

Trial Hearing
WITNESS: DRC-OTP-P-0010

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
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, 13 November 2015
8 (The hearing starts in open session at 9.38 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: Good morning.
15 The Court is sitting in the situation of the Democratic Republic of Congo in the case of
16 The Prosecutor versus Bosco Ntaganda.
17 PRESIDING JUDGE FREMR: Appearances, please, as usually starting with
18 Prosecution.
19 MS SAMSON: Good morning, Mr President, and your Honours. Appearing for
20 the Prosecution today are Mr James Pace, assistant trial lawyer; Ms Claudine
21 Umurungi, legal assistant; Ms Selam Yirgou, case manager; and myself,
22 Nicole Samson, senior trial lawyer.
23 PRESIDING JUDGE FREMR: Thank you, Ms Samson.
24 Defence, please.
25 MR BOURGON: (Interpretation) Good morning, your Honour. Good morning,

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1 your Honours. To all the people -- and to all people present in the Court.

2 Representing Bosco Ntaganda who is present in an adjacent room to the courtroom

3 accompanied by Margaux Portier, Isabelle Martineau, and Maître William St-Michel,

4 and myself, Stéphane Bourgon. Thank you, your Honour.

5 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

6 Legal Representatives of Victims, please.

7 MS PELLET: (Interpretation) Thank you, your Honour. The former child soldiers

8 are represented by myself, Sarah Pellet, counsel with the OPCV. Thank you.

9 MR SUPRUN: (Interpretation) Good morning, your Honour, your Honours. The

10 victims of the attacks are represented by myself, Dmytro Suprun, counsel with the

11 OPCV.

12 PRESIDING JUDGE FREMR: Thank you, both of you.

13 Now, Ms Witness, I welcome you again today. I hope that you are feeling well; am I

14 right?

15 WITNESS: DRC-OTP-P-0010 (On former oath)

16 (The witness speaks Swahili)

17 THE WITNESS: (Interpretation) Yes.

18 PRESIDING JUDGE FREMR: So we will continue with your testimony. You will

19 be cross-examined by the Defence. And my duty is to remind you that you are still

20 under oath, which means that you have to speak the truth and nothing but the truth.

21 Mr Bourgon, you have the floor.

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

23 QUESTIONED BY MR BOURGON: (Continuing)

24 Q. Good morning, Witness. We are going to continue with a number of questions

25 for clarification that I'd like to put to you this morning. Before beginning, I would,

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1 of course, like to invite you at any time if you are not to feel well in answering any of
2 my questions, either to point it out to me by saying you want me to repeat the
3 question or, if you really don't feel well, ask for a break, and I am convinced that the
4 Bench will grant that request.

5 MR BOURGON: If we can move into private session, Mr President.

6 PRESIDING JUDGE FREMR: All right. Court officer, let's move into private
7 session now.

8 (Private session at 9.42 a.m.)

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10 (Closed session at 11.03 a.m.)
11 (Redacted)
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13 (Redacted)
14 (Redacted)
15 (Open session at 11.04 a.m.)
16 PRESIDING JUDGE FREMR: And for the sake of planning, Mr Bourgon, how far
17 did you get in your scheduling for this witness?
18 MR BOURGON: I have to say, Mr President, that I had planned to get much further
19 in this session. It is going very slow, so I'm not progressing very, very quickly.
20 PRESIDING JUDGE FREMR: So I have just to remind you that our general principle
21 is that you should take the same time like Prosecution. I think at the beginning of
22 this session I think if we would follow this principle you had at your disposal five
23 hours, which means it is minus one and a quarter, it means you still have more than
24 three and a half. Please take it into account, try to organise your examination in a
25 way corresponding to the -- this concrete witness.

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1 And again I reiterate our guidance we give to all parties in our decision.

2 And I also have to stress that it's -- there is no guarantee you will -- you can make a
3 request for additional time to be granted to you, but I can't guarantee that the
4 Chamber will decide positively. So there is always a risk that we can say no. And
5 if you would like to get some additional time, then you should come with some
6 arguments proving that there were some special or extraordinary circumstances that
7 would justify to grant you some additional time.

8 Now we will break and we will continue -- we will continue at 11.35.

9 THE COURT USHER: All rise.

10 (Recess taken at 11.06 a.m.)

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

12 THE COURT USHER: All rise.

13 Please be seated.

14 PRESIDING JUDGE: Mr Bourgon, you may proceed and does it still need to remain
15 in private?

16 MR BOURGON: Indeed, Mr President, it is necessary.

17 PRESIDING JUDGE FREMR: Okay. Then let's move into private session, court
18 officer, please.

19 (Private session at 11.40 a.m.)

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18 (Closed session at 12.55 p.m.)

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22 (Redacted)

23 (Open session at 12.55 p.m.)

24 THE COURT OFFICER: We are in open session, your Honour.

25 PRESIDING JUDGE FREMR: So I understood, Mr Bourgon, you would like to

1 address Chamber first, so please go ahead.

2 MR BOURGON: I will now switch to English.

3 Mr President, at this time I would like to inform the Chamber and make an
4 application for additional time to conduct the cross-examination of Witness P-0010.

5 And in support of this application, I have the following exceptional circumstances to
6 underscore.

7 Firstly, the examination-in-chief of the witness proceeded much quicker than
8 expected, as it was initially scheduled to go on for ten hours. One of the reasons,
9 and probably one of the main reasons why the examination-in-chief of the witness did
10 proceed quicker than expected is due to the constructive approach taken by the
11 Defence and the accused in order to facilitate the proceedings.

12 I believe, Mr President, that we all saw and experienced how slow the Prosecution
13 was progressing before Mr Ntaganda accepted to leave the courtroom and how quick
14 it was after Mr Ntaganda accepted to follow the proceedings outside of the courtroom.
15 This is one exceptional circumstances.

16 The second one is that the examination-in-chief touched upon issues which are not
17 covered in the extensive material of the witness. For example, I refer to the details
18 provided by the witness concerning her alleged participation in the operations in
19 Mongbwalu, which go further than the material, albeit extensive, that we have for
20 Witness P-0010.

21 Another criteria, Mr President, or another exceptional circumstances is that the
22 examination-in-chief did not touch upon significant issues which are in the material
23 which we have for Witness P-0010 and which are directly related to the credibility of
24 the witness. For example, in her statements, her statement of 2005 as well as in her
25 interview of 2008, the witness described attacks, alleged attacks during which she

1 would have taken part along with the accused in Libi, in Mbau, and in Kpandroma.

2 It is our intention, of course, to show that these attacks did not take place during the
3 time that UPC existed, and that all of the incriminating evidence that she unloaded on
4 the accused in respect of these three attacks is a topic that we need to cover during
5 our cross-examination.

6 Another exceptional circumstance, Mr President, refers to the nature of the issues
7 touched upon in this testimony. Evidence of sexual abuse is always a very difficult
8 matter. That being said, it is much easier for the Prosecution to get evidence in chief
9 of an alleged rape than to cover the same in cross-examination.

10 Another exceptional circumstance, Mr President, is the importance attached to this
11 witness by the Prosecution who labelled the witness as an insider.

12 Another exceptional circumstance in our respectful submission is the number of
13 issues established in a general manner which requires to go into much more detail
14 during cross-examination. Allow me to provide, Mr President, one (Redacted)
15 (Redacted)

16 (Redacted) show that this date is wrong and that the witness
17 provided many dates and that she was not the age as she said she was will require
18 significant time.

19 And lastly, Mr President, as an exceptional circumstance is the Chamber did have to
20 intervene because the witness, of course, quite normally is on the defensive and is
21 cooperating much less with the Defence than she was with the Prosecution. And
22 that's normal, but it is an exceptional circumstances in this case and I believe that the
23 Chamber could experience that for itself.

24 For all these reasons, Mr President, we do require additional time to conduct the
25 cross-examination of this witness. We now have -- I guess we have a little more of

1 two hours left or thereabouts.

2 PRESIDING JUDGE FREMR: Two hours 40 minutes you still have at your disposal
3 roughly.

4 MR BOURGON: Two hours and 40 or 1-4?

5 PRESIDING JUDGE FREMR: 40, 4-0, yes.

6 MR BOURGON: Two hours and 40. And it is our submission, Mr President, that
7 we will need the first two sessions of Monday, which will not be very much more
8 than the two hours and 40 that we have left, but I think for planning purposes and for
9 me to curtail my cross-examination accordingly, I would like to have the first two
10 sessions of Monday morning and I would complete my cross-examination by then.
11 Those are my submissions, Mr President. Thank you.

12 PRESIDING JUDGE FREMR: First of all, I would like to thank you that you really
13 present your submission in an exemplary way. It's just for the future of this case I
14 would like if there will be any case for any party to ask for additional time, it should
15 look like like just Mr Bourgon made it. He came with the estimation of time he
16 needed more, he also came with reasons and he also specified what further area he
17 would like to touch in his further examination.

18 But I am not saying that we will grant this request. It will be an issue for our
19 consideration; but to be -- to be open, the reason why I, in fact, interrupted you was
20 there also was some concern expressed, according to our information, by witness to
21 VWU because she would prefer to finish today.

22 It was even under consideration of the Chamber to think about maybe to sacrifice part
23 of the lunch-break and maybe to add one session in the late afternoon but because
24 even myself, I will need maybe 15 or 20 minutes to put some additional questions to
25 the witness, it also makes some additional time.

1 And I will also ask Ms Samson her position and also I note it's rather premature
2 whether she expects some time needed for the Prosecution for examination.

3 MS SAMSON: Thank you, Mr President. In this particular case, of course, the
4 witness is quite vulnerable, but the Prosecution does not oppose, in principle, the
5 Defence's request for extra time.

6 It's unlikely that, in any event, that we were going to conclude today. Even with the
7 amount of time that the Defence had at its disposal, it was unlikely to finish today,
8 and there won't be much of an impact to our schedule to allow the morning sessions.
9 I simply note that the ten hours that we have set out is an estimate. Sometimes we
10 reach it, of course sometimes witnesses don't take that much time. And we've made
11 the same estimate for all of the witnesses that we have put forward as being part of
12 the UPC, so it's the same for all. And really that's it. The Prosecution doesn't
13 oppose the request so long as the questions are kept not duplicative or, you know, in
14 any way harassing; but otherwise, we don't have an objection.

15 And in relation to re-examination, I will ask for re-examination, but I will -- it will be
16 very limited at this point, perhaps 15 minutes. Thank you.

17 PRESIDING JUDGE FREMR: Thank you. And I would like, just so there is no
18 criticism from the part of the Chamber as concerns your estimation, it was pretty fair.

19 Ms Pellet, do you want to make any comment on this issue concerning your client?

20 MS PELLET: (Interpretation) Thank you, your Honour.

21 No, I don't have any observation to make concerning this matter, other than recalling
22 what you have already recalled yourself; in other words, that I think the witness is
23 extremely worried at the prospect of having to stay on longer than the end of the
24 session today, but that is something you've already reminded us of, your Honour.

25 PRESIDING JUDGE FREMR: So, for the moment, I can say that we certainly give up

1 the idea to think about some -- to sitting -- to be sitting in extended hours because
2 even as Ms Samson said, we have no chance even if keeping the classical approach,
3 the same time for Prosecution, same time for Defence, we would have no chance to
4 finish this testimony today. So we will just now break, and we will continue from
5 2.30 at the classical style until 4 o'clock, and then we will continue on Monday.

6 As concerns a request made by Mr Bourgon, we will decide at the end of the
7 afternoon session that we will just specify because, anyway, we will still have to
8 continue on Monday. So we will, at the end of this session -- the afternoon session
9 decide whether there will be any additional time granted to Defence.

10 So now we break, and we will reconvene in half past 2.

11 THE COURT USHER: All rise.

12 (Recess taken at 1.08 p.m.)

13 (Upon resuming in open session at 2.37 p.m.)

14 THE COURT USHER: All rise.

15 Please be seated.

16 PRESIDING JUDGE FREMR: Good afternoon. We will continue with
17 cross-examination of Witness P-10. We will, as we already announced, we will sit in
18 the normal hours, which means we will finish at 4 o'clock.

19 And before leaving for weekend we will also pronounce our ruling on Defence
20 request on granting some additional time for cross-examination.

21 Now, Mr Bourgon, you may proceed.

22 MR BOURGON: (Interpretation) Thank you, your Honour. I think that we're in
23 open session. That's what I want.

24 Q. Good afternoon, Witness.

25 A. Good afternoon.

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1 Q. So I've got a last question to put to you on the subject we were talking about
2 before the break.

3 A. I haven't understood.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. Yes.

9 Q. Could you confirm that during when -- when you met the representative of the
10 Office of the Prosecutor in 2005 and you gave your statement, you had the
11 opportunity to speak with the investigators about sexual violence which was inflicted
12 upon you; is that correct?

13 A. Please could you ask your question again. I haven't understood it well.

14 Q. I will ask it again.

15 Your Honour, it's preferable to go into private session, if you'd be so kind.

16 PRESIDING JUDGE FREMR: Certainly.

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

18 (Private session at 2.42 p.m.)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 19 (Open session at 2.45 p.m.)
- 20 THE COURT OFFICER: We are in open session, your Honour.
- 21 PRESIDING JUDGE FREMR: Thank you.
- 22 You may proceed, Mr Bourgon.
- 23 MR BOURGON: (Interpretation) Thank you, your Honour.
- 24 Q. Witness, during your testimony the Prosecutor asked you where you went to
- 25 fight after your training in Rwampara. Do you remember that question?

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1 A. Yes.

2 Q. Your answer on that occasion was as follows, this is my translation, I've got the
3 transcript in English, "I can no longer remember the name of the village." Is that -- is
4 that still the case?

5 A. Yes.

6 Q. I would like to point out your statement of 12 October 2005 with a view to
7 refreshing your memory -- 3 October 2005, and this is the statement, the number of
8 which has already been given, it is statement of 3 October 2005, 0126-0122 is the
9 reference number.

10 Witness, I'm going to read part of this statement; namely, paragraph 41 thereof. I'm
11 going to read the first lines of the paragraph only. The title above it is as follows
12 about active participation in the fighting in Libi, Mbau and Kpandroma, and
13 paragraph 41 is as follows: "As I previously mentioned, at the end of the military
14 training, the chief of general staff, Bosco, provided us with uniforms which were
15 green, which we called taches-taches, as well as a beret of the same colour." Do you
16 remember that and do you confirm this statement?

17 A. Yes.

18 Q. I would now like to read a part of your interview with the Office of the
19 Prosecutor, the 17 January 2008, and this is document 0188-0204, and lines 456 to 464.
20 I will read the text for you.

21 The interpreters, the text is in English. So line 456 -- (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. Well, my question is rather addressed to whether immediately after your
16 training in Rwampara you went to fight with Bosco Ntaganda?

17 A. Yes, he was the commander of operations.

18 Q. So I would like to ask you if you remember having participated in fighting in
19 Libi. Do you remember that?

20 A. Yes.

21 Q. Do you remember having participated in fighting in Mbau?

22 A. Yes.

23 Q. Do you remember also having participated in fighting in Kpandroma?

24 A. Yes.

25 Q. And this fighting took place immediately after your training in Rwampara, did

1 it not?

2 A. Yes.

3 Q. So I would now like to read part of your statement of 3 October 2005. I've
4 already given the number. And I'm going to read part of paragraph 41. In
5 paragraph 41, the following is stated:

6 "Without giving a lot of details, Bosco ordered us to get into three lorries which had
7 arrived with him, and he informed us that we were going to go in the direction of the
8 village of Libi, in the territory of Djugu, which traditionally belonged to the Lendu
9 ethnic group."

10 Do you confirm that?

11 A. Yes.

12 Q. I will continue to read part of the paragraph 43: "Before arriving in Libi, the
13 convoy made a first stop near the village of Kparangaza." And I'm going spell the
14 word so there's no confusion, K-P-A-R-A-N-G-A-Z-A. Do you confirm this first
15 raid on Kparangaza?

16 A. We didn't go on the Kparangaza road unless there's an error.

17 Q. To the best of my knowledge, that's not in the paragraph where you made
18 corrections to. I'm going to read the paragraph to you again. This is paragraph 43.
19 "Before arriving in Libi, the convoy made a first stop at the village of Kparangaza
20 where only the commanders descended from their vehicles without informing us of
21 the reason why."

22 Do you confirm that fact?

23 A. I do not remember at all.

24 Q. I'm, therefore, going to continue with another paragraph in the hope of
25 refreshing your memory.

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1 Still in paragraph 43 it is stated --

2 PRESIDING JUDGE FREMR: You still stay safely in open session because you know
3 the question you will put?

4 MR BOURGON: (Interpretation) I think yes, your Honour. I don't think yet
5 there's identifying material. But I will remain vigilant, and my colleagues will let me
6 know if something needs to be done.

7 PRESIDING JUDGE FREMR: Then proceed. Okay.

8 MR BOURGON: (Interpretation)

9 Q. I will now read this paragraph. "So a short time afterwards, we continued to
10 the village Largu, situated about 20 kilometres from Libi, where around 2000 hours
11 we made our second stop and ate."

12 Do you confirm these words?

13 A. Please, would you be so kind as to ask the question again? I haven't
14 understood well.

15 Q. Of course. The exercise I'm carrying out, what I am doing is I'm just reading
16 extracts from your statement, and I'm asking you if you still agree with the content,
17 but you can change anything. I just want to know if you still keep to what was
18 stated in the statement.

19 So I'm now going to read the sentence again. Now that is in paragraph 43. "A short
20 time afterwards we continued to the village of Largu, which is situated almost 20
21 kilometres from Libi where towards 8 o'clock in the evening we made our second
22 stop and we ate."

23 Do you confirm this fact?

24 A. I do not recall at all.

25 Q. Maybe the next sentence will help you because it confirms the attack in which

1 you claim you took part. I shall gloss over a sentence that I shall return to at a later
2 stage, and I shall continue with the words "Very early on the next morning we left,
3 and near Libi we fell into an ambush, a Lendu ambush," end of quote.

4 Do you recall having left very early in the morning and close to Libi having fallen into
5 a Lendu ambush? Do you remember that?

6 A. Yes.

7 Q. And at paragraph 44, the following paragraph of the statement, you explain that
8 there were -- there was fighting against the Lendu and that you managed to win the
9 battle against the enemy. Does that correspond to your recollection?

10 A. Where was that? I don't understand.

11 Q. I was talking about the attack in Libi, and you confirmed that you fell into a
12 Lendu ambush in Libi. And then in the next paragraph, you talk about the fighting
13 that occurred in Libi, and you explain that this fighting involved Lendu combatants;
14 is that the case?

15 A. Yes.

16 Q. And you say that you were victorious against the Lendu enemy; did you not?

17 A. Yes.

18 Q. And this operation occurred under the leadership of Bosco, who was in charge
19 of operations; is that not the case?

20 A. Yes.

21 Q. I'm going to move to paragraph 46 of your statement or, rather, paragraph 45
22 where you say, and I quote, "Having been victorious against the enemy, we set up in
23 Libi, and we remained there for nearly a week," end of quote.

24 Do you confirm that after the attack in Libi, you remained for approximately one
25 week there?

1 A. I no longer recall this event.

2 Q. So I'm going to move on to the next order, the next step. And in the following
3 paragraph it is said as follows: "At the end of a week, Commander Bosco ordered us
4 to leave, but without telling us in which direction, so we got into the three lorries,
5 which had brought us there, and we left leaving a company behind us," end of quote.
6 Now, according to your recollection and having perused your statement again last
7 week, you confirm that in Libi gave -- Bosco gave orders for us to get into the -- for
8 you to get into the three lorries and leave, leaving a company behind you. Do you
9 remember that?

10 A. I no longer recall.

11 Q. But you do remember the attack upon Libi, do you not?

12 A. Yes.

13 Q. And do you recall that the next attack after Libi occurred in Mbau? And I do
14 apologise for my pronunciation.

15 A. Yes.

16 Q. So in your statement at paragraph 47, you provided a description of what
17 occurred in Mbau. And I shall read part of this statement to you in order to
18 ascertain whether this corresponds to your recollection. "Night fell before we were
19 able to reach Mbau, and Commander Bosco and Salumu Mulenda decided to stop
20 and wait until the next day before moving forward," end of quote.

21 Do you remember having arrived in Mbau the night before and having waited a day
22 before continuing?

23 A. I do not quite understand. Could you please repeat?

24 Q. Yes, indeed. I shall go step by step and sentence by sentence for you to know
25 what I'm talking about.

1 You will recall that there was an attack in Mbau, M-B-A-U, after the attack on Libi; do
2 you not?

3 A. Yes.

4 Q. And during this attack, in this paragraph you provide us with a description of
5 what you did upon your arrival in the village, notably when entering the village, that
6 is, that you positioned some heavy weaponry before the beginning of the attack. Do
7 you remember that?

8 A. Yes.

9 Q. At the end of the paragraph you say, "As soon as we took up our combat
10 positions, Bosco, in person, opened fire with a saba saba," end of quote.
11 Do you remember this?

12 A. Yes.

13 THE INTERPRETER: Message from the English booth. Can counsel please indicate
14 which paragraph he is quoting from rather than just saying "in that paragraph"?

15 MR BOURGON: (Interpretation)

16 Q. And during this statement you say during the attack that you were wounded.
17 Do you recall that?

18 A. Yes.

19 Q. I was referring to paragraph 48 of the statement dated 3 October 2005.
20 Then in paragraph 49 you say -- and I shall see whether this truly corresponds to the
21 situation or to your recollection. You say that, quote, "As a soldier, I was transported
22 to the infirmary that had been set up in a large house, and I was given treatment by a
23 military doctor by the name of Mwindo."

24 And I shall spell this for the record: Mike, whiskey, India, November, delta, Oscar;
25 Mwindo. He, first of all, extracted the projectile from my leg, and then he sutured

1 the wound. The doctor was also wearing military garb. I received antibiotic
2 treatment for nearly 2 months before going back, before returning to the battlefield,"
3 end of quote. Does this correspond to your recollection of your statement?

4 A. Yes.

5 Q. And I do believe that you are in a position to confirm that during your
6 convalescence of two months there -- I do apologise. I do withdraw this question,
7 Mr President.

8 But you are in a position to confirm that during the attack where you were wounded,
9 you were not victorious in the sense that you were forced to withdraw. Do you
10 remember that?

11 A. Yes.

12 Q. And my next question is that during your convalescence, that is to say, during
13 the two months during which you were wounded, you know that there was a second
14 attempt, a second attack on Mbau; is that not correct?

15 A. Yes.

16 Q. And that contrary to the first attack, the second attempt was victorious, that
17 means to say that you won?

18 A. Could you repeat that, please? I didn't really understand.

19 Q. I'm sorry, Witness, I shall go a little bit more slowly. Now, during your
20 convalescence, Bosco Ntaganda according to your statement allegedly launched a
21 second attack upon Mbau. Do you know that?

22 A. Yes.

23 Q. And according to your statement, this second attack, well, Bosco Ntaganda and
24 his troops were victorious on that occasion. That is reflected in your testimony, is it
25 not?

1 A. I do not quite understand. Could you please repeat? When you're talking
2 about the victory, I don't understand.

3 Q. Very well. This second attack on Mbau, did you take part in this attack?

4 A. I was not present. I was in a hospital.

5 Q. And were you informed of the outcome of the attack?

6 A. They told me that they lost.

7 Q. I'm just going to read an excerpt to you to avoid any confusion regarding the
8 result. At paragraph 59 -- I apologise, 49, it is said, quote, "I do not have any more
9 details on this large subject," and we'll see what this is at a later stage, but you said,
10 "however, I did learn that Commander Bosco did succeed in taking Mbau on his
11 second attempt."

12 Does this remind you of who won that second attempted attack on Mbau?

13 A. They didn't win the battle at Mbau.

14 Q. Very well. So I shall merely take note of the fact that at paragraph 50 of your
15 statement you are changing your testimony to the effect that the second battle in
16 Mbau was also lost; is that correct, to the best of your recollection?

17 A. Yes.

18 Q. Madam Witness, please allow me to read an excerpt from your interview with
19 the Office of the Prosecutor in 2008. The number is as follows, 0188-0227, and I will
20 read from line 704, which deals directly with the attack or the second attack on Mbau.
21 For the interpreters, I'm going to be reading this in English. This is just a little short
22 sentence.

23 (Speaks English) "I heard he was beaten."

24 (Interpretation) So this confirms what you just told me; namely, that according to
25 you, the second attack on Mbau was a defeat for Bosco Ntaganda, it was a defeat for

1 Bosco Ntaganda.

2 So I shall be moving on to my next question, Madam Witness. Earlier on we talked
3 about an attack in Libi, we talked about two attacks in Mbau, and there's the third
4 attack in Kpandroma. Did you take part in this attack in Kpandroma, that is to say
5 the attack that took place after that in Mbau?

6 A. There was no conflict or clashes in Kpandroma.

7 Q. But you do recall the event? And I shall be reading part of your statement to
8 you, notably that dated 3 October 2005, paragraph 51. It is said as follows, quote,
9 "At the first shells that were -- upon the first shells launched upon the village, there
10 was no response on the part of the Lendus and, quite to the contrary, to our great
11 surprise, they had managed to tune into the UPC radio frequencies and infiltrate
12 them in order to contact Commander Bosco and beg him not to attack." End of
13 quote.

14 Now this comes from your statement. Can you confirm this?

15 A. Please repeat so that I can understand you.

16 Q. Certainly. You said a few moments ago that there were no clashes or no
17 fighting in Kpandroma, did you not?

18 A. Yes.

19 Q. And I have just read to you a small excerpt from your statement which seems to
20 confirm that there was no fighting. And my question is whether what you stated in
21 this statement corresponds to your recollection of events. So maybe we should start
22 with something simple: Do you remember that the Lendus did not respond to the
23 shelling? Could you explain to us precisely what a shell is? What is a shell?

24 A. Yes.

25 Q. What is a shell?

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1 A. Well, there are many types of bombs. There are the RPGs.

2 Q. And have you already fired any mortars?

3 A. No.

4 Q. And concerning your recollection of events, do you recall that the Lendus had
5 managed to tap into the UPC radio frequencies and that they wanted to enter into
6 contact with Bosco? Do you recall these events?

7 A. Yes.

8 Q. So I shall be moving on to a slightly different topic, but I shall be returning to
9 these three attacks in question. And I would like at this juncture to refer to a
10 document that was disclosed to us by the Prosecution.

11 And in order to do this I would like to go into private session, please, Mr President.

12 PRESIDING JUDGE FREMR: All right. Let's move into private session, court
13 officer, please.

14 (Private session at 3.21 p.m.)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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19 (Redacted)

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- 13 (Redacted)
- 14 (Open session at 3.47 p.m.)
- 15 THE COURT OFFICER: We're in open session, your Honour.
- 16 PRESIDING JUDGE FREMR: Thank you. You may proceed, Mr Bourgon.
- 17 MR BOURGON: (Interpretation) Thank you very much, your Honour.
- 18 Q. Witness, you remember having testified on the subject of songs, songs that you
- 19 sang when you said that you were a member of the UPC?
- 20 A. Yes.
- 21 Q. You explained to us that the aim of these songs was linked to the morale when
- 22 going into the fight, was it not?
- 23 A. Yes.
- 24 Q. So I would like to go back to the words of one of these songs, and I'm on the
- 25 transcript, transcript T-47, page 48, lines 20 to 25. I've got the English transcript.

1 I'm sorry, interpreters, I shall now switch into English.

2 Line 20: "Misfortune. In French" -- (Interpretation) There is a word that I don't
3 understand.

4 (Speaks English) "Misfortune. Vaginas and penises have committed an error.

5 They have a child. The child then had difficulties, and we continued to shoot night

6 and day. They went up into the bush. In Bunia we sought work and didn't find

7 any. Mimi, why do I have to marry a military -- a female soldier ...? If I marry her,

8 where will I take her? Mimi, why must I marry a PMF? If I marry her, what will I

9 do with her?"

10 (Interpretation) So I've got a couple of questions to put to you concerning this text.

11 According to the information we have, this song was never sung within the UPC.

12 Are you in agreement with that?

13 A. That's not true. What song are you speaking about which was not sung in the

14 UPC?

15 Q. That's the song I was just reading the words of. This song, well, I don't have to

16 repeat my question, you answered it, but it was never sung in the UPC. Do you

17 agree with that or not?

18 A. I don't agree with you.

19 Q. And my last question for today is as follows: In fact this song, Witness, it was

20 sung within the APC when you were a member of the APC. Do you agree with that?

21 A. I have just told you I was never an APC soldier.

22 Q. Thank you, Witness, for having answered my questions. I will have a few

23 more questions to put to you on Monday morning. I am very grateful for you to

24 having answered my questions.

25 MR BOURGON: No further questions, your Honour, for the moment, that is.

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1 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

2 Before we break I would like to provide the witness with some guidance, but for that
3 purpose I -- we have to go into private session.

4 Court officer, please.

5 (Private session at 3.52 p.m.)

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10 (Redacted)

11 (Redacted)

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16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0010

(Closed Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Closed session at 3.55 p.m.)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Open session at 3.56 p.m.)

8 THE COURT OFFICER: We are in open session, your Honour.

9 PRESIDING JUDGE FREMR: So before we break, we have to solve issue of the
10 Monday's schedule. According my information, Defence so far used 5 hours and 1
11 minute, which means that you still are in accordance with our principles entitled for
12 first morning session, but we are aware that you made a submission to get one session
13 more. So is there any reason to change this submission, or are you insisting on that,
14 Mr Bourgon?

15 MR BOURGON: Yes, Mr President, we are insisting on that second session in order
16 to finish. Thank you.

17 PRESIDING JUDGE FREMR: Prosecution did not object. Any change of position,
18 no?

19 MS SAMSON: No.

20 PRESIDING JUDGE FREMR: So give me a second.

21 (Trial Chamber confers)

22 PRESIDING JUDGE FREMR: After silent deliberation within the courtroom, the
23 Chamber decides that the submission or the request is granted, which means that the
24 Defence has to finish its cross-examination by the end of the second morning session;
25 in other words, by 1 o'clock. Very short reasoning, we in effect accepted most of the

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1 reasons presented by Mr Bourgon. It is true that there were probably -- it will be still
2 some delicate areas attached during the testimony that requires really special
3 treatment of the witness. We all witnessed that it is not easy to question this witness,
4 that really it requires putting special, very simple questions, sometimes the witness,
5 even all parties were informed about this, but she was not able to understand.
6 Simply there were some issues that in our eyes really are giving justification for
7 granting this request.

8 So we granted this. And it means that we will continue on Monday. And the
9 afternoon session is going to be devoted to the questions from the Chamber for
10 re-examination-in-chief as has been indicated by Ms Samson and hypothetically also
11 for re-cross, if any.

12 So we break now and we will reconvene on Monday, 9.30.

13 THE COURT USHER: All rise.

14 (The hearing ends in open session at 4.00 p.m.)