

1 International Criminal Court
2 Trial Chamber VI
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 - Courtroom 2
7 Monday, 6 June 2016
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. Welcome back.
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 For the record, we are in open session.
18 PRESIDING JUDGE FREMR: Thank you.
19 Now appearances in habitual order, so starting with Prosecution, please.
20 MR IVERSON: Good morning, Mr President. Good morning, your Honours.
21 Appearing today on behalf of the Office of the Prosecutor are James Pace, assistant
22 trial lawyer; Rens van der Werf, assistant trial lawyer; Dianne Luping, trial lawyer;
23 Selam Yirgou, case manager; Judith Boekstal, intern; and myself, Eric Iverson, trial
24 lawyer.
25 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.

1 Defence.

2 MR BOURGON: (No interpretation)

3 PRESIDING JUDGE FREMR: Merci beaucoup, Mr Bourgon.

4 I would like to say that we didn't receive, at least myself, we didn't receive an English
5 translation. The same? Yes.

6 Court officer, could we --

7 THE INTERPRETER: Testing one, two. Testing one, two.

8 PRESIDING JUDGE FREMR: Now it's fine. Now it's fine. Thank you.

9 So it means we can proceed with Legal Representatives of Victims, please.

10 MS PELLET: (Interpretation) Thank you very much, your Honour. The former
11 child soldiers are represented by Mohamed Abdou and by myself, Sarah Pellet,
12 counsel with the Office of Public Counsel for victims. Thank you very much.

13 MR SUPRUN: (Interpretation) Good morning, your Honour, your Honours. The
14 victims of the attacks are represented by the Office of Public Counsel for Victims,
15 Anne Grabowski and myself, Dmytro Suprun.

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

17 I also note the presence of legal adviser appointed pursuant to Rule 74 to assist the
18 witness who will testify today. So please, welcome, and please state your name for
19 the record.

20 MR LAUCCI: (Interpretation) Thank you very much, your Honour, your Honours.

21 Before you as the legal counsel appointed under Rule 74 of the Rules of Procedure
22 and Evidence to assist the witness my name is Cyril Laucci. Thank you.

23 PRESIDING JUDGE FREMR: Thank you.

24 Now, today we are starting the fifth evidentiary block in this case and the testimony
25 of the next Prosecution witness and before that I will briefly address a few procedural

1 matters.

2 First, as you were informed by way of email, the Registry remains unable to provide
3 both French and English edited transcripts by the following day for two cases at the
4 same time. The Chamber would like to make it clear that it considers this
5 arrangement to be very unsatisfactory, particularly in the context of the Chamber's
6 recent direction for the need to ensure comparison of and accuracy between French
7 and English edited transcripts.

8 Nonetheless, in consultation with other affected Chambers, it has been agreed that for
9 the time being this case will receive English edited transcripts the following day, with
10 French edited transcripts to follow. The Chamber directs the Registry to expedite its
11 efforts to resolve the resourcing difficulties necessitating such arrangements.

12 Second, we have a short oral ruling during the testimony of Witness P-933 on
13 21 April 2016 the Prosecution sought admission of document DRC-OTP-2092-0170
14 which is an Article which the witness coauthored. On 22 April 2016 the Defence
15 indicated it had no objection to the admission of the document and, having
16 considered the content and related testimony, the Chamber hereby admits the
17 document into evidence.

18 Next, turning to the witness who will be testifying today the Chamber recalls its
19 decision granting in-court protective measures in the form of face and voice distortion
20 and the use of a pseudonym. Then the Chamber notes that the Prosecution's revised
21 time estimate for the examination-in-chief of this witness is eight hours, which is in
22 line with the Chamber's encouragement in this regard. As usual I will be keeping an
23 eye on timing and asking you for updates on your progress as we proceed. The
24 Chamber has also taken note of the Defence indication that it may seek two additional
25 hours for cross-examination.

1 The Chamber will defer its ruling on this matter but notes that the Defence will be
2 expected to use its current examination time efficiently.

3 With regard to the sitting schedule, I recall that as was set out in the supplemental
4 decision on matters related to the conduct of proceedings of 27 May we will from now
5 on be sitting for five hours per day with a two-hour afternoon session ending at 4.30
6 p.m.

7 Next, I note that the Legal Representatives of the former child soldiers has requested
8 to examine the witness. Following our usual practice, we will come back to this
9 request after the Prosecution has completed its examination-in-chief.

10 We will also address any objections to the use or admission of documents as they
11 arise.

12 Finally, Mr Laucci is present to assist the witness in respect of any self-incrimination
13 issues which may arise. The Chamber notes that he was able to meet with the
14 witness and explain matters of self-incrimination to him. On Thursday, 2 June,
15 Mr Laucci seized the Chamber on behalf of the witness of a request for assurances
16 pursuant to Rule 74, including a request for the entirety of the witness testimony to be
17 heard in closed session. On Friday, 3 June via email the Prosecution provided
18 ex parte observations on the request for assurances pursuant to Rule 74(4). It accepts
19 that such assurances would be appropriate subject to the usual caveat of the witness
20 telling the truth throughout his testimony.

21 As a preliminary matter in line with previous practice the Chambers notes that it
22 would not consider that having the entirety of the testimony in private session would
23 be necessary to ensure the effectiveness of any assurances given. Should the
24 assurances be granted, it would in the Chamber's view be sufficient for any
25 identifying or potentially incriminating information to be kept confidential. I first

1 turn to the Defence the Chamber has received and considered your submissions on
2 the request for entirely closed session which was filed on Friday. Do you otherwise
3 have any observations on the request for Rule 74 assurances? Please bear in mind
4 we are in open session and if you wish to raise any details then we shall move to
5 private session. Defence?

6 MR BOURGON: No observation, Mr President, thank you.

7 PRESIDING JUDGE FREMR: All right. Mr Laucci, the Chamber has received your
8 report and recommendation. Is there anything you wish to add and, if so, we may
9 need again to go into private session.

10 MR LAUCCI: (Interpretation) Nothing to add, your Honour.

11 PRESIDING JUDGE FREMR: Very well.

12 (Trial Chamber confers)

13 PRESIDING JUDGE FREMR: So after a brief silent deliberation the Chamber
14 decides that we will provide the witness with the requested assurances and, as
15 previously indicated in the Chamber's established practice, such a measure only
16 applies to those parts of testimony dealing with matters covered by Rule 74. If any
17 questions are asked that could lead to self-incrimination we will hear the witness's
18 answers in private session. The Chamber does not consider it necessary that the
19 entirety of the witness testimony be heard in closed session to give effect to the
20 Chamber's assurances.

21 So now unless the parties or participants wish to raise anything at this point we can
22 turn to the scheduled testimony.

23 Mr Bourgon?

24 MR BOURGON: Thank you, Mr President. Just a brief observation before the
25 witness is brought into the courtroom. In accordance with the Chamber's guidance

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1 in the supplementary conduct of proceedings decision and also prior to this decision
2 parties are encouraged to use leading questions for the background of the accused.
3 In this case, Mr President, we do not consent to the use of leading questions with this
4 particular witness because we believe that there are many issues that are likely to
5 arise simply as part of his background that we would like to have elicited in the
6 normal way. Thank you, Mr President.

7 PRESIDING JUDGE FREMR: All right, Mr Bourgon. It's well noted and I think it's
8 accepted.

9 So now, court officer, please bring witness in the courtroom.

10 (The witness enters the courtroom)

11 PRESIDING JUDGE FREMR: Mr Witness, good morning. On behalf of this
12 Chamber I would like to welcome you to the courtroom.

13 WITNESS: DRC-OTP-P-0190

14 (The witness speaks French)

15 THE WITNESS: (Interpretation) Good morning, your Honour.

16 PRESIDING JUDGE FREMR: Mr Witness, you are called to testify in the case
17 against Mr Bosco Ntaganda to assist this Chamber in its search for the truth. You
18 will be asked soon questions posed by the Judges and lawyers in the courtroom and
19 in this connection I would like to guide you as follows:
20 Please listen carefully to those questions. It's very important that you make sure that
21 you understand the question. If you do not understand, feel free to ask for the
22 question to be repeated. We want you to tell the truth and tell us what you saw,
23 heard or sensed yourself. If you did not see or hear it yourself, but you found out
24 some other way, then you should explain how. You may not remember all details
25 and it does not matter. Please testify just on that which you remember.

1 Don't guess. Don't make things up. There is nothing wrong in saying "I don't
2 know" or "I don't remember."

3 Do you understand all this, Mr Witness?

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

5 PRESIDING JUDGE FREMR: Very good. Mr Witness, protective measures are put
6 in place to ensure that your identity is not revealed to the public. I'm aware that this
7 has already been explained to you, but let me briefly remind you that the public
8 cannot see your face and that your voice is being disguised so that the public cannot
9 recognize you.

10 We will refer to you as "Mr Witness" and ensure that your name and any other
11 information that risks revealing who you are is not broadcasted to the public.

12 Therefore whenever you need to describe anything that might reveal your identity,
13 we will do so in private session so that no one outside the courtroom can hear your
14 answer.

15 Do you understand, Mr Witness?

16 THE WITNESS: (Interpretation) I understand, your Honour.

17 PRESIDING JUDGE FREMR: All right. Mr Witness, you have been assigned a
18 lawyer to provide you with legal advice, Mr Laucci, about possible self-incrimination.
19 You have met before and he is present here in the courtroom. If any concerns arise
20 during the course of your testimony, he will be able to advise you and to raise the
21 concerns with the Chamber.

22 Mr Laucci has requested that you be given certain assurances by the Chamber. The
23 Chamber has decided to give you these assurances. There may be questions asked
24 to you for which you fear that answering them truthfully may incriminate you
25 because these questions relate to your own conduct. In such cases we will require

1 you to answer the question, but we can assure you that your answer will be kept
2 confidential and will not be disclosed to the public or to the government of any
3 country.

4 The Prosecution has further assured that it will not use this information to prosecute
5 you before the ICC provided that you tell the truth.

6 Do you understand all this, Mr Witness?

7 THE WITNESS: (Interpretation) I understand, your Honour.

8 PRESIDING JUDGE FREMR: Very well then.

9 Mr Witness, now you will find a piece of paper in front of you with the solemn
10 undertaking. Please now make your solemn undertaking to tell the truth by reading
11 out the declaration on the piece of paper in front of you please.

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

14 PRESIDING JUDGE FREMR: Thank you. It means you are now under oath, so you
15 need to be aware that it is an offence within the jurisdiction of this Court to give false
16 testimony. Do you understand that?

17 THE WITNESS: (Interpretation) I understand, your Honour.

18 PRESIDING JUDGE FREMR: Good.

19 And now a few practical matters I should have in mind.

20 It's important to speak into the microphone, to speak clearly and to speak at a slow
21 pace, approximately like me now.

22 You should only start speaking when the person asking you the question has finished.

23 When a question is asked please, and it's very important, count in your head to three
24 and only then give your answer. This pause is essential for us to properly hear and
25 record what you are saying.

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1 If you have any questions during your testimony, or if you feel that you need a break,
2 please do not hesitate to let us know by raising your hand, we will then give you the
3 opportunity to speak.

4 Have you understood all that, Mr Witness?

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

6 PRESIDING JUDGE FREMR: Very well. So it means we can start with your
7 testimony.

8 Now Prosecution, you have the floor.

9 MR IVERSON: Thank you, Mr President.

10 QUESTIONED BY MR IVERSON:

11 Q. Good morning, sir. My name is Eric Iverson and I'm a trial lawyer with the
12 Office of the Prosecutor. We've met before, but I just wanted to introduce myself.
13 How are you this morning?

14 A. I'm fine. Thank you, Prosecutor.

15 Q. So I would just first like to highlight something that the Presiding Judge just
16 said because often times both witness and counsel tend to forget it, and that is to
17 make sure that you pause before answering the question, and then I need to pause
18 before asking the next question. And that's because of the interpretation. So
19 we'll -- can we both endeavour to do that, sir?

20 A. I agree, Prosecutor.

21 Q. Now, first I'd like to ask you a number of background questions and that's so
22 that the Chamber, the Judges can get to know a little bit about you so that they can
23 best evaluate the evidence that you'll provide, but because those questions relate to
24 your identity, I'll ask the Presiding Judge that we go into private session.

25 PRESIDING JUDGE FREMR: All right.

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- 1 Court officer, let's move into private session now.
- 2 (Private session at 9.58 a.m.)
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1 (Redacted)

2 (Open session at 10.23 a.m.)

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

4 PRESIDING JUDGE FREMR: And, again, sorry for interrupting you Mr Witness, so
5 now you may continue in answering the question put to you by Mr Iverson
6 concerning Chui mobile force. And if I remember well, you had been interrupted in
7 the time when you described training provided to recruits in Rwampara. So please
8 continue from that point.

9 THE WITNESS: (Interpretation) Thank you very much.

10 Now, Mr Prosecutor, I was telling you that there was conflict between Wamba Dia
11 Wamba, Mbusa and Tibasima.

12 In 1999 to 2000, Tibasima had already trained a number of youth at the Rwampara
13 camp. They had already finished the training and they were working with
14 Mr Léopold's battalion.

15 There was another group which I wanted to mention which arrived when
16 Madam Adèle Lotsove was still governor. That group was known as Commander
17 Mahinga's group and Commander Bosco Ntaganda's group. It also included
18 commander Mukalai and Commander Mugabo, as well as Commander Zäïrois.
19 That is the group that came from Kampala when Madam Adèle Lotsove was still
20 governor.

21 Now, when Mr Wamba Dia Wamba arrived, that group was still in Bunia. It is at
22 that time that, when the conflict broke out, the group was in the northern camp
23 supporting Mr Nyamwisi and Tibasima. The group was headed by
24 Commander Mahinga. Commander Mahinga received instructions from
25 Mr Tibasima and Mr Mbusa to take the young people who had been trained at the

1 Rwampara camp along with his people to the bush and to recruit.
2 Now, after recruiting, they would then be informed as to what they would do after
3 the young people would have been recruited in the bush. The idea being to counter
4 Mr Wamba Dia Wamba's movement. That is how the young people who had been
5 trained at the Rwampara camp along with Mr Mahinga's group, who himself did not
6 come in, he only came in a few days after into the town and left off
7 Mr Bosco Ntaganda and Mr Mugabo and his -- Zairois, as well as another person,
8 they all went along with the youth who had been trained in the bush.
9 Which bush am I talking about? It is a bush in the Irumu territory towards the south
10 of the Ituri district and these things happened in the year 2000 when Wamba was still
11 there. There was already a conflict between Wamba's camp and Tibasima and
12 Mbusa's camp. The young people who went into the bush were under the command
13 of Mr Bosco Ntaganda. That is how at that time, Chief Kahwa and
14 Mr Bosco Ntaganda named that group Chui mobile force.
15 That group which was created in the bush in the Irumu territory, specifically in Basili
16 collectivity and Andisoma collectivity and the Bahema, Irumu collectivity, it is in that
17 area that the Chui mobile force was operating while they were in the bush. They
18 also proceeded to recruitments, the recruitment was done by force. First of all, it was
19 a two-tiered recruitment exercise.
20 First of all, it was awareness building by -- for all parents and community leaders,
21 they were requested or required to provide children for the army. He said that these
22 children would have to save the country.
23 Now, the Chui mobile force under Ntaganda and other commanders, when they got
24 to the field and were operational, most of the parents had not complied with
25 Mr Tibasima's orders to provide children and that is how this group began to take

1 children forcibly.

2 So when they arrived in the collectivities which I mentioned, they forcefully took in
3 children to the Chui mobile force. So in a nutshell, you asked me the question about
4 the Chui mobile force and you further asked me how the Chui mobile force was
5 created and I hope that I have given enough answer without insisting too much on
6 the background. So I hope I have answered that specific question, Mr Prosecutor.

7 Q. Yes. As a matter of fact, you exhausted many of my other questions that I had.
8 I just have a few follow-up questions for you. Do you know how large was the Chui
9 mobile force?

10 A. Prosecutor, when you speak about the size, what exactly do you mean "how
11 large"? Could you explain a bit more what you mean?

12 Q. Well, how many militia members approximately, to your knowledge, were in
13 the Chui mobile force, if you know?

14 A. Well, yes, I do know. I could refer to a company of 150 individuals. It started
15 with 150 militia members. The reason I give that number is because the children
16 who were trained in the Rwampara camp and who completed their training, there
17 were roughly 130 of them. And about 20 under Bosco Ntaganda and a few brave
18 ones who hadn't been in the army and who left Bunia and joined the Chui mobile
19 forces. So that's basically I can say there were about 150 members.

20 Q. And do you know whether the members were predominantly of one ethnicity
21 and, if so, what was the ethnicity?

22 A. Yes. They were for the most part dominated by Hemas. They were Hemas.
23 As I said, the Chui mobile forces worked in three collectivities, in Andisoma, that is
24 the Bira -- Bira. But at the time they were occupied by the Hema people and also the
25 Bahema-Sud people in Irumu and they were nomads, so in fact the Chui mobile

1 forces recruited very specifically and Tibasima launched this recruitment. And he
2 himself, Tibasima, is a Hema and he stated clearly that the families that he consulted
3 were Hema and when they recruited children forcefully, and I emphasise I'm
4 referring to children and young people, those who didn't want to come of their own
5 volition, he forced them to join. And they were Hema. It was indeed a Hema force,
6 the Chui mobile force, dominantly. Of course there were a few others, but for the
7 most part they were Hema.

8 Q. And do you know the ages of the children who were part of the Chui mobile
9 force?

10 A. Yes, I do know, Prosecutor. In fact, I saw them myself with my own eyes.
11 When they came in from the bush, the Chui mobile had many more small children,
12 I would say between 11 and 14 years of age. There were some 15 year olds and 16
13 year olds but the majority, most of them were 15 and 16, but it started from 11 years
14 of age. I saw them myself when they got together after they left the bush under the
15 initiative of the UPDF in Bunia.

16 Q. And then one last question and then I'll ask to go into private session to ask you
17 further follow-up questions, but do you know whether anyone else other than
18 Tibasima was involved with the recruitment for the Chui mobile force, excuse me?

19 A. Well, as a Congolese citizen and a person from Ituri I'm familiar with Tibasima.
20 But there were also Ugandans who were in favour of recruiting the Chui mobile
21 forces. So I am familiar with Tibasima who completed his task under the blessing of
22 some Ugandan officers.

23 Q. Sorry, just one more question before private session. You mentioned that
24 Bosco Ntaganda was in command of the young people. Do you know specifically
25 what was his role as the commander within the Chui mobile force?

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1 A. As I said earlier, Bosco Ntaganda's group was commanded by Mr Mahinga.
2 But when they went off the bush it was Mr Bosco Ntaganda who took over the
3 command of the Chui mobile until they left the bush. He was the one who was at
4 the head of the Chui mobile force.

5 MR IVERSON: Mr President, I'd like to ask to go into private session, please.

6 PRESIDING JUDGE FREMR: All right.

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

8 (Private session at 10.37 a.m.)

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22 (Open session at 10.53 a.m.)

23 THE COURT OFFICER: We are back in open session.

24 PRESIDING JUDGE FREMR: Thank you, court officer.

25 Mr Iverson, you may proceed.

1 MR IVERSON: Thank you, Mr President.

2 Q. Sir, I'd like to ask what was the genesis of the UPC? Can you explain to the
3 Chamber how the UPC was created?

4 A. Thank you very much for that question, Mr Prosecutor.

5 As I said, there were a number of leaders already in Kampala. When the children
6 were separated from the adults and the children were returned to their families and
7 then others remained in Kampala, the Ugandan government organised training for
8 battalion commanders. It's called OBC. And the adults who had been in the Chui
9 mobile forces were -- joined this battalion commander training, which took place in
10 Jinja, which is a district in Uganda.

11 The civilians, that is the spokesman like Thomas Lubanga and others, remained in
12 Kampala. At the same time, when Uganda realised that the situation was not
13 satisfactory in Ituri, there was another leader who came to Kampala. This was the
14 replacement of Wamba Dia Wamba, that was Jean-Pierre Bemba. Jean-Pierre Bemba
15 arrived in Kampala to convince the Ugandans that he could do a better job and that
16 he could manage the Ituri district as well as some other districts that were under the
17 control of the Ugandan army. And that is how the Ituri district was put under the
18 control of Jean-Pierre Bemba, and this was decided in Kampala.

19 So as usual, Mr Wamba Dia Wamba was arrested, as was the case with Madam Adèle,
20 and he could no longer go back to Bunia. Mr Jean-Pierre Bemba then went to Bunia.
21 This is in 2001.

22 Now, Jean-Pierre Bemba set up his own government and appointed Thomas Lubanga
23 as minister of sport and at the time Lubanga was in Kampala. Thomas Lubanga did
24 not accept that position so Mr Jean-Pierre Bemba continued managing the Ituri
25 district part of the North Kivu and Bas-Uélé and Équateur as well.

1 Shortly thereafter, Mr Mbusa Nyamwisi went back to Uganda, as well as Tibasima, to
2 convince them that they could do a better job than Jean-Pierre Bemba. But they
3 didn't arrest Mr Jean-Pierre Bemba, whose headquarters was in Beni, they used force.
4 In other words, Uganda gave Mr Mbusa Nyamwisi, who had been in exile, the
5 necessary forces. Mr Jean-Pierre Bemba had gone -- Nyamwisi had gone to South
6 Africa in exile and they wanted to show that they could create something so that they
7 could get rid of Jean-Pierre Bemba. So the general Salim Saleh gave the necessary
8 forces to Mr Mbusa Nyamwisi, that is the Ugandan army, to chase out Mr Jean-Pierre
9 Bemba from Beni by force. And that is the case. Bemba was chased out the Beni
10 and Bemba left Beni. So part of the North Kivu, the greater north and the Ituri
11 district remained under Mbusa Nyamwisi. Mbusa Nyamwisi took all the people
12 who were in Kampala and took them back to Beni, including Thomas Lubanga,
13 amongst others, and few other politicians who were in Kampala and the so-called
14 parents or family members of the children. They all went to Beni, Mr Mbusa pushed
15 out the government, that is the ministers, and he himself became president. And he
16 appointed Thomas Lubanga as deputy minister of Defence and he himself, as
17 president, was also minister of defence at the same time with the help of Thomas
18 Lubanga as number 2 and he appointed Tibasima as vice president.
19 Now Thomas Lubanga didn't like that once he got to Beni but he accepted it
20 nonetheless, he accepted the post. A few months later, after his appointment, the
21 soldiers were to come on site, that is the soldiers from Mbusa Nyamwisi, and that's
22 when a series of appointments began.

23 Q. I'm sorry to interrupt you, sir, but now is the time when we normally take a
24 break.

25 So, Mr President, I would ask that we now take the break.

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1 And then we'll come back to the questions after the break, sir.

2 PRESIDING JUDGE FREMR: Yes, good point. We have to break now for

3 30 minutes so we will resume again at half past 11.

4 THE COURT USHER: All rise.

5 (Recess taken at 11.01 a.m.)

6 (Upon resuming in open session at 11.31 a.m.)

7 THE COURT USHER: All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: So after the break we are going to continue with the
10 testimony of our witness, who is examined now by Prosecution. Mr Iverson, do you
11 intend to proceed in the regime of open or private session?

12 MR IVERSON: For now I'd like to ask that we proceed in open session. I'm going
13 to continue to ask a few general questions and then I'll ask for a private session after
14 that, your Honour.

15 PRESIDING JUDGE FREMR: Very well. So now we can proceed.

16 MR IVERSON:

17 Q. Welcome back, sir.

18 A. Yes.

19 Q. So when we left off, I was asking you a question about the creation of the UPC
20 and in your answer you had mentioned that Thomas Lubanga had been appointed as
21 the vice -- or, excuse me, the deputy minister of defence and that he did not like that
22 but accepted the post. Can you explain to the Chamber around what time frame this
23 was?

24 A. Thank you, Prosecutor. That's when I was arrested and it happened in Beni
25 when Mbusa Nyamwisi and Jean-Pierre Bemba left, as I explained to you. Mbusa

1 Nyamwisi formed a government. He appointed Thomas Lubanga as vice minister
2 or deputy minister of defence. He accepted, but he wasn't really pleased with that.
3 And at the army HQ they had to redo things with the RCD-K/ML of Mbusa
4 Nyamwisi and as a minister of defence he reordered all the areas that he controlled.
5 And Mbusa Nyamwisi re-sorted the soldiers under the -- with the blessing of the
6 major commanders, with the chief of general staff and the rest of the état-major, he
7 brought out a list with the people he had appointed to each different territory. He
8 had appointed a commander to each one. And Thomas Lubanga wasn't in
9 agreement with this reordering and appointments that had been made by Mbusa
10 Nyamwisi. He asked for authorisation from the president, Mbusa Nyamwisi, if he
11 could have the Ituri district. And Mbusa Nyamwisi authorised that, that he could
12 have Ituri. And Thomas Lubanga, in turn, he also did his own reordering parallel to
13 that, to what the president had done.
14 And at that time, what he did, he appointed commanders, Mbusa also appointed
15 commanders so there was a lack of compatibility with the commanders. There
16 wasn't an agreement between Mbusa Nyamwisi and Thomas Lubanga, his vice
17 minister of defence. And so the problem started, when the problem started in Ituri
18 with regards to this new allocation, Thomas Lubanga was supported by Ugandan
19 soldiers who were there in Bunia. And Mbusa Nyamwisi was also supported by
20 some of the Ugandan soldiers who were in Beni and Kampala. So this reordering of
21 Thomas Lubanga took place, this was done, he sent soldiers and commanders to
22 different posts. Your question, Prosecutor, was about the UPC. The UPC hadn't
23 been created. I'm speaking about a time when the UPC hadn't been created. This
24 was towards the end of 2011. The UPC had not been created. And Mbusa
25 Nyamwisi had done this reallocation. He sent other commanders, but he was scared

1 of sending the commanders he had appointed.

2 Q. I'm sorry to interrupt you, sir, but I just want to clarify something on the record.
3 In the English transcript your testimony reads that the events you're describing were
4 towards the end of 2011. Could you clarify what -- the time period when this
5 happened?

6 A. Prosecutor, I can't remember the exact time it was, but it was approximately the
7 end of 2001, 2002. From 2002. But I can't remember the exact date or the exact year.

8 Q. All right. Well, that's fine. I'm not going to ask you something that you're not
9 able to do or to answer. I just wanted to get an approximate time frame so your
10 testimony could be properly understood.

11 Sir, you described the genesis of the events leading up to the creation of the UPC.
12 How was the UPC actually created?

13 A. Yes, Prosecutor. I'm coming to that. I'm coming to that issue. It's just the
14 point that I wanted to give you that was going to help me go into those aspects to
15 answer your question, the reason why I wanted to start with that to explain to you
16 that when there was a conflict between Mbusa Nyamwisi and Thomas Lubanga and it
17 was at that time that the UPC was created. And right at the start of 2002 the UPC
18 hasn't been created yet. So not to jump that point in time, I wanted to explain how
19 the UPC was created, what mobile was and what made the UPC be created. That
20 was the reason why I just wanted to explain what was happening during this period
21 and the conflict that there was between Thomas Lubanga and Mbusa Nyamwisi
22 which meant that the UPC was created, Prosecutor. If you would allow me just to
23 explain before the creation of the UPC to say how the UPC was created. I don't
24 know if you would give me leave to do that.

25 Q. Yes, sir. I would -- I would ask that you do that, but I also ask that you just be

1 mindful of the time. I'd like to be able to complete your testimony by tomorrow and
2 we have a number of topics that I'd like to go through, but please just try to keep it
3 concise, but I would like to have you explain to the Chamber those details leading up
4 to the creation of the UPC, if you would.

5 PRESIDING JUDGE FREMR: I can confirm from the Chamber's point of view that
6 it's also -- we see that relevant, but I also agree with you that it should be made in a
7 concise way.

8 THE WITNESS: (Interpretation) Thank you very much, your Honour.

9 As I told you, conflict had already started when the two restructuring or reorganising
10 exercises had come up with Thomas Lubanga as vice minister of defence and Mbusa
11 Nyamwisi.

12 Thomas Lubanga was already in Ituri. Mbusa Nyamwisi, when he saw Thomas
13 Lubanga, that he had done some restructuring and reorganisation, he appointed a
14 military governor to counter what Lubanga had done, he appointed a soldier, Colonel
15 Molondo, at the time, who's currently a general, the governor of Ituri, and he
16 appointed a governor, Claude, as an operation commander. Militarily, he was
17 seconded, so the government was -- seconded by the governor, Claude.

18 Mr Molondo arrived in Bunia in order to counter the organisation of Thomas
19 Lubanga. He didn't want the restructuring that had been done. Governor
20 Molondo and -- went to his HQ in Ituri and that was in start of 2002. And when
21 Mr Lubanga saw the governor had arrived, Mr Lubanga was with the group. Please
22 don't forget that the Chui mobile force -- well, they were already -- well, the major
23 commander was in Bunia. Some commanders didn't stay in Kampala and they went
24 to Bunia.

25 Bosco Ntaganda was there, there were other commanders, Tchaligonza, Bagonza,

1 Kasangaki, Kisembo, there were several commanders who were there in Bunia.
2 So Thomas Lubanga he took up residence in a house of the Catholic mission, a
3 Coopérative, in Bunia. And some 20 metres from his home all the commanders lived,
4 that's to say Bosco Ntaganda was there, Tchaligonza was there, Kasangaki was there.
5 Kisembo, he was also living not exactly there, but nearby to Thomas Lubanga as well.
6 All of them, they were around in a 50-metre radius of where he was staying.
7 And what he didn't want was that Governor Molondo, who had been appointed, he
8 didn't want him as the operational commander, and that's the reason why the conflict
9 started between the two camps.
10 Thomas Lubanga's with the commander -- and Thomas Lubanga had become a
11 superior and not the spokesperson in mobile force as he'd been appointed -- he'd been
12 appointed minister of defence. Everybody respected him as a minister of defence.
13 And all the commanders were together and they were in Bunia.
14 And Molondo's camp with his soldiers and the camp of Thomas Lubanga with his
15 soldier -- with his commanders, who had all been given positions, but something
16 wasn't working when Molondo arrived, so he called them all back.
17 And that's how there was a conflict between the two camps. Ugandans were present
18 at the airport. The sector commander was present. So in Bunia there were a lot of
19 people in Bunia until one of the commanders, Mbusa Nyamwisi, he went into the
20 camp, some 5 metres from where Bosco Ntaganda and the other commanders were
21 living. And when he passed to of course provoke them, then they shot at him and
22 Claude died in the field. And when he died there, there was a lot of conflict between
23 the two camps. And the Ugandans saw that there could be something wrong in the
24 Ituri district and he questioned Thomas Lubanga with the elders at -- in Kampala.
25 And that happened after the death of this commander.

1 And as there were tensions, there were clashes in the evening. When the
2 commander died there was clashes between the two camps. So when they were
3 questioned, the Ugandan government questioned Thomas Lubanga with his
4 governors and with the elders of Ituri and he left Bunia. That was the start of 2002.
5 He went to Kampala with other members of his government. And some members of
6 his government, well, the government of Mbusa, they had refused to join Mbusa.
7 There wasn't a government so his friends, these groups, all these people left for
8 Kampala and in Kampala they had all been put in a hotel that -- in Kampala there was
9 already a connection with the central government in Kinshasa and the central
10 government was collaborating with the Ugandan government so that they could
11 bring Thomas Lubanga's group with his group so they could be taken to Kinshasa
12 because they were the ones who were creating troubles and tension in the district of
13 Ituri. And that's the reason why Thomas Lubanga, he travelled with the members of
14 his entourage and some members of his team to Kampala, they were put in a hotel,
15 Regency hotel it was. And it is in that hotel after two days that they surrounded the
16 hotel to take all members of Thomas Lubanga's who were in that hotel and they were
17 taken to the Entebbe airport, they were put on a plane and they were taken to
18 Kinshasa.
19 Now, when they were taken to Kinshasa, Thomas Lubanga stayed in Kinshasa. The
20 commander who wasn't in Kampala, or the commanders, they stayed in Bunia. And
21 the commanders who were in Bunia like Bosco Ntaganda, Kisembo, Kasangaki, those
22 three commanders were almost in the leadership, they stayed in Bunia. But
23 Tchaligonza and Bagonza, they stayed in Kampala, but afterwards they also went
24 back to Bunia. And it was at that time that Thomas Lubanga was in Kinshasa with
25 some prominent persons and members of his team in Kinshasa.

1 Now, in Bunia the situation was tense. Kisembo was in Bunia, Bosco Ntaganda was
2 in Bunia and all the commanders whose names I've mentioned were in Bunia. But
3 Bunia wasn't a strategic place for these commanders who were pro-Thomas Lubanga
4 and this is why Chef Kahwa, he proposed if he couldn't give his collectivity of
5 Mandro, then that team should go and see how they could be organised in Mandro in
6 order to try to counter Mbusa Nyamwisi's movement with Molondo at the head of it.
7 And that is how Bosco Ntaganda, Kisembo -- well, Kisembo stayed in town and
8 Bosco Ntaganda, with some commanders, they went to Mandro and they set
9 up in -- set up something as a staff HQ to see how they could counter the movement
10 of Mr Molondo. He wanted to finish with the UPC and above all, when they heard
11 that Thomas Lubanga had stopped in Kinshasa and when -- so Mandro started with
12 Chef Kahwa, he was there and Bosco Ntaganda, he started.
13 Now, that was -- I don't have the exact date, but it was in 2002, but before August.
14 Now, Bosco Ntaganda went to Mandro and he organised things with his commanders
15 and he started to carry out recruitment. And Thomas Lubanga, well, he was still in
16 Kinshasa and the UPC hadn't been created at that point.

17 Now, Bosco Ntaganda started recruitment in schools and he took children from
18 primary schools. I'm speaking about children because primary school --

19 MR IVERSON:

20 Q. Sir, again, sorry to interrupt. And this is what I mean by just asking you to be
21 concise. I see now that you're starting to elaborate on things other than truly just the
22 creation of the UPC. So I just wanted to take you back to ask you a few follow-up
23 questions and if you could just provide concise answers, then we can move on to
24 other topics that I'd like to ask you about.

25 Sir, are you familiar with the name Ntumba Luaba?

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1 A. Yes. Ntumba Luaba means something to me. He was the minister of human
2 rights and a special envoy of President Joseph Kabila to negotiate with the groups of
3 militias that were occupying Ituri. That's what I remember. And also Mandro,
4 what I explained to you, that makes me think of Mandro as well. Ntumba Luaba, he
5 arrived with Thomas Lubanga from Kinshasa. So yes, it does remind me of things.
6 If that answers your question, it does -- I do remember that.

7 Q. And what connection, if any, did Ntumba Luaba have to the UPC?

8 A. Well, I can say the arrival of Ntumba Luaba coincides with the creation of the
9 UPC. That's what I can say. Ntumba Luaba arrived with Thomas Lubanga in
10 Kinshasa and it was the arrival of Thomas Lubanga in Kinshasa that was the end -- or
11 end of August 2002 UPC was created. Ntumba Luaba coincides -- his arrival
12 coincides with the creation of the UPC in Mandro. That's it.

13 Q. And in your previous answer you mentioned a person named Kiza. Could
14 you please explain to the Chamber who Kiza was and what happened to him?

15 A. Commander Kiza Claude, he was a commander for Mbusa Nyamwisi, a
16 battalion commander, and I also said here that when Mbusa sent Lompondo to
17 Bunia -- Molondo, then he sent him with a commander, an operational commander,
18 Kiza. And it was Kiza who was assassinated some 5 metres from the residence of all
19 the commanders of Thomas Lubanga who were together, not far from his residence.
20 He was the operations commander, RCD-K/ML of Mbusa. That tells you something
21 about Claude.

22 MR IVERSON: Mr President, I'd like to ask to go into private session, please.

23 PRESIDING JUDGE FREMR: Certainly.

24 Court officer, let's move into private session, please.

25 (Private session at 11.54 a.m.)

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3 (Open session at 12.14 p.m.)

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

5 PRESIDING JUDGE FREMR: Thank you, court officer.

6 Mr Iverson, please proceed.

7 MR IVERSON:

8 Q. Sir, could I ask you to explain to the Chamber how you know the accused in this
9 case, Bosco Ntaganda?

10 A. Thank you very much, Mr Prosecutor. Let me start by backtracking, if you
11 would. You have asked me how I got to know Mr Bosco Ntaganda. With your
12 leave, let me backtrack somewhat and explain to you how I got to know him. Is that
13 okay?

14 Q. Please do so, but again, concisely, please. Thank you, sir.

15 A. Okay. I will be as concise as you have requested.

16 In 1999, as I told you, when Madam Adèle Lotsove was governor, a team came from
17 Kampala of some Rwanda -- some Rwandese commanders, including Commander
18 Mahinga, Commander Bosco Ntaganda, Commander Mukalai, Mugabo and Zairois.
19 Those commanders arrived in Bunia when Madam Lotsove Adèle was there. They
20 came with the blessings of the Ugandans. They were provided accommodation
21 behind a bank in Bunia, NBK, the Nouvelle banque de Kinshasa. Behind that bank
22 the intelligence officers of the Ugandan army were also living there and they were all
23 together.

24 Madam Adèle was informed by Chakabale, sector commander, that a group of
25 commanders had arrived from Kampala who could be of assistance to the Ituri

1 district. The commander then took the group to the governor and introduced them
2 to her. That is how I got to know Commander Bosco from that day. And I have
3 known him ever since. I have known him since 1999 when he came to Bunia
4 from -- for the first time. It is then that I got to know him.

5 Q. Sir, I just want to ask a clarification question about the armed wing of the UPC,
6 the FPLC. Are you generally aware of how the FPLC functioned?

7 A. Yes. I will attempt to answer that question briefly. Armed groups such as the
8 FPLC which you mentioned operated in disorder, that's the answer I can provide.
9 There was no order.

10 PRESIDING JUDGE FREMR: Sorry, Mr Witness, I have to interrupt you.
11 Mr Bourgon.

12 MR BOURGON: Thank you, Mr President. I think it would be necessary to ask the
13 witness first what he knows about FPLC. He did mention UPC. He did mention
14 creation of UPC on different dates. But the acronym itself FPLC, to the best of my
15 recollection, has not been mentioned before. So before he gets into any details about
16 FPLC, maybe we can ask him for a bit to provide some material as to what he knows
17 what this is about. What is FPLC at all. Thank you.

18 PRESIDING JUDGE FREMR: Yeah, I would support this proposal. But again as
19 concise as possible.

20 MR IVERSON: Yes, I'll ask that question, Mr President.

21 Q. What, if anything, do you know of the FPLC, if you could please tell the
22 Chamber?

23 A. Thank you. Well, if I have not said FPLC before, several times I have talked
24 about armed groups, so from now on I will mention them as the FLPC, as requested
25 by the Defence.

1 Now, I don't know, Mr Prosecutor, what the question really is. I know everything
2 about the FLPC, FLPC and the armed groups, all what they did. I might not know
3 everything but I can provide an overview of their organisational structure. But it
4 will take us a lot of time. There might have been meetings at which I didn't
5 participate but if it comes to meetings of the FLPC I can take all the time you need to
6 give you all the explanations about it in detail in matters relating to the FLPC from
7 the beginning, its organisation, its structure.

8 PRESIDING JUDGE FREMR: Mr Witness, if I may make it really concise. So
9 I think for the Chamber it will be interesting if you could just limit yourself on
10 responding what in fact this abbreviation means, what time it had been created and
11 for what purpose. Just those three, three points. Abbreviation, time of creation and
12 purpose. But just I think one sentence for each question would be enough. So what
13 abbreviation means?

14 THE WITNESS: (Interpretation) It's the Front pour la libération du peuple
15 congolais.

16 PRESIDING JUDGE FREMR: What time it had been created, together, the same time
17 like UPC or after that?

18 THE WITNESS: (Interpretation) It was created at the same time as the UPC.

19 Shortly after the creation of the UPC, the FLPC was created and its members, the
20 members of that armed group were appointed shortly after the creation of the UPC.

21 PRESIDING JUDGE FREMR: And for what purpose?

22 THE WITNESS: (Interpretation) The purpose of the FLPC, according to the UPC,
23 was to defend Congolese people. That is how the UPC created it, that is the FLPC.

24 It was a front for the liberation of the Congolese people who were somewhat taken
25 hostage. And that is why the FLPC was created, with a view to liberating Congolese

1 who were held as hostages, according to President Lubanga when he created it.

2 PRESIDING JUDGE FREMR: Thank you very much, Mr Witness.

3 MR BOURGON: I would like to draw the Chamber's attention to, it's in the French
4 transcript, the page of the transcript, page 56 when he was asked to say what the
5 acronym FPLC means. And what is on the record, unless I'm wrong, is -- does not
6 represent what the witness said. So on the screen we have "Front pour libérer les
7 congolais," whereas -- "Front pour la libération du Congo," whereas what we heard is
8 Front pour la libération du peuple congolais. It is material to -- in terms of the
9 acronym itself and I would like if we can ask the question again to be clear for the
10 record.

11 PRESIDING JUDGE FREMR: So, Mr Iverson, please take over the further
12 questioning and I think it should be the last question concerning this general
13 introduction of FPLC, and then please continue with your own questions.

14 MR IVERSON: Yes, Mr President. I'm just confused as to which, I believe the last
15 question was actually yours, your Honour.

16 PRESIDING JUDGE FREMR: Yes, the question was to correct this discrepancy
17 between, at least as Mr Bourgon said, between what the witness said and what is now
18 covered or captured by French transcript because according to Mr Bourgon there is
19 some discrepancy. So maybe we can just kindly repeat the question.

20 MR IVERSON: All right. I'll try to clarify as best I can in a short amount of time,
21 Mr President.

22 Q. Sir, did the UPC have an armed wing? You can just answer that yes or no and
23 then I can ask a follow-up.

24 A. Yes.

25 Q. And what was the name of the armed wing, if you know?

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1 A. FLPC.

2 Q. And, according to you, what does the FLPC stand for?

3 A. As I just said, Front pour la libération du peuple congolais, as far as I know.

4 You see, ordinarily I am not a soldier and I did not work in the FLPC army.

5 However, I may be mistaken but, according to my understanding, is the Front pour la
6 libération du peuple congolais.

7 PRESIDING JUDGE FREMR: Please, Mr Laucci.

8 MR LAUCCI: (Interpretation) Thank you, Mr President. The last information
9 that has just been mentioned by the witness is such that can lead to his being
10 identified. Could it be please be taken out of the transcript since we're in open
11 session, Mr President, I believe?

12 PRESIDING JUDGE FREMR: Sorry, Mr Laucci, but in my view it's absolutely
13 general information, "I am not a soldier and I didn't work in the FLPC." I think
14 thousands of people could have the same position, so I think it's -- I don't see any
15 specific information concerning our witness. Or, do you see any?

16 MR LAUCCI: (Interpretation) The reason I say this is because connections can be
17 made between this information and the overall knowledge of the witness expressed
18 here. But I am in the hands of the Court.

19 PRESIDING JUDGE FREMR: Really I don't think so. It's again our general
20 message to parties, you have to be careful that any information which could lead to
21 identification of the witness, but in this case in my view it's very, very broad, so I
22 don't see this risk.

23 Mr Iverson, please proceed.

24 MR IVERSON:

25 Q. Sir, could you explain to the Chamber what role, if any, Mr Ntaganda had in the

1 armed wing of the UPC?

2 A. When Mr Lubanga put in place something out of the FPLC, Mr Lubanga was
3 chief of general staff, deputy in charge of operations. I believe I have answered your
4 question, Mr Prosecutor.

5 Q. I think there may have been a miscommunication, possibly in the interpretation,
6 so I'd like to ask the question again. I'm just asking you to explain what role
7 Mr Ntaganda had in the armed wing of the UPC, if any at all.

8 A. Thank you very much. I have now understood your question. Maybe there
9 was an interpretation problem indeed. But the role of Mr Ntaganda in the FPLC is
10 the following: He was in charge of all military operations on the ground. That was
11 his role. He was in charge of all military operations. Not a single operation could
12 have been undertaken without Ntaganda's involvement in his capacity as person in
13 charge of operations within the FLPC.

14 Q. And, sir, do you know specifically what operations -- what military operations
15 Mr Ntaganda led?

16 A. Mr Ntaganda commanded several operations that I am aware of. He led the
17 operation in Songolo, he led the operations in Mongbwalu, that I'm aware of, and
18 other operations in Bunia and around Bunia, he led other military operations in the
19 area of Bunia. Those are the operations I'm familiar with that Mr Ntaganda led
20 himself as operational commander.

21 Q. And do you know whether a person by the name of Kisémbu had a role within
22 the UPC armed wing?

23 A. Yes, Prosecutor. Mr Kisémbu in the FLPC, he was the chief of staff and
24 Bosco Ntaganda was the number 2. So Kisémbu was the chief of staff of the FLPC.

25 Q. Could you please describe to the Chamber the relationship between

1 Mr Kisembo and Mr Ntaganda within the UPC armed wing?

2 A. Yes. First of all, before the FLPC, if I may, Kisembo was a bodyguard for
3 Bosco Ntaganda and then within the FLPC Kisembo was appointed chief of staff of
4 the FLPC and Bosco Ntaganda was the number 2. And when I said that the FLPC
5 was a disorganised militia, army, within the group you had a chief of staff but his
6 deputy carried out operations without the chief of staff even being aware or informed
7 of those operations. Whatever Kisembo said or proposed wasn't even executed by
8 the chief of staff, Bosco Ntaganda. Some operations, for example, that Ntaganda
9 carried out that Kisembo learned about after the fact and I can give the example of
10 Songolo. In Songolo Bosco carried out the operation and Kisembo was only
11 informed afterwards. So within the FLPC it was disorganised. No one respected
12 the rank of the other. It wasn't like in an official army where the chief of staff or the
13 deputy chief of staff cannot do something without the permission of his superior.
14 Within the FLPC it was totally disorderly. And between Kisembo and Ntaganda
15 there were conflicts and complexes, if you will. Kisembo had been the bodyguard of
16 Bosco Ntaganda a few years earlier. And then just a short time afterwards,
17 Ntaganda -- or, rather, the one who had been bodyguard became the chief and the
18 one who was the chief became the deputy. There was that problem.
19 And there was also the problem of the appointments. When Lubanga made his
20 appointments, he was not allowed to put a Rwanda speaker at the head of the FLPC
21 because then people would think that the FLPC was under the control of the
22 Rwandans and, therefore, he had to appoint a Hema with Bosco in second position.
23 And that's why Bosco was acting without the approval of his superior and he was
24 acting as if he was the chief in fact. Unofficially, if you will, he was acting as if he
25 was the chief but in reality it was Kisembo. That's how the FLPC was functioning.

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1 I hope I've explained it clearly to you, sir.

2 Q. Could you tell the Chamber whether Kisembo could order Mr Ntaganda to do
3 things, give him military orders, and whether Mr Ntaganda would follow those?

4 A. Well, I never saw Kisembo give orders to Bosco Ntaganda, never, not one time.
5 So I cannot confirm whether or not Kisembo gave orders to Bosco. So I never saw
6 Kisembo give orders to Bosco Ntaganda.

7 Q. And do you know whether Kisembo or Lubanga who later learned what
8 Mr Ntaganda had done, according to you, if they ever disapproved of what
9 Mr Ntaganda had done?

10 A. You asked whether Thomas Lubanga and Kisembo you said? (Redacted)
11 (Redacted) and on numerous occasions Lubanga regretted what
12 Bosco Ntaganda had done.

13 PRESIDING JUDGE FREMR: I have to interrupt you.

14 Mr Bourgon.

15 MR BOURGON: Thank you, Mr President. I don't believe that this question, the
16 last question put by my colleague was appropriate. I read the question again in
17 terms of saying: "And do you know whether Kisembo and Lubanga who later learned
18 what Mr Ntaganda had done, according to you, if they ever disapproved of what
19 Mr Ntaganda had done?" Mr President, it would be much preferable and I think it is
20 necessary to first establish if he did anything wrong before we put a question like this.
21 Because so far the witness has not said, has not given evidence on any wrongdoings
22 of Mr Ntaganda and now we are jumping in front of the train by saying well, did he
23 disapprove of Mr Ntaganda's actions without first eliciting the evidence on any
24 alleged crimes. Thank you, Mr President.

25 PRESIDING JUDGE FREMR: Mr Iverson.

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1 MR IVERSON: Your Honour, I intend to ask about this witness's knowledge of
2 Mr Ntaganda's wrongdoing. But first, this is a question more dealing with authority.
3 So it's not a question of whether Mr Ntaganda necessarily did something wrong for
4 them to approve or disapprove. It has to do with Mr Ntaganda's authority relative
5 to Kisembo and to Lubanga. So that's the thrust of the questioning here.

6 PRESIDING JUDGE FREMR: Mr Witness, I see that you are approaching a bit issues
7 that also shows your personal relationships with those persons mentioned in question.
8 So be careful. If you really would like to respond in a way that you would like to
9 add anything what really concerns you, then we will have to move into private
10 session.

11 Mr Iverson, please proceed.

12 MR IVERSON: Well, because my next questions probably will touch on his identity,
13 I would ask that we go into private session, please, Mr President.

14 PRESIDING JUDGE FREMR: All right.
15 Court officer, let's move into private session.

16 (Private session at 12.39 p.m.)

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8 (Open session at 1.05 p.m.)

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

10 PRESIDING JUDGE FREMR: Thank you, court officer.

11 So now we break and since we are slightly over our time schedule, we will resume at
12 2.35.

13 THE COURT USHER: All rise.

14 (Recess taken at 1.05 p.m.)

15 (Upon resuming in open session at 2.36 p.m.)

16 THE COURT USHER: All rise.

17 Please be seated.

18 PRESIDING JUDGE FREMR: Good afternoon, everybody.

19 The Chamber will first deliver its oral ruling on the Defence objection and its oral
20 ruling on scope of questioning of Witness P-190 on alleged conduct by the accused.

21 The Defence requested the Chamber to rule that the Prosecution not be allowed to
22 question the witness about murders allegedly directly perpetrated by Mr Ntaganda.

23 As the Defence referred to in its submission, the Chamber addressed this issue in its
24 decision of 30 October 2015, number 968, its decision on the Defence request for

25 clarification of the admissibility of evidence related to any allegations of rape and

1 sexual slavery committed personally by Mr Ntaganda.

2 The Chamber later clarified, and now I am referring to the English transcript number
3 45 at page 23, that such incidences are not directly charged, the Chamber has already
4 ruled that such evidence is potentially relevant and indicated the applicable test. In
5 this regard, we recall that, as held already in our decision number 968, the conduct of
6 an accused in particular during the temporal period of the charges has sufficient
7 potential relevance including in relation to various modes of liability and to mens rea
8 and thus has prima facie probative value.

9 The evidence is not in principle inadmissible, but the Chamber recalls that it may
10 intervene on lengthy examination on such matters. The Chamber therefore indicates
11 that the Prosecution may lead such evidence; however, the focus of such
12 examinations must remain confined to the scope of the charges. In this regard we
13 note that the Prosecution indicated that the purpose of leading the evidence on the
14 alleged murders with this witness relates to alleged motivation or prosecutorial intent
15 on the side of the accused. Prosecution's explorations of the context of the murders
16 should therefore focus on this and not exceed too much beyond that.

17 That concludes our ruling.

18 And now witness may be escorted into the courtroom.

19 (The witness enters the courtroom)

20 PRESIDING JUDGE FREMR: Mr Witness, good afternoon. We will continue with
21 your testimony by examination conducted by Prosecution, concretely Mr Iverson.

22 Mr Iverson, do you want to proceed in open or in private session?

23 MR IVERSON: For my first question, Mr President, I'd like to proceed in open
24 session. There is just a general background question that I wanted to ask that I
25 wasn't able to ask this morning, and I hope after a relatively brief answer then

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1 I would ask for private session.

2 PRESIDING JUDGE FREMR: All right. Please proceed.

3 MR IVERSON:

4 Q. Sir, I'm not asking you for a lengthy answer, but could you explain in general
5 terms the relationship between the Hema and the Lendu at that time frame in 2001,
6 2002, 2003?

7 A. Thank you. 2001, 2002, 2003. In those years the relation between them, well,
8 there was a conflict between the Hema and the Lendu, between those two tribes,
9 Hema and Lendu.

10 Q. All right.

11 MR IVERSON: Mr President, I would ask that we go into private session, please.

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

13 And before you continue, Mr Iverson, allow me to make one general remark. As we
14 already highlighted in our supplemental decision on conduct of proceedings, and this
15 I think would be a good opportunity to emphasise that there are some topics that
16 have been already several times explored by you and commented by witnesses, one of
17 them is also the relationship between Hema and Lendu. So okay, you may proceed
18 on this topic, but really have in mind that at least for the future we would rather
19 avoid further testimony on the same topic for 20 times, so unless there is no chance to
20 get something new, so we would like to in fact finish exploration of this topic with the
21 upcoming witnesses.

22 MR IVERSON: I've heard your concerns and I understand them. That is actually
23 the only question that I had regarding the issue. I intend to move back to the issue
24 that we were discussing before the break. I just wanted that established with this

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1 witness. That's all, Mr President.

2 PRESIDING JUDGE FREMR: Very well then.

3 (Private session at 2.44 p.m.)

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21 (Open session at 3.20 p.m.)

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

23 PRESIDING JUDGE FREMR: Small correction of the transcript. I said we

24 appreciate this organised approach.

25 Mr Iverson, please proceed.

1 MR IVERSON:

2 Q. Sir, do you know what units or what personnel were involved in the Ezekere
3 operation other than Mr Ntaganda?

4 A. Besides Mr Ntaganda, I have already mentioned Chief Kahwa, but they had a
5 group or troops of people who were part of their operation.

6 Q. Are you aware of the reasons why this particular locality, Ezekere, was
7 attacked?

8 A. Ezekere shares borders with the Bahema-Banywagi chefferie and Mandro, so
9 what happened is that the massacres were initiated by the chief of the collectivity
10 himself. They went up the hill and said that the Lendus and the Ezekere were also
11 killing the Hema, so when -- and that happens when the Hema go down to Lake
12 Albert. And according to information, there were a number of deaths. That is why
13 Ezekere was considered to have been a victim of these massacres.
14 In short, it is part of the conflict between Ezekere and the Mandro collectivities
15 Bahema-Banywagi and the chief of Mandro himself, that's Chief Kahwa, who in fact
16 was the one who led up the operation with Ntaganda.

17 Q. And now I'd like to ask you about whether you have any knowledge about an
18 alleged August 2002 attack on Bunia. What, if anything, can you tell the Chamber
19 about that alleged attack?

20 A. Are you talking about the attack on the town of Bunia or on Ituri in August 2002?
21 I don't know whether you are talking about Bunia or about the Ituri in general.

22 Q. I'm just -- my question only pertains the city of Bunia. So I'm just asking about
23 whether you have any knowledge about any attacks, armed violence in Bunia in
24 August 2002.

25 A. Yes. Molondo's troops and the UPC troops had some clashes. The Ugandans

1 intervened, supporting the UPC group in that clash in Bunia. I was informed of that
2 attack on Bunia between the UPC and the RCD-K/ML troops.

3 Q. And do you know who from the UPC forces led the attack in Bunia?

4 A. Chief Kisémbu was there. He was in town. Bosco Ntaganda supported him,
5 supported Kisémbu, who was present in Bunia town himself. But it is Kisémbu
6 himself who was initially commanding that attack and then the other commanders,
7 the group of other -- the group of other commanders then joined Kisémbu, that is,
8 these other Ugandan commanders, to attack Bunia.

9 THE INTERPRETER: Rather, to attack the other groups, says the witness.
10 Correction from the interpreter.

11 MR IVERSON:

12 Q. And do you know if there were fatalities during this attack?

13 A. Yes, there were many victims. The confrontation was between a group
14 supported by a Ugandan government army, they used tanks and heavy weapons
15 against the opposite group, which also had weapons, including heavy weapons. So
16 on each side there were casualties. People died. However, the group of the
17 Ugandan army, which was stronger and had heavy weapons, led by the commanders
18 whose names I have mentioned, attacked. When they attacked the RCD-K/ML
19 group was on the defensive. Most of our natives supported the RCD-K/ML because
20 they perceived this to be a tribal conflict and they therefore had to align with the
21 RCD-K/ML group. Whereas the UPC group and the Ugandans were able to drive
22 out the RCD-K/ML and subsequently take it out on the people who had supported
23 the RCD-K/ML and that is how the population fell.

24 THE INTERPRETER: Says the witness.

25 THE WITNESS: (Interpretation) They fell and many people died.

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1 MR IVERSON: I'd like to ask for private session so I can ask a few specific questions
2 here, Mr President.

3 PRESIDING JUDGE FREMR: For sure.

4 Court officer, let's move into private session, please.

5 (Private session at 3.29 p.m.)

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8 (Redacted)

9 (Redacted)

10 (Redacted)

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15 (Redacted)

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22 (Redacted)

23 (Open session at 3.38 p.m.)

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

25 PRESIDING JUDGE FREMR: Thank you, court officer.

1 Mr Iverson, please proceed.

2 MR IVERSON:

3 Q. Sir, we're in open session, so I just would ask to -- that you're mindful of not
4 referring to anything that would identify you, but I would like to ask you whether
5 you have any information, whether you're familiar with a military operation in a
6 place called Mabanga?

7 A. Yes, I'm familiar with that operation in Mabanga.

8 Q. And approximately when was there a military operation in Mabanga?

9 A. It was before the UPC was set up that the Mabanga operation took place.
10 When there were soldiers in Mandro, that's when the Mabanga operation took place
11 in 2002, but I don't remember the exact date.

12 Q. And who was involved in that Mabanga operation?

13 A. The Mabanga operation was initiated by Bosco Ntaganda.

14 Q. And do you know why the Mabanga operation was initiated? Do you know
15 what its objective was?

16 A. The goal of the Mabanga operation was -- well, I hesitate to use the term
17 "economical" but it was to get money basically. Mabanga was composed of several
18 different tribes and they were gold diggers so the Mabanga operation, in my opinion,
19 was to profit from the situation and take back the mine so that the commanders,
20 Bosco and his soldiers could take over the mine. I think that was the goal. At least
21 that's the goal that I would suggest.

22 Q. And do you know who was in Mabanga that it needed to be attacked? In other
23 words, who did the UPC forces attack in Mabanga?

24 A. Well, Mabanga, in fact, the people who were there were from a variety of tribes,
25 so they all were impacted by this attack. The purpose was to chase them all away,

1 and anyone who resisted was -- was killed by Bosco's troops. So I can't really
2 confirm exactly who was targeted as such in the Mabanga operation. It was
3 Mabanga as a whole, if you will.

4 Q. And do you know whether the Mabanga operation was regarded as a success?
5 Was the operation -- did it meet its objectives?

6 A. Yes, the Mabanga operation did reach its goal, but not for long because shortly
7 thereafter Mabanga was taken back by the former occupants before they had been
8 chased away. So they did reach their goal, but only in the short term.

9 MR IVERSON: Mr President, I would ask that we go into private session briefly.
10 Thank you.

11 PRESIDING JUDGE FREMR: Certainly.

12 Let's move into private session now.

13 (Private session at 3.44 p.m.)

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ICC-01/04-02/06

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8 (Open session at 3.50 p.m.)

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

10 PRESIDING JUDGE FREMR: Thank you.

11 Mr Iverson, you may proceed.

12 MR IVERSON:

13 Q. Sir, are you familiar with a military operation in a place called Songolo?

14 A. Yes, I was aware of that. I was informed of that.

15 Q. So keeping in mind that we're in open session, could you tell the Court who was
16 involved in that military operation?

17 A. In the case of Songolo, Bosco was involved a hundred per cent. He led the
18 operation from Mandro. He left Mandro to go on that operation. So it was
19 Bosco Ntaganda who was involved.

20 Q. And could you tell the Chamber, if you know, what was the objective of that
21 attack in Songolo?

22 A. Yes, the Songolo attack was aimed at attacking the village to massacre the Ngiti
23 population, the local population. They were Ngiti. That was the purpose, to
24 massacre the Ngiti people.

25 Q. And to the best of your knowledge, did Mr Ntaganda and his troops accomplish

1 their objective?

2 A. Yes, they did reach their objective.

3 Q. Who were the residents or the people found in Songolo?

4 A. Songolo is Walendu-Bindi so these are Ngiti people who live in Songolo. And
5 a few Bira, but it's 99 per cent Ngiti people.

6 Q. And are you aware whether there were any opposing militias in Songolo, so any
7 militias that were opposed to UPC?

8 A. From what I know, in Songolo it was only the local population. Of course they
9 had their self-defence; in other words, each family had something to defend itself,
10 perhaps a bladed weapon or something else.

11 Q. But to your knowledge -- well, I'll leave it there.

12 Well, were there any militias to your knowledge in Songolo other than the UPC?

13 A. I don't know what you mean exactly by "militia." I do know that the Songolo
14 people had their own self-defence system, if you will. But the UPDF, the Ugandan
15 army, was just a few miles away, but the population had their own self-defence
16 system. I don't know whether there was actually any militia present in Songolo.

17 Q. And do you know approximately when this attack at Songolo took place?

18 A. At the end of August approximately, around 28 or 29 August, but I'm not
19 exactly certain of the precise date, but I would say toward the end of August 2002.

20 Q. And just in -- so we can place the attacks in some type of order, did the Songolo
21 operation occur before or after the attack in Bunia in August 2002?

22 A. The Songolo operation took place afterwards.

23 Q. And did the operation at Songolo take place before or after Mabanga, the attack
24 at Mabanga?

25 A. Afterwards.

1 Q. And the operation at Ezekere, could you place that in a timeline from the attack
2 in Bunia, Mabanga, Songolo?

3 A. Songolo was always afterwards, but Ezekere and Bunia took place before, but
4 Songolo was after. Songolo was once Thomas Lubanga had already come back from
5 Kinshasa.

6 Q. And why, if you know, why did the UPC have it as an objective to massacre, as
7 you put it, the Ngiti?

8 A. As I explained, Mr Prosecutor, there had already been conflicts between the
9 Hema and the Lendu, and for the Lendu, the Hemas was the enemy and for the
10 Hemas the Lendu was the enemy. So if you ask me why, well, for the Hemas they
11 had to put an end to the Lendu and for the Lendu they had to put an end to the Hema.
12 That's why they attacked Songolo because it was a Lendu town, a Lendu or Ngiti
13 town, and there was no real reason other than that. There's no other reason I can
14 give you. It was just for that reason. That's all.

15 Q. And just to follow up on your last answer, you said it was a Lendu or Ngiti
16 town. I just want to know, according to you, are those two words or labels
17 interchangeable, or if not, how are they related if at all?

18 A. In the Ituri district you have the Walendu-Bindi collectivity and in that
19 collectivity, Walendu-Bindi, the people who live there are called Ngiti. But there are
20 other collectivities further north, the Walendus, whether it's Tatsi, Djatsi, Tatsi, Djatsi
21 and the others, the Pitsi, they are Lendus and they border with the Hema north.
22 Whereas in the Walendu-Bindi collectivity where the Ngiti live, that's where they live,
23 they border on the Hema-Sud community the Hema south and the Bira community.
24 That's the difference. The Ngitis are Lendus, but since they are from Walendu-Bindi,
25 they call themselves Ngiti. If you go to Walendu-Pitsi in Bunia, they call themselves

1 Walipa (phon). And the people from the Walendu-Bindi, they are called Ngiti.

2 That's basically the difference, but they are all Lendus.

3 Q. Thank you for that clarification, sir. Do you know which units or personnel
4 from the UPC were led by Mr Ntaganda at the operation on Songolo?

5 A. During the Songolo operation Mr Ntaganda had appointed a commander who
6 had taken over Irumu, including Songolo, and that was Bagonza. Commander
7 Bagonza was there and he was arrested by Bosco Ntaganda in Mandro and it was --

8 THE INTERPRETER: A name that the interpreter did not catch.

9 THE WITNESS: (Interpretation) -- who was the commander and in charge of the
10 entire territory of Irumu.

11 THE INTERPRETER: Note from the interpreter: Could you ask the witness to
12 repeat the name of that commander?

13 MR IVERSON:

14 Q. Sir, could you just repeat the name of the commander that you just mentioned.

15 I have Bagonza, but if you mentioned another commander, the interpreter wasn't able
16 to hear and interpret what you said.

17 A. It's Bagonza, Bagonza.

18 Q. You stated that Commander Bagonza was there and he was arrested by
19 Bosco Ntaganda in Mandro. Could you explain how that happened and why it
20 happened?

21 A. No, I didn't say he was arrested. I said he was -- he was stopped or he called
22 him, he called him. He called upon him perhaps.

23 Q. Okay. Thank you for that clarification.

24 And that was in today's transcript page 104 at line 7.

25 And do you know, if you know this, why did Mr Ntaganda call upon Commander

1 Bagonza?

2 A. He asked him about the Songolo operation because he was in charge. He
3 called upon Commander Bagonza to give him instructions so that they start the
4 Songolo operation together. That's all I know.

5 Q. And other than the commanders that Mr Ntaganda used in the Songolo attack,
6 could you describe the other personnel who were present during that attack in
7 Songolo from the UPC?

8 A. Aside from the two commanders, I can tell you that Bosco left Mandro with his
9 soldiers and they were minors, minors, they were under 18. Those were the ones
10 who carried out the operation in Songolo. He went with them because on site
11 Mr Bagonza didn't have many soldiers. In fact, he left with the soldiers from
12 Mandro to go to Songolo.

13 Q. When you say the soldiers were minors under 18, were you able to estimate
14 how old the minor soldiers were?

15 A. Yes, Prosecutor. I could make an estimation. And why? Because the
16 recruitment of these troops was carried out -- well, I knew how the recruitment was
17 carried out and that's the reason why I said minors. The recruitment was done in
18 primary schools, and in the Congolese system primary school is for children. Well,
19 they normally finish primary school when they are 11 years old or 12 or 13 if the child
20 has had a delay. And that's the reason why I spoke to you about minors. That's the
21 real part. But also looking at them, there are Pygmies in our country, I can't tell by
22 looking at people, just because somebody is short doesn't mean they're a child, but
23 you do know that children from primary school, well, they were recruited by
24 Bosco Ntaganda. (Redacted)
25 (Redacted).

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1 MR IVERSON: Mr President, I would just ask that we go into private session,
2 please.

3 PRESIDING JUDGE FREMR: All right. Court officer, let's move into private
4 session.

5 (Private session at 4.07 p.m.)

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- 11 (Open session at 4.21 p.m.)
- 12 THE COURT OFFICER: We're in open session, Mr President.
- 13 PRESIDING JUDGE FREMR: Thank you, court officer.
- 14 Mr Iverson, please proceed.
- 15 MR IVERSON:
- 16 Q. Okay, sir, I'd like to ask you questions now about your knowledge of military
- 17 operations in Mongbwalu. Are you familiar with UPC military operations in
- 18 Mongbwalu?
- 19 A. Yes, I was informed about them.
- 20 Q. Now, first of all, I'd just like to ask, to your mind, how many military
- 21 operations -- UPC military operations were there in Mongbwalu?
- 22 A. In Mongbwalu there were two operations carried out by the UPC.
- 23 Q. And can I have you briefly describe the first operation in Mongbwalu
- 24 conducted by UPC?
- 25 A. The first operation carried out by the UPC was a failure because they entered

1 Mongbwalu and they met with resistance from the APC. That's the army of
2 RCD-K/ML that was still there in Mongbwalu. They had serious resistance and so
3 they were driven back and they went back. That's the first operation.

4 Q. And the same question then for the second operation, could you explain in
5 general terms how the second operation in Mongbwalu unfolded?

6 A. Well, the last operation like the first operation was a failure because they still
7 had to meet up with Bosco Ntaganda in order to see how to succeed with the
8 operation that they had to take over Mongbwalu. So this time they called Jérôme
9 Kakwavu from Aru's troops -- he had his troops in Aru and he called some
10 commanders, Mr Jérôme's commanders who arrived in Bunia and they had a strategic
11 meeting together to see how they could retake Mongbwalu. And after this meeting,
12 with the commander Mr Jérôme and his troops, they left Aru and they went towards
13 Mongbwalu with the commander. And that is how they entered Mongbwalu.
14 They met with resistance again but it wasn't too much because there were other
15 troops, Jean-Pierre Bemba's in the forest and they were called the Effacer le tableau
16 troops and they were the ones who joined the group of the UPC in order to finally
17 take Mongbwalu, but the operation was hard because there were a lot of people died,
18 a lot of civilians died, civilians were in Mongbwalu, it was a town which was
19 concentrated with a lot of civilians, it was a mining region, a lot of men, a lot of
20 women and families who were there. It's also a locality with a lot of people. That
21 was the second operation. Until they were able to drive out the APC who were
22 strong there. They were a strong enemy. But as I said, a lot of people died in this
23 operation in Mongbwalu. So they managed to take over the locality of Mongbwalu
24 the second time.

25 Q. Other than Jérôme Kakwavu and Bosco Ntaganda, who were the commanders,

1 to your knowledge, who took part in the planning for the Mongbwalu operation?

2 And I'm referring to the second attack.

3 A. Thanks. Jérôme Kakwavu wasn't in the meeting, the strategic meeting for this
4 operation, but he sent two of his commanders, Commander Manu Ndukutse and
5 Commander Seyi. And it was these two who attended the strategic meeting to take
6 Mongbwalu. Jérôme Kakwavu was in Aru, he just sent his commanders.

7 Q. So I just ask you to -- there was a name that wasn't -- wasn't captured in the
8 transcript. So you mentioned a Manu and then you mentioned a second name.
9 Could you say that full name please for the transcript.

10 A. Perhaps I might mispronounce it myself, but Ndukutse. I can -- I might
11 mispronounce it, but Ndukutse. But perhaps I mispronounce it as well.

12 Q. Well, I am happy to know that I'm not the only person in the courtroom to
13 mispronounce words, but I think that's clear, Mr Witness, and I think we can move on.
14 And I note -- I notice, actually, that it's about time to end for the day. So I think in
15 terms of -- your Honours, in terms of timing, I think we've made pretty progress, I
16 should be able to finish, I approximate, in the second morning session tomorrow.

17 PRESIDING JUDGE FREMR: Just to provide you with our measuring because
18 according our measuring you have already so far exhausted almost four hours, so it
19 should be ideally in the half of your task, but I understand that you are even further?
20 Because you still -- you still should have four hours at your disposal, so at least two
21 morning sessions and even a piece of the afternoon, but if you would be faster, we
22 would appreciate.

23 MR IVERSON: Well, I don't want to promise something that I can't --

24 PRESIDING JUDGE FREMR: Don't make promises.

25 MR IVERSON: I don't want you to hold me to it, but I think I might -- if things go as

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1 they have today, I estimate that I should be finished tomorrow by the end of the
2 second session.

3 PRESIDING JUDGE FREMR: All right. It's mainly for LRV and for Defence to be
4 ready to start with their examination, if any, tomorrow afternoon. Okay. Thank
5 you very much, Mr Iverson.

6 Thank you, Mr Witness. So for today we will conclude for today your testimony.
7 We will continue tomorrow. I would like to thank you because I can imagine it was
8 a very long day for you, but you were doing very well. You observed our guidance.
9 You patiently and clearly responded all questions put to you, so thank you very much
10 for that. It's also my task to warn you that in the meantime till tomorrow you must
11 not discuss your testimony with anyone apart from your lawyer -- lawyer, sorry, from
12 your lawyer, Mr Laucci. Do you understand that?

13 THE WITNESS: (Interpretation) Thank you very much, your Honour.

14 PRESIDING JUDGE FREMR: So otherwise we wish you a good rest and we will see
15 you again tomorrow.

16 So that's the end of this session. Yes, we are in open session, fine. So it's the end of
17 this session and we will resume tomorrow 9.30.

18 THE COURT USHER: All rise.

19 (The hearing ends in open session at 4.32 p.m.)