR: Excellent. Thank you, Mr Boutin.

22 MR BOUTIN:

23 Q. If I understood correctly, your last trip to Bunia took place in March 2001 and,
24 thereafter, as rapporteur you never returned, you never went back to study or analyse
25 the situation in Ituri as a rapporteur after that?

1 A. That's partially true because I did carry out another mission in the DRC, but I
2 did not go to Bunia. I -- the last report I drafted, if I'm not mistaken, and this was the
3 aide-memoire that I had with me, the last report was dated June 2001 and that report
4 was also intended for the UN Security Council, it was a provisional report, and then
5 the following year the report was presented to the Human Rights Commission.

6 So my second to the last visit to the DRC took place in March and at that time I went
7 to Ituri. And the very last trip to the Congo was when I went to Goma, Gbadolite
8 and two or three other towns and of course to Kinshasa and that was in July.

9 Q. Mr Garretón, in your report you refer to several political military groups, either
10 the APC, the MLC, the RCD, and others. Of course those political and military
11 groups are very unstable and there were -- there was dissension, reorganisation.
12 This happened frequently. If I have understood your report, that's basically the
13 conclusion that you drew yourself; is that correct?

14 A. Yes, in particular for the Congolese organisations you had a group called the
15 Interahamwe. They did what they've always done. There was no dissension.
16 That was a bit different in their case. But as regards the others groups, the ones you
17 mentioned, there were political leaders who made use of violence and there was
18 continual dissension.

19 Q. Of course the UPC/FPLC that I'm sure you've heard about before didn't exist in
20 March 2001; is that correct?

21 A. Could you please tell me what those acronyms mean, UPC, is that the Union
22 des patriotes congolais? Is that what you're referring to? I believe that it did
23 already exist. I don't remember precisely, but I believe it did already exist. All you
24 need to do is read my report.

25 You'll find a full list of the various groups, the RCD against Uganda and the others

1 against Rwanda. I don't remember now all the various different conflicts. It's hard
2 to remember.

3 Q. And this is my last question: Your work as rapporteur was to analyse -- was
4 not to analyse each political military group, but to get an overview of the events in
5 Ituri; is that correct?

6 A. Well, you had to know who was violating human rights. I don't earn anything
7 in saying that human rights had been infringed upon. This report would have no
8 purpose if I were to say that in Ituri a particular group carried out certain acts of
9 violence.

10 And in fact, in my report, I distinguished between what occurred between the
11 Congolese army in the areas of the DRC and here it is freedom of expression, freedom
12 of association, political liberties, et cetera, whereas in other areas you had
13 assassination, kidnapping of children, et cetera.

14 Well, there were numerous infringements of human rights that were very serious of
15 course, but in some cases you're not talking about crimes against humanity when
16 you're talking about acts of freedom of speech or religion. But in other regions there
17 were other human rights that were being infringed, the physical integrity, the right to
18 life, et cetera.

19 I remember that in each case of a human right that was infringed you needed to
20 emphasise what made it most characteristic, which human right had been infringed
21 upon.

22 Q. My last question, Mr Garretón, is as follows: It is very difficult, is it not, in this
23 kind of conflict to determine which political military group in particular
24 circumstances is responsible for the acts of violence that had been committed against
25 the civilian population? Would you agree with that statement?

1 A. It may be the case in certain circumstances, but it's not always true. Let me
2 give you an example, a very clear example: The Interahamwe. No one cares
3 whether in the region where they work there is freedom of expression or not.
4 And the same applies to the other groups. Some groups, the Mai Mai, for example,
5 the Mai Mai are violent. The people support them, at least many Congolese support
6 them, and they act in a completely different way from other groups.

7 Q. Thank you very much, Mr Garretón, for that information.

8 MR BOUTIN: Thank you, your Honour, ladies and gentleman. I have finished my
9 cross-examination.

10 PRESIDING JUDGE FREMR: Thank you very much, Mr Boutin, for your effort.

11 Now questions -- no request for re-examination. Allow me to turn to Mr Garretón.

12 Mr Garretón, thank you very much for coming and giving this testimony. It was not
13 only very helpful, but also very, very interesting. Thank you very much and we
14 now wish you a safe trip back home.

15 Court officer, please, could you kindly escort Mr Garretón out of the courtroom.

16 THE WITNESS: (Interpretation) Thank you very much, your Honour. It is
17 probable that I was more talkative than necessary, but you know that when you're
18 used to being a rapporteur on the Congo this is perhaps the second-most important
19 thing that I've ever done. The most important thing was to defend human rights
20 during the dictatorship in Chile and the second most important thing was to work in
21 the field of human rights in the Democratic Republic of the Congo.

22 I am very happy to have been able to contribute to the success of this trial. Thank
23 you very much.

24 (The witness is excused)

25 PRESIDING JUDGE FREMR: So I guess we have maybe five minutes in maximum.

1 So I can just now note that the first evidentiary block is now completed. I recall that
2 we are scheduled to reconvene on 19 October 2015. I know that the Prosecution sent
3 on 18 September by way of email its updated list of the witness it intends to call
4 during the second block.

5 Is there any issue that the parties and participants would like to raise in this
6 connection?

7 Prosecution?

8 MS SOLANO: Nothing from us, your Honour.

9 PRESIDING JUDGE FREMR: No.

10 Defence?

11 MR BOUTIN: No, your Honour. This is our understanding that the list may -- may
12 shift in terms of number of witnesses. I may not be accurate, I was not here this
13 morning, but this is my understanding, so we'll certainly endeavour to discuss with
14 the Prosecution side. Thank you.

15 PRESIDING JUDGE FREMR: Thank you.

16 And Legal Representatives for Victims, any comment?

17 MR SUPRUN: (Interpretation) No comment, your Honour.

18 PRESIDING JUDGE FREMR: Thank you very much.

19 So allow me to thank all of you. I think it was also thanks to your contribution that I
20 hope this first evidentiary had been conducted in a very expeditious, efficient and
21 also dignified manner.

22 I would also like to make special thanks to our interpreters and court reporters for
23 their willingness to stay with us and support us even over their working hours.

24 Thank you very much.

25 Now Court is adjourned.

- 1 THE COURT USHER: All rise.
- 2 (The hearing ends in open session at 4.29 p.m.)