

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 Thursday, 28 April 2016
8 (The hearing starts in open session at 9.32 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: The situation in the Democratic Republic of the Congo, in
15 the case of The Prosecutor versus Bosco Ntaganda, case reference ICC-01/04-02/06.
16 We are in open session.
17 PRESIDING JUDGE FREMR: Thank you.
18 Now as usual appearances starting with Prosecution.
19 MR IVERSON: Good morning, your Honours. Appearing today for the Office of
20 the Prosecutor we have Marion Rabanit, associate trial lawyer; Rens van der Werf,
21 assistant trial lawyer; Claudine Umurungi, legal assistant; Selam Yirgou, case
22 manager; and myself, Eric Iverson, trial lawyer.
23 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.
24 Defence, please.
25 MR BOURGON: (Interpretation) Good morning, your Honours. Good morning

1 to everyone in the courtroom. Representing Bosco Ntaganda, who is present this
2 morning, we have Erik Cookson-Montin, Margaux Portier, Dignité Bwiza and myself,
3 Stéphane Bourgon. Thank you, your Honour.

4 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

5 Legal Representatives of Victims now, please.

6 MS PELLET: (Interpretation) Thank you. Former child soldiers are represented
7 by Mohamed Abdou and myself, Sarah Pellet, counsel OPCV. Thank you.

8 MR SUPRUN: (Interpretation) Good morning, your Honours. The victims of the
9 attacks are represented by the OPCV, Anne Grabowski, associate counsel, and myself,
10 Dmytro Suprun, counsel.

11 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you Mr Suprun.

12 And at the end duty counsel, please.

13 MR RAIMONDO: Thank you. Good morning, your Honours. Fabián
14 Raimondo, the legal adviser to the witness pursuant to Rule 74. Thank you.

15 PRESIDING JUDGE FREMR: Thank you, Mr Raimondo.

16 Mr Witness, good morning.

17 WITNESS: DRC-OTP-P-0907 (On former oath)

18 (The witness speaks Swahili)

19 THE WITNESS: Jambo sana.

20 PRESIDING JUDGE FREMR: How are you doing today? Are you feeling well?

21 THE WITNESS: (Interpretation) I'm feeling well.

22 PRESIDING JUDGE FREMR: Good. So we will continue with your
23 cross-examination conducted by Defence. And again it's my duty to remind that
24 you are still under oath, so you have to speak the truth and nothing but the truth.

25 Do you understand?

1 THE WITNESS: (Interpretation) Yes.

2 PRESIDING JUDGE FREMR: Very well.

3 So, Mr Bourgon, I guess it will be you. You have the floor.

4 MR BOURGON: Thank you, Mr President.

5 QUESTIONED BY MR BOURGON: (Continuing)

6 Q. Good morning, Mr Witness.

7 A. Good morning.

8 Q. Your cross-examination began two days ago, and we started without myself
9 introducing myself, so I apologise for that. My name is Stéphane Bourgon. I'm a
10 lawyer from Canada, and I'm here with members of my team, and together we
11 represent the accused in this case, Afande Bosco Ntaganda.

12 I'd like to begin by asking you whether you recall that you and I met in the
13 Democratic Republic of Congo some time ago. Do you recall this?

14 PRESIDING JUDGE FREMR: Mr Bourgon, I didn't put to you the common question,
15 but I guess we will have to start in private session depending on the character of
16 questions you are intending to put.

17 MR BOURGON: Well, the fact that I would have met with the witness, Mr President,
18 I think can stay in public session, and as soon as I -- if I see that we are about to reveal
19 any information that could identify the witness, then I will immediately move back
20 into private session.

21 PRESIDING JUDGE FREMR: Mr Iverson?

22 MR IVERSON: I would ask that we move into private session and I can explain why
23 in private session, Mr President.

24 PRESIDING JUDGE FREMR: All right. Let's move into private session.

25 (Private session at 9.37 a.m.)

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- 23 (Recess taken at 9.50 a.m.)
- 24 (Upon resuming in open session at 10.06 a.m.)
- 25 THE COURT USHER: All rise.

1 Please be seated.

2 PRESIDING JUDGE FREMR: At the moment we are in open session, but just to
3 inform public that we had to solve some technical issues, and we will again move into
4 private session because this witness is a protected witness. His identity shouldn't be
5 revealed, and there is a great likelihood we will spend most of the time with this
6 witness in private session.

7 So now let's move into private session, please.

8 (Private session at 10.08 a.m.)

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15 (Open session at 10.58 a.m.)
16 THE COURT OFFICER: We are in open session, Mr President.
17 PRESIDING JUDGE FREMR: Thank you, court officer.
18 Mr Bourgon, please proceed.
19 MR BOURGON: Thank you, Mr President. Mr President, in terms of scheduling,
20 are we following the same schedule stopping at 11 or -- I'm just looking for guidance.
21 PRESIDING JUDGE FREMR: We should finish at 11, but if you need, for example,
22 5 minutes, it would still be fine. We can then shift break accordingly.
23 MR BOURGON: Then just one or two questions and then --
24 PRESIDING JUDGE FREMR: Okay. It will be fine.
25 MR BOURGON:

1 Q. Sir, in your last answer you agreed that the fighting was particularly brutal.
2 I would even suggest to you that at that time, we're talking 1999, there were just no
3 limit on what people would do to each other on all sides; would you agree with that?

4 A. I told you, I didn't participate in the war in '99, but I heard that this war was
5 brutal, this war which was going on with the Lendu, Lendu-Pitsi. This is the
6 information that we received. We weren't eyewitnesses thereof.

7 Q. And, sir, based on the information which you received, did that include the fact
8 that villages would simply attack each other and just burn and destroy everything?
9 Did you get that information to this effect?

10 A. You're speaking about where, Walendu-Pitsi?

11 Q. Indeed 1999, the information which you said you received.

12 A. So we heard that people were killing each other with machetes on both sides.
13 They were burning each other's houses. Well, you know how it goes on during war.
14 We heard about that.

15 Q. Thank you, sir. I'll just -- I think I'll stop here and when we come back, we will
16 continue talking about the period '99, 2002 when you are living in -- well, the
17 period -- I withdraw -- where you were living.

18 MR BOURGON: Thank you, Mr President.

19 PRESIDING JUDGE FREMR: Very well done, Mr Bourgon.

20 So now we break and we will reconvene half past 11.

21 THE COURT USHER: All rise.

22 (Recess taken at 11.01 a.m.)

23 (Upon resuming in open session at 11.32 a.m.)

24 THE COURT USHER: All rise.

25 Please be seated.

1 PRESIDING JUDGE FREMR: So we will continue with cross-examination of

2 Witness 907 by the Defence. We are at the moment in open session.

3 Mr Bourgon, do you require open or private session for your questioning?

4 MR BOURGON: I would like to go briefly into private session, Mr President.

5 PRESIDING JUDGE FREMR: All right.

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

7 (Private session at 11.33 a.m.)

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9 (Open session at 11.41 a.m.)

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

11 PRESIDING JUDGE FREMR: Thank you, court officer.

12 Mr Bourgon, you may proceed.

13 MR BOURGON: Thank you, Mr President.

14 Q. Sir, the -- in the period after 1999 and as we get closer to 2002, I'd like you -- to
15 know if you are familiar with the existence of a group called RCD-K/ML. Are you
16 familiar with that group?

17 A. Yes, I know that group very well. That's a group of Mbusa Nyamwisi called
18 the APC.

19 Q. Well, would I be right in saying that RCD-K/ML is the political movement and
20 APC is the military branch of that movement, that would be a fair statement?

21 A. That's the way it is.

22 Q. So when, to the best of your recollection, did the RCD-K/ML arrive in Ituri and
23 more specifically in the Walendu-Djatsi area if you know?

24 A. I know that in 1997, 1998 it was the AFDL. And after this period, it was the
25 RCD of Wamba Dia Wamba, which we called RCD-Wamba. And it was -- it was in

1 1999, towards 2000 that the APC arrived. In 2000, because between the AFDL and
2 the APC there was a movement which came, that was the RCD Wamba Dia Wamba
3 because when Wamba was defeated, Mbusa arrived with his movement, the APC,
4 and the this movement became established from 2000 to 2002. And then Lompondo
5 arrived. I don't know if he was a member of the APC. But that's the chronology of
6 events.

7 So in '97/'98 we're talking about the AFDL and then RDC of Wamba Dia Wamba and
8 then 2002 the APC. 2002 Lompondo arrived, he was from the APC.

9 Q. Thank you, sir. What I'm interested in at this time is that when the RCD-K/ML
10 first arrived or established itself, would you agree with me that initially they certainly
11 wanted to establish peace in Ituri? Would you agree with that?

12 A. Are you speaking about the RCD of Wamba or Mbusa.

13 Q. Well, in fact, I'm talking about the RCD when we are both together, and it's the
14 RCD-K/ML. Would you agree that this political movement, that they're platform of
15 course was to reestablish peace in Ituri.

16 A. When I was a civilian I saw them arrive. They occupied the territory, and they
17 drove away AFDL forces and they took over the whole of Ituri. And when they
18 were there, there was peace.

19 Q. Now, that's exactly the period I'm talking about. However, I'd like you to
20 confirm that you know as a member of the Bahema ethnic group that soon the
21 RCD-K/ML and its APC started attacking the Hema ethnic groups and the villages.
22 Would you agree with that?

23 A. I know that the RCD-K/ML attacked the Hema and that was in 2002 when they
24 fled Mongbwalu. And we were told that the APC were involved in this conflict.
25 And they were threatening the Hema. And we were told toward -- to flee

1 towards -- not towards the military camp but towards Bunia. That's what I had
2 learnt in 2002 before leaving Mongbwalu. It was said that the APC was complicit in
3 the conflict against the Hema.

4 Q. We will, sir, be looking at information that is more specific to the Mongbwalu
5 area later. For now I'd like to address the period shortly before 2002 and simply ask
6 you that whether you are familiar that the members of the Hema ethnic group created
7 what is known as comité de paix, in various villages; are you aware of that?

8 A. Yes, I heard people speak of that.

9 Q. And I take it you are familiar with the that fact the comité de paix, they were
10 headed and run by the elders and the wise men of the villages? You're familiar with
11 that, are you not?

12 A. Yes, I was aware of that.

13 Q. And I take it you're familiar also with the fact that the comité de paix in the
14 Hema villages relied on the young people in the village to defend themselves as well
15 as to counter-attack over villages who attacked them. Are you familiar with that?

16 A. I was in Mongbwalu and in Mongbwalu there weren't Hema committees, but I
17 heard people speak about such types of organisations, that this type of organisation
18 started in Bunia.

19 Q. The fact that you mention Mongbwalu, can you confirm that of course
20 traditionally Mongbwalu was occupied by many ethnic groups, one of the most
21 important being the Hemas; do you agree with this statement?

22 A. Yes, I know that the majority of people living in that place were Lendu.

23 Q. Let's take a look, Mr Witness, simply at the date or the period we're talking
24 about. Your last answer was "the majority of people living in that place were
25 Lendu." What period are you referring to?

1 A. I'm speaking about the period when I was in Mongbwalu from '98 to 2002. At
2 that time there were three main ethnic groups, Lendu, Hema and Banyali. They
3 were the people who lived in that place.

4 Q. And, sir, would you agree, as time progressed during the period you are
5 referring to, more and more Lendus arrive in Mongbwalu and they establish control
6 over Mongbwalu; would you agree with that?

7 A. Could you retake your question, please?

8 Q. Yes, I will. In your previous answer you were referring to the period '98 to
9 2002 and you mention that there were three main ethnic groups, one of which was the
10 Lendus. My question refers to: As time evolved during that period, I'm suggesting
11 to you that more or more Lendus arrived in Mongbwalu and that they established
12 control over the city. Are you familiar with that?

13 A. We heard that the Lendu were infiltrating and that there was intense fighting,
14 but personally I didn't see the Lendu infiltrating. That's information which we
15 received from other people.

16 Q. Sir, will you agree with me that traditionally the merchants or the business
17 people in Mongbwalu were from the Hema ethnic group?

18 A. Yes, I agree with you. The majority were Hema.

19 Q. And would you agree that the merchant or the business people of the Hema
20 ethnic group were chased out of Mongbwalu much before July 2002, let's say?

21 A. Yes, they started to leave before July and the majority started to go -- started to
22 move from the month of July.

23 Q. Now, I referred to the period, let's say, from the end of 2001 to the early
24 beginning of 2002. Do you have any knowledge that during that time frame the
25 APC, the military arm of RCD-K/ML, was present in the Mongbwalu area?

1 A. Yes, they were there in Mongbwalu. They were the ones who controlled the
2 locality.

3 Q. And as they controlled the locality at that time, again I say the time frame, end
4 of 2001 early 2002, they were actually even fighting the Lendus to ensure that
5 Mongbwalu would be peaceful; would you agree with that?

6 A. Yes, I agree with you. They fought in Kilo and in Kobu. Yes that's true.

7 Q. Now, let's talk a bit about the Lendus who were fighting at the time in
8 Mongbwalu, just if you have this information. Can you confirm that the Lendu they
9 relied to protect themselves on people referred to as Lendu combatants? Are you
10 familiar with that term?

11 A. Yes, it's true. I'm aware.

12 Q. And are you aware that the Lendu combatants as well as the Lendu population,
13 they were organised and they operated on the basis of tribunal customs and practices?
14 Do you have any information about this?

15 A. Yes, I know that very well and it's true.

16 Q. And based on your knowledge, you can confirm, for example, that the Lendu
17 combatants they did not wear any uniforms? Can you confirm this?

18 A. It's true. They didn't wear military uniform.

19 Q. So you would agree that they were wearing either civilian clothing or even
20 traditional clothing and including gris-gris or animal skin and the like; would you
21 agree with that?

22 A. Yes, completely agree with you.

23 Q. And it's my understanding, Mr Witness, that you're familiar with the fact that
24 the Lendu combatants did not hesitate to use women and children to fight with them;
25 can you confirm this?

1 A. Yes, I can say that I completely agree with you.

2 Q. I would like you to confirm that in early 2002 you're familiar with the fact that
3 the APC, who until that time were fighting against the Lendus, changed platform and
4 started to fight with the Lendus on the same side as the Lendus; are you familiar with
5 that?

6 A. Yes, I am fully aware of that.

7 Q. Now, if you have any information on this, can you confirm that the living
8 conditions imposed by the Lendus and the Lendu combatants in 2002, general living
9 conditions, were simply terrible; would you agree with that?

10 A. Are you talking about everybody or about the manner in which they were
11 dressed?

12 Q. Maybe I should make my question more clear. Simply the living conditions in
13 Mongbwalu, if you are familiar with that, as far as living conditions imposed by the
14 Lendu ethnic group. So let me use an example to make it clear: Are you familiar
15 that the Lendus imposed on woman the obligation to go around topless?

16 A. Yes, that is correct. I am aware of that.

17 Q. And are you aware that there was a -- in Mongbwalu a prohibition on pounding
18 cassava?

19 A. Yes, I am fully aware of that. That's true.

20 Q. And were you aware that the Lendu imposed on woman the obligation not to
21 cross their arms on their chest?

22 A. Yes, I'm aware of that.

23 Q. And I take it you are aware also that in Mongbwalu at the time no one was
24 allowed to make locally brewed alcohol dekaikpo (phon) -- kaikpo, sorry?

25 A. Yes, I am indeed fully aware of that.

1 Q. For the record, Mr President, I'm not sure if the spelling of kaikpo. Mr Witness,
2 maybe you can confirm K-A-I-K-P-O; is that correct, Mr Witness?

3 A. It is kaikpo. Kaikpo, not kaiko (phon).

4 Q. Can you spell the name, please?

5 A. Well, you mispronounced the name. It's K-A-I-K-P-O, kaikpo.

6 Q. Thank you. Now, are you familiar, sir, with the fact that in Mongbwalu the
7 Lendus imposed what is called as work obligation or salongo?

8 A. Yes, I am very aware of that.

9 Q. And are you familiar, sir, that at the time in Mongbwalu anyone disobeying
10 these rules I've just mentioned would be beaten?

11 A. Yes, that is correct.

12 Q. And that the Lendus would even cut off your ear if you did not abide by these
13 regulations?

14 A. Yes, that's correct.

15 Q. And I suggest that you're also familiar that during that time frame there was
16 even some cannibalism going on in Mongbwalu that the Lendus were eating some
17 Hemas? Are you familiar with that?

18 A. Yes, I am fully aware of that.

19 PRESIDING JUDGE FREMR: Sorry to break. Could you be more specific about the
20 source of this information, how you get known about cannibalism.

21 THE WITNESS: (Interpretation) As far as I know, (Redacted) was eaten up. He
22 was an Alur, a former APC soldier who wanted to desert because conditions had
23 become extremely difficult. So he was slaughtered at the Mongbwalu parking, his
24 body was taken and cooked in a drum. And the people of Mongbwalu were called
25 to assemble and they ate his body. He was an APC soldier whose name was

1 Kila (phon).

2 Second case is that of a Hema who was arrested. You know, if a Hema was killed he
3 could be disemboweled and slaughtered and the bodies would be found here and
4 there with the -- with their livers having been taken out and that part of the body, the
5 liver, would be taken out and eaten. That is the information that was available to
6 me.

7 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

8 Mr Bourgon, please proceed.

9 MR BOURGON: If we can move in private session, please, Mr President.

10 PRESIDING JUDGE FREMR: All right.

11 Court officer, let's move into private session.

12 (Private session at 12.08 p.m.)

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22 (Open session at 12.20 p.m.)

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

24 PRESIDING JUDGE FREMR: Thank you, court officer.

25 Mr Bourgon, please proceed.

1 MR BOURGON: Thank you, Mr President.

2 Q. Mr Witness, we -- a few minutes ago we were talking about the town of Bunia
3 being split into two parts and at one hand you confirm that we could find Lompondo
4 and units of APC. Now my next question has to do with what was happening on
5 the other side and what I -- if you know, of course, and I suggest to you that when
6 you -- when -- at that time on the other side there was a group of mutins from the
7 APC, that is former members of APC getting organised. Are you familiar with this
8 fact, sir?

9 A. Yes, I am very familiar with that.

10 Q. And this group was getting organised at a place you referred to when you
11 began your testimony as the état-major; would that be a fair statement?

12 A. Yes, those persons organised themselves at the coopérative which was below
13 Mr Bosco's house. There was a place known as coopérative. And it is there that all
14 those troops that had quit various movements had gathered, those Hema soldiers,
15 Kisembo, Bosco and other soldiers were also there.

16 Q. And, sir, can you confirm that right close to this area was also the house
17 occupied by Thomas Lubanga before the Lompondo was forced out of town?

18 A. There was a place there which had been occupied by Thomas Lubanga and the
19 troops were at that location, yes. That is the place known as coopérative. Bosco,
20 Thomas and the others were all there.

21 Q. Now, sir, can you confirm that you knew that the splitting of Bunia in two parts
22 was the result of fighting between, on one hand, Lompondo and his APC, and on the
23 other side the APC mutins, that's Kisembo and his group, who were living at Thomas
24 Lubanga's house? Did you have this information at the time?

25 A. What I said is that there was a huge groups of -- a group of troops which had

1 left several locations. Some came from Mbusa, some came from the APC, some came
2 from elsewhere, but they were all of the Hema ethnic group. They were allied.
3 They organised themselves at that place. Kisembo was the deputy of Bosco, who
4 was the leader at that time. The chief of staff had not yet been organised. And it is
5 from there that they organised themselves to attack Lompondo.

6 Q. Now, my question, sir, is this is when, of course we're talking here July 2002 or
7 thereabouts, but I'm asking you whether you were familiar with the reason why
8 Bunia was split into two, which was actually fighting between those two groups and
9 the death of the infamous Claude? Are you familiar with that?

10 A. Bunia was divided into two because Lompondo and his APC troops had taken
11 sides with the Lendu. They supported the Lendu and the Hema, therefore, went to
12 the other side. And whenever a Hema went to the other subregion, or to the area
13 occupied by the APC, the Hema would be killed. And that is what sparked the
14 conflict.

15 Q. And the event when the infamous Claude was killed, are you familiar with that?

16 A. Yes, I know the event very, very well. But at that time I was in Mongbwalu
17 and that is where we heard about what had happened. He was killed in a
18 four-by-four.

19 Q. So it's my understanding, sir, that you also had information that the fighting
20 between the two, I'm talking here of Lompondo on one side and the APC mutins on
21 the other side, that the fighting was actually stopped by the UPDF who were also
22 present in town; did you get that information?

23 A. I was there, I was present and I was aware of that information. When
24 Lompondo was struck, the UPDF came to put an end to that attack using tanks.
25 I was there, I was in Bunia.

1 Q. Well, I was referring, sir, to an event which took place earlier. I just want to
2 know if you were familiar because you were not in Bunia at that time. And let's
3 begin by asking whether you can confirm that in Bunia at the time in 2002 the UPDF,
4 the Ugandans were present? Can you confirm this?

5 A. They were all there. They were all present, yes.

6 Q. Are you familiar with -- I've used the term twice and should maybe have asked
7 you before, but are you familiar with who Claude was with respect to Lompondo?

8 A. Claude was the chief of operations under Lompondo. He was the number one,
9 just like Bosco was in our own setup.

10 Q. So when Claude was killed in Bunia it created quite a stir, which made its way
11 all the way to Mongbwalu; would that be a fair statement?

12 A. Yes, that is what sparked the conflict and forced Lompondo to go as far as
13 Mongbwalu.

14 Q. Now, this event I take it you -- or, I would like to know if you heard rumours
15 that Bosco Ntaganda was involved in the killing of Claude?

16 A. Yes, it was said that he was the person who advised on the operation. There
17 was this rumour which was stated everywhere. That's what we heard.

18 Q. And on this basis, sir, would you agree with me that this created a widespread
19 reputation for Bosco Ntaganda as the saviour of the Hemas?

20 A. Yes, it's true. He was seen as our saviour.

21 Q. And if you live very far away from Bunia, I suggest that if there's one name you
22 know about UPC or FPLC it's Bosco Ntaganda because of that reputation; would that
23 be a fair statement?

24 A. It's true.

25 Q. Now, we refer to that period of July 2002 and so we kind of looked at what's

1 happening on both sides of town.

2 Now, my next question is: As this organisation is taking place you were familiar
3 with the fact that Lendu combatants and APC were at this very moment destroying
4 and burning Hema villages; are you familiar with that?

5 A. I was aware of that. I was aware.

6 Q. So you also know that in the same time period training was taking place in
7 Mandro in order to try and put an effective armed force together to protect the
8 population from these attacks? Were you familiar with that?

9 A. Yes. I was aware of that.

10 MR BOURGON: I think I need to go into private session for a few questions,
11 Mr President.

12 PRESIDING JUDGE FREMR: All right.

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

14 (Private session at 12.34 p.m.)

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- 16 (Recess taken at 1.02 p.m.)
- 17 (Upon resuming in open session 2.33 p.m.)
- 18 THE COURT USHER: All rise.
- 19 Please be seated.
- 20 PRESIDING JUDGE FREMR: (Microphone not activated).
- 21 In this afternoon, afternoon two-hour session we will continue with
- 22 cross-examination of Witness 907, conducted by Defence.
- 23 Mr Bourgon, do you see need to move into private session or could we remain in
- 24 open?
- 25 MR BOURGON: I can try it in public session, Mr President.

1 PRESIDING JUDGE FREMR: Please try, but be vigilant.

2 So we will stay in open session.

3 Mr Bourgon, you have the floor.

4 MR BOURGON: Well, Mr President, maybe I'd like to seek the guidance of the
5 Chamber before doing so in private session.

6 PRESIDING JUDGE FREMR: So let's move into private session.

7 (Private session at 2.35 p.m.)

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15 (Open session at 2.38 p.m.)
16 THE COURT OFFICER: We are in open session. And I would like to remind the
17 parties and participants to turn off the microphone when they are not speaking.
18 Thank you.
19 PRESIDING JUDGE FREMR: Including myself.
20 So, Mr Bourgon, please try to proceed in accordance with guidance given to you.
21 MR BOURGON: Thank you, Mr President.
22 Q. Good afternoon, Mr Witness.
23 A. Good afternoon.
24 Q. Just before we left for the break you were testifying about or answering
25 questions about an event which would have happened at the Mandro training camp

1 while you were there. You recall what we were talking about just before the break?

2 A. Yes, I do remember.

3 Q. Just to refresh your memory, we were discussing an event where a soldier who
4 had tried to escape would have been shot at the Mandro training camp; do you recall
5 this?

6 A. Yes, I remember about that.

7 Q. And I referred to your statement in which it was mentioned that all the recruits
8 had been gathered for the event in Mandro; do you recall this also?

9 A. I remember.

10 Q. Now, sir, on the basis of information that I have, I suggest to you that there
11 were never any recruit executed in Mandro for attempting to escape. Does that help
12 you to refresh your memory?

13 PRESIDING JUDGE FREMR: I understand, Mr Witness, that you would like to
14 move into private session; am I right?

15 THE WITNESS: (Interpretation) Yes, I would like us to go into private session
16 because he just said that there never was any recruit executed in Mandro and I would
17 like to explain who that recruit was who had been executed. They -- well, they tried
18 two and one was killed and one is still alive. One was tied to a tree before --

19 PRESIDING JUDGE FREMR: All right, Mr Witness, it's enough for the moment.
20 Mr Witness, it's enough for the moment.

21 Court officer, please let's move into private session

22 (Private session at 2.42 p.m.)

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9 (Open session at 2.58 p.m.)

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

11 PRESIDING JUDGE FREMR: And again, Mr Witness, the same caveat like a few
12 moments ago, if the questions will not reveal identity, feel free to respond. If it
13 could lead to your identity, just raise your hand and we will continue in private.
14 Mr Bourgon, please proceed.

15 MR BOURGON: Thank you, Mr President.

16 Q. Mr Witness, the -- looking at the way to get from Bunia to Mandro, I'd like you
17 to confirm that along the way as you get close to Mandro there is an intersection
18 where one road leads to the residence of Chief Kahwa and another road went towards
19 Mandro camp. I refer here to the transcript page 16, transcript 89. Can you confirm
20 this, sir?

21 A. That is correct.

22 Q. Thank you, sir. Can you also -- can you also confirm, and I refer here to the
23 transcript, same one, transcript 89 on page 22: "When you entered the training
24 camp -- well, there were two different training camps. There was the Mandro camp
25 where Chief Kahwa's residence was and there is where the recruits who were -- who

1 were finishing their training. There was another camp that was the camp for recruits
2 itself."

3 Can you confirm this, sir, please?

4 A. At the general headquarters in Mandro the chief of staff was living there and
5 that is where he set up his headquarters. The other camp was where the recruits
6 were.

7 THE INTERPRETER: Message from the Swahili booth: Could the last -- could the
8 witness be asked to repeat the last sentence of his reply?

9 PRESIDING JUDGE FREMR: Mr Witness, we got message from the Swahili booth
10 that the interpreters haven't captured the very last part of your response. Could you
11 repeat your last sentence, please.

12 THE WITNESS: (Interpretation) What I was saying is that there were three camps:
13 One at the headquarters where help was available; then there was the camp for
14 training; and the third camp was the camp for the recruits.

15 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

16 THE WITNESS: (Interpretation) In Kudja.

17 MR BOURGON:

18 Q. Thank you, sir. Earlier you said, and I refer you to line 18 at page 67, lines 18
19 to 20. It says here: "At the general headquarters in Mandro the chief of staff was
20 living there and that is where he set up his headquarters."

21 Who are you referring to when you say the chief of staff?

22 A. It was at Chief Kahwa's residence. It was there that the senior officers lived,
23 including Safari and his bodyguards and his PPU. That is where Bosco also lived.
24 It was the headquarters of the chief. It was the headquarters for the senior officers.

25 Q. Thank you for this clarification. Now, I'd like to refer you to again something

1 we have in the transcript on page 22 and I -- for my colleague from the Prosecution I
2 quote from lines 14 down.

3 A question was put: "What would you encounter when you enter Mandro training
4 camp?"

5 And the answer was, I quoted earlier starting at line 16: "Well, then you entered the
6 training camp -- well, there were two different training camps. There was the
7 Mandro camp where Chief Kahwa's residence was and that is where the recruits who
8 were finishing their training. There was another camp that was the camp for recruits
9 itself. So you have to be more specific in your question because there were two
10 camps really; one where Kahwa's residence was, and then there was a pitch where the
11 training was conducted. That was our camp. You have to be specific in your
12 question."

13 Sir, this seems to be contrary to what you just mentioned about there being three
14 camps. So which one is it?

15 A. Let me explain this to you. Mandro was divided in two different parts. To
16 the right there was the training centre with a large field. That is where the camp for
17 the recruits is located and the camp for the instructors and senior officers. So this
18 one is there while 2 kilometres away in Kudja and Saikpa there is another camp.
19 And then there is Mandro proper where you have Kahwa's residence and his close
20 bodyguards were there and there were also those in charge of the heavy weapons,
21 safari's close bodyguards as well as other persons who were at Kahwa's residence.
22 Then nearby there was a camp for soldier who had just completed their training.
23 They were under Américain Bataga, the commander's control. So there were two
24 units for close bodyguards and one unit for those who were under the control of
25 Américain Bataga.

1 And then on the other side there was a base or a camp for recruits and trainers.

2 So we need to distinguish between the two locations.

3 Q. Well, I'd like to clarify your last answer. I'm not sure I understand. So let me
4 clarify this with you. And I read from your answer starting at line 13: "Let me
5 explain this to you. Mandro was divided into two different part." So that we have.
6 Two parts in Mandro. You agree with this?

7 A. Yes, 2 kilometres away from Chief Kahwa's residence.

8 Q. Well, the first thing you said, Mr Witness, is Mandro was divided into two parts.
9 I'd like to stop here and just say that's what you said, right, Mandro was divided in
10 two parts?

11 A. Yes, that is true. There are two parts. Mandro centre and Mandro Kudja and
12 Saikpa. The training centre and the trading centre --

13 Q. Please, sir -- please, sir, wait. Please, sir, wait. I'd like to go step by step
14 because this is quite important.

15 So you just mentioned that you have Mandro centre and then Mandro Kudja and
16 there's another word there. I think you said Saikpa. Is that the name you
17 mentioned?

18 A. Saikpa. At the training centre there are two hills. One of them is called
19 Saikpa and the other is Kudja.

20 Q. Thank you. Let's take a look at this so that we understand. The -- first let's
21 get the spelling right for the record, and I think we do have it right, and it's
22 S-A-I-K-P-A for Saikpa. So that's the second name you mentioned; is that correct?

23 A. Yes.

24 Q. Now, you said then in response that these two places, Saikpa and Kudja, I'm
25 looking here from the transcript, I refer to line 19, you start -- you say, "Saikpa. At

1 the training centre there are two hills. One of them is called Saikpa and the other is
2 Kudja."

3 So let's take a look at these two areas, Saikpa and Kudja. Let's begin by Saikpa.

4 Give us a description of Saikpa as to where it is exactly.

5 A. I said that Saikpa and Kudja are two different hills located more or less in the
6 same place. There is a neighbourhood, it is as if you were in a neighbourhood in the
7 same area where the training was taking place. If you ask somebody where they
8 were trained, they could say either Kudja or Saikpa. So it is more or less the same
9 place. And it is located some 2 kilometres or so from the centre from Chief Kahwa's
10 residence.

11 Now, if you were to leave Chief Kahwa's residence, you would travel for about 2
12 kilometres to get to the training centre, and that training centre was known as the
13 Kudja and Saikpa centre as if one were on one's way to Katoto.

14 Q. So if I understand you correctly, Kudja and Saikpa are quite close to one another;
15 is that correct?

16 A. That's correct.

17 Q. And these area, Kudja and Saikpa, they're on two hills close by, some 2
18 kilometres approximately from Chief Kahwa's residence; is that correct?

19 A. That is correct.

20 Q. Now, give us a description of Saikpa-Kudja. How does it look like?

21 A. I have told you that it is more or less the same place. The training area was
22 quite large. Down the slope the area was known as Saikpa and up slope was known
23 as Kudja. So it is only the natives of that area who can distinguish for you which
24 part is Saikpa and which part is Kudja. But if you are a newcomer to the area, you
25 would be told that you are in Saikpa and Kudja. It is the same neighbourhood with

1 two different hills. It's a large and vast area.

2 So when you get to that place, you leave Chief Kahwa's place behind and you go
3 towards Katoto. As you go in that direction, you will see this place which I'm
4 talking about, which is basically one and the same place.

5 And there were recruits even who were not able to distinguish between Saikpa and
6 Kudja because it is basically one area.

7 Q. Thank you, sir. So when you mention in your testimony, I'll refer now to T-89,
8 transcript 89, page 22, lines 22 to 23: I have here "one where Kahwa's residence was,
9 and then there was a pitch where the training was conducted. That was our camp."
10 So my question is: The pitch you are referring here and where you say "that was our
11 camp," that is Saikpa-Kudja; is that correct?

12 A. Yes. It is at Saikpa-Kudja that they had the training centre in Mandro and each
13 recruit knew that place.

14 Q. Thank you, sir. Now, looking at the -- a description of the camp you refer to as
15 Saikpa-Kudja, I'd like to refer you to transcript 89, page 23 where you provided a
16 description of this area.

17 I start from line 4, where it says: "When you went into the recruits' camp" I think the
18 word is Kudja, but the transcript did not catch it correctly "was the name of that spot,
19 there was a stream just before the camp."

20 Do you stand by this testimony that it's correct?

21 A. Yes, that is true. Before you get to the training centre you have to cross a small
22 river.

23 Q. And I continue reading from the transcript where it says, "and this is where
24 some soldiers were posted." So there were soldiers posted at that area. Before or
25 after the stream?

1 A. After you cross that stream, then you come to the last military checkpoint.

2 Q. And if I go on reading from the same page, then you said after there is a flat
3 pitch. So this is after the last military checkpoint; is that correct?

4 A. Yes, there is a large flat field there.

5 Q. And if I go on reading, and now I am again at the same just following, "after the
6 pitch there were some houses. They were built of straw." So you stand by this
7 description?

8 A. Yes. You had the houses for officers and recruits and then there was an open
9 area for training and for cooking.

10 Q. And if I continue, you say, "They were built out of straw these houses for the
11 officers." So that's what you call manyata, am I right?

12 A. The officers' buildings were better built, but all the buildings or houses were
13 called manyatas and the quarters for the recruits were rather too small.

14 Q. Well, sir, my question is I'd like to confirm what you mentioned that they were
15 built out of straw. You're talking about houses built out of straw; is that correct?

16 A. Yes, that is correct.

17 Q. And if I go on reading from the same page, lines 11 and 12 you say, "Further
18 along downwards, there were some barrels and they were used for cooking." Do
19 you stand by this description?

20 A. Yes, that is correct, a few metres away from the officers' quarters before getting
21 to the arms depot and that is before getting to the area where trainees are taught to
22 fire.

23 Q. So I understand from this description, sir, that there is no concrete buildings or
24 building made of bricks in this camp; is that correct?

25 A. There were no houses built in brick at the camp.

1 Q. Now, the training camp where you say there was a stream, was there -- was
2 there a way to get across -- was there a bridge there to cross the stream?

3 A. A bridge? Are you talking about a bridge? No, there was no bridge. A few
4 stones had been put there and people would jump from stone to stone to get across.
5 But there was a piece of log at some point, the trunk of a tree at some point.

6 Q. So I take it then that vehicles could not reach that camp or could not cross that
7 stream or how was it?

8 A. Maybe there was another way by which vehicles could come in. I went there
9 using the road that people would go -- would use on foot because once we were in the
10 camp we couldn't go anywhere else, we remained there.

11 Q. Thank you, sir. On the basis of the description you just provided, I suggest to
12 you, sir, that the area you are describing is indeed Saikpa but that there was no recruit
13 training taking place in that area in July of 2002. Does that refresh your memory?

14 A. That is the time at which I received training myself. Maybe you have
15 arguments against what I am saying. And if that were the case, then please tell me
16 where the training took place. I was trained with -- along with more than a hundred
17 other colleagues who can confirm what I am telling you and I am able to give you the
18 names of some of these colleagues.

19 Q. Thank you, sir. I appreciate your last answer because that's exactly where
20 I was going, the number of recruits being trained at the recruit centre in Mandro.
21 Now, I refer here to transcript 89 on page 23 at lines 21 to 25 and page 24 at lines 1 to 4.
22 Now, this is what you said here concerning the number of people.
23 I start reading from line 23 of page 23: "There were thousands of us. I wouldn't say
24 it was one or two people or a hundred, I would say that there were a great many of us,
25 thousands of us. No one would say" -- I go on to page 24 at the top: "No one

1 would say that it was one, two, three hundred people."

2 So this answer appears to suggest that there were thousands of you training. You
3 just mentioned that you were training with -- I refer here to your last answer that you
4 were training with more than a hundred other colleagues who can confirm what
5 you're telling -- what you're telling me. So which one is it? Are we talking
6 thousands of people at that recruit camp or one hundred? Who are you training
7 with?

8 PRESIDING JUDGE FREMR: Mr Witness, hold on.

9 THE WITNESS: (Interpretation) I said that if you want to ask me for the names of
10 those with whom I received training --

11 PRESIDING JUDGE FREMR: Mr Iverson.

12 MR IVERSON: It's not really an objection, but that was two questions in one really,
13 but it's the last question, "Who were you training with?" that should be asked in
14 private session.

15 PRESIDING JUDGE FREMR: Certainly.

16 Court officer, let's move -- Mr Bourgon, you --

17 MR BOURGON: I'm not looking for names at all. We're talking numbers. That's
18 all I'm interested in, just numbers.

19 PRESIDING JUDGE FREMR: Numbers. Okay, in such a --

20 MR BOURGON: I'll make my question clear. My colleague is quite correct.

21 PRESIDING JUDGE FREMR: Okay.

22 So, Mr Witness, I had to interrupt you. Sorry for that. But have you listened to
23 what now just has been said? It's not about names, just about numbers, how many
24 further persons were with you undergoing training. All right?

25 THE WITNESS: (Interpretation) Those who received training with me were more

1 than a thousand. You can cross-check. For the months of July or August many of
2 us were trained. If I were to provide any names, I would provide maybe up to a
3 hundred names. But to this date, I do not know the exact number of people who
4 received training. It was in the thousands.

5 MR BOURGON:

6 Q. Thank you, sir. I would just like you then to clarify your previous answer and
7 you answered, this is on page 75 where you say at line 15, "I was trained with -- along
8 with more than a hundred other colleagues who can confirm what I'm telling you."
9 Were you telling me how many people you were training with or were you telling me
10 that you're able to provide me with 100 names?

11 A. What I said is that I am in a position to give you about a hundred names, but
12 that doesn't mean that this was the number of people with whom we received
13 training. There were so many of them and I am not able to know all their names.

14 Q. Thank you, sir. All I want to confirm then is your previous answer in response
15 to the question from the Prosecution where it says, "No one could say that it was one,
16 two or three hundred people. There were thousands of us."
17 So do you stand by your testimony that where you say you were trained --

18 PRESIDING JUDGE FREMR: Mr Bourgon, asked and answered.

19 MR BOURGON: Thank you, Mr President. I'll move on. I want to give him an
20 opportunity to confirm how many people were there, but I can move on.

21 PRESIDING JUDGE FREMR: Please move on.

22 MR BOURGON:

23 Q. Sir, I suggest to you that contrary to your testimony there was never more than
24 850 recruits being trained at any one time at the Mandro training centre. Does that
25 refresh your memory?

1 A. Are you talking about the Mandro camp or the training centre?

2 Q. I'm referring specifically to the Mandro training camp for recruits.

3 A. Well, if you are saying that there were no more than 850, I don't agree with you
4 because after the training people -- well, there might be one or two brigades. You
5 see, a battalion has a certain number of soldiers in it, how many, how many soldiers
6 in a battalion, how many finished their training, what would the difference be
7 amongst the various groups?

8 Q. Thank you, sir. I refer now to transcript 89, page 20 at lines 7 to 9 where you
9 explain that Bosco Ntaganda was the top gun at Mandro camp even though Muleke
10 was the head of the centre. Do you recall testifying to that effect?

11 A. Yes, I did say that. That is true.

12 Q. And I also refer to transcript page 89, lines 5 to 18 at page 20 where you
13 remember seeing Bosco Ntaganda at the training centre. Do you confirm this?

14 A. Yes, I remember that.

15 Q. I'd like to turn to what we find at lines 19 to 21 on page 20 where you mention
16 the following. The question was put to you starting at line 19:

17 "Can you tell the Chamber if there are any moments or times in particular where you
18 remember seeing Mr Ntaganda at Mandro training camp?"

19 And the answer was the following: "You wanted to know whether he came instead
20 of the training or to the centre in general?" Then your answer is: "I remember he
21 came once when training was going on, and he spent the night there, and then he
22 went off again."

23 Now, as a result of this answer the Prosecution said, well, I don't want you to
24 speculate and then the question was made more precise at lines 13 to 15 of page 21.

25 So that's the question that was put to you:

1 "Do you remember in fact that Mr Ntaganda came for any graduation ceremonies or
2 parades or anything like that, sir?"

3 And I'd like to read your answer to confirm and then I'll have follow-up questions.

4 Line 16, page 21: "I saw him personally. He came and he spoke to the recruits.

5 He gave instructions. He told us that no one should desert. He said that after the
6 training we would be soldiers."

7 So I stop here just to say that this is the first time when you remember seeing

8 Mr Ntaganda at the Mandro camp; is that correct?

9 A. Yes, I can confirm that. Sometimes Mr Ntaganda would spend the night there,
10 namely at the Mandro camp. He also had a straw house -- or hut, rather, at the
11 officers' camp. There was that as well.

12 Q. Thank you, sir. Now, I was referring because in answer to the Prosecution's
13 question you said -- you provided two examples because at line 21 you start talking
14 about the second, you say, "That was the second time that he came."

15 But maybe -- I'm not sure if we are able to -- no, we're not able to do that.

16 I will read to you, sir, the first three lines of your answer. I repeat the question that
17 was put to you:

18 "Do you remember in fact that Mr Ntaganda came for any graduation ceremonies or
19 parades or anything like that?"

20 That was the question. You understand the question?

21 A. Yes, I've understood. Yes, he did come to Mandro on the day when the
22 soldiers had finished their training.

23 Q. I would like to address the two instances which you describe from lines 16 to 25
24 of page 21. The first description you give is, "I saw him personally. He came and
25 he spoke to the recruits. He gave instructions. He told us that no one should desert.

1 He said that after the training we would be soldiers."

2 So that's the first instance you describe. I take it you recall this particular moment,
3 do you?

4 A. Yes, I remember. That is true.

5 Q. Now, I move on to the second part of your answer where it says, "He came a
6 second time and that was when the recruits were graduating. And some troops had
7 been deployed to Tchomia. Others were sent to various camps. That was the
8 second time he came."

9 A. (Redacted). There was a
10 parade at Mandro centre at the school. That is where he deployed the soldiers who
11 went to the camp and then off to battle. Others went to Tchomia to get the weapons
12 and munitions. Others were to go to Rwanda.

13 PRESIDING JUDGE FREMR: Mr Iverson.

14 MR IVERSON: It's my observation that the questions and answers right here should
15 be done in private session.

16 PRESIDING JUDGE FREMR: Mr Bourgon.

17 MR BOURGON: I would agree, Mr President.

18 PRESIDING JUDGE FREMR: All right.

19 So this part of the transcript has to be redacted. And I also would have to inform
20 public gallery that you also have to keep confidential those two, this question and this
21 answer because our witness is protected and it's part of his protection.

22 Should we now move into private session, Mr Bourgon, depending on your
23 upcoming questions?

24 MR BOURGON: Yes, please, Mr President.

25 PRESIDING JUDGE FREMR: All right.

- 1 Then let's move into private session.
- 2 (Private session at 3.41 p.m.)
- 3 (Redacted)
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- 16 (The hearing ends in private session at 4.36 p.m.)