

Trial Hearing
WITNESS: DRC-OTP-P-0894

(Open Session)

ICC-01/04-02/06

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
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 2
8 Friday, 17 June 2016
9 (The hearing starts in open session at 9.37 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 We are in open session.
19 PRESIDING JUDGE FREMR: Now appearances, starting with Prosecution.
20 MS SIM: Good morning, Mr President. Good morning, your Honours. Appearing for
21 the Prosecution this morning are Eric Iverson, trial lawyer; Marion Rabanit, associate trial
22 lawyer; Selam Yirgou, case manager; and myself, Kristy Sim, assistant trial lawyer.
23 PRESIDING JUDGE FREMR: Thank you, Ms Sim.
24 Defence, please.
25 MR BOURGON: (Interpretation) Good morning, your Honour, your Honours, as well

1 as everybody else present in the courtroom this morning. Representing Bosco Ntaganda,
2 who is present this morning, Margaux Portier; Erik Cookson-Montin; Marlène Yahya; and
3 myself, Stéphane Bourgon. Thank you, your Honour.

4 PRESIDING JUDGE FREMR: And Legal Representative of Victims, please.

5 MR ABDOU: Good morning, Mr President, your Honours. The former child soldiers
6 are today represented by myself, Mohamed Abdou, associate legal officer with the OPCV.

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

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

11 We are starting without the witness because first we, the Chamber, will clarify its
12 approach to Rule 68(3) procedure, especially in this case of Witness P-894.

13 The Chamber notes the submissions received from the Prosecution, via email last night,
14 seeking to clarify the procedure to be adopted for the admission of the materials for this
15 witness under Rule 68(3) of the Rules.

16 As a preliminary matter, the Chamber wishes to confirm that deferral of the admission
17 was purely subject to the condition of the witness continuing to be available today for
18 questioning by the Defence.

19 That being the case, the Chamber shall formally admit the three items that are the subject
20 of the Rule 68(3) request for Witness P-894; namely, DRC-OTP-2076-0194, then
21 DRC-OTP-2076-0211 and DRC-OTP-2076-0212.

22 And it is important subject to the witness completing examination by the Defence and
23 Chamber, because, as I said yesterday, the conditions for granting request under 68(3) are
24 fully met when Defence and Chamber had opportunity to examine the witness, and this
25 opportunity, in my understanding, doesn't mean just formally that witness is present, but

1 they had really chance to examine the witness.

2 So hypothetically, if the witness would refuse to respond to questions put by Defence or
3 the Chamber, then, in my view, conditions wouldn't be met. So I know that such a case
4 is probably rather hypothetical, but still we should be careful.

5 So that is why, in fact, this admission is subject to those conditions. If those conditions
6 wouldn't be met, then we would have to revise our decision on granting this request.

7 So for future witnesses, the Chamber may either admit such items immediately upon the
8 witness confirming their accuracy and that he or she does not object to their admission, or
9 depending on circumstances such as, in this case, defer admission until it is apparent that
10 the witness remains available to continue the testimony and always subject to conditions I
11 mentioned today in giving reasons for this decision.

12 Any comments or questions? I don't -- Mr Bourgon.

13 MR BOURGON: Very quickly, Mr President.

14 The Defence is grateful for the Chamber's ruling on this matter. Mr President, very
15 quickly, as much as I appreciate being informed in advance of oral submissions that the
16 Prosecution wishes to make before the Chamber, which I believe was the purpose of the
17 mail which was forwarded to the Chamber last night, we would like to begin by
18 expressing our view that requests for clarification of this type should not be made by way
19 of electronic mail, especially when they deal with substantive matters such as this one.
20 This was discussed at the beginning of this case during a status conference as to what
21 could be or could not be included in electronic mail to the Chamber.

22 We believe, Mr President, that it is important to have arguments on the record at all times
23 so that we can protect our right of appeal and build the record for the appeal. We also
24 believe that it is important for the Defence to have an opportunity to respond to any
25 submissions made by the Prosecution. In this case, we have -- there isn't -- it is a

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1 non-issue because we agree with the ruling of the Chamber, but this might not always be
2 the case.

3 We suggest, Mr President, that electronic mails forwarded to the Chamber in addition to
4 the common practice. The Chamber is loaded -- is flooded with submissions by
5 electronic mail on delays, on administrative matters, but we suggest that whenever it is a
6 substantive matter, parties, including the Defence, should state the topic and should state
7 the relief requested but no more so that the debate can take place either in writing if the
8 Chamber wants so, or orally, but at least the debate can take place. Thank you,
9 Mr President.

10 PRESIDING JUDGE FREMR: Point taken.

11 Ms Sim, do you want to comment on it in any way?

12 MS SIM: No, your Honour. It's simply, in -- in this case, it was a matter of time since
13 that we wanted to have the matter before the Chamber in time for the parties to have time
14 to think about what we were saying, and to draft a filing would have been a more
15 time-consuming process, so we chose to send an email instead.

16 PRESIDING JUDGE FREMR: It's true that it was a rather urgent matter, but generally it
17 would be, maybe it might be a different opinion, that this matter would be considered
18 important or not. I would personally consider that a serious issue. So next time I
19 would generally support what Mr Bourgon said.

20 Now we can continue with the testimony.

21 Court usher, please bring Mr Witness into the courtroom.

22 And we will continue by examination conducted by Legal Representative of Victims by
23 Mr Suprun.

24 And I am just repeating that, Mr Suprun, you have been granted 15 minutes for your
25 examination.

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1 (The witness enters the courtroom)

2 PRESIDING JUDGE FREMR: Good morning, Mr Witness. Can you hear me?

3 WITNESS: DRC-OTP-P-0894 (On former oath)

4 (The witness speaks Lingala)

5 THE WITNESS: (Interpretation) Yes, I can hear you.

6 PRESIDING JUDGE FREMR: Very well. So, Mr Witness, today we will continue with
7 your examination now by Legal Representative of Victims and then by Defence.

8 It's my only duty to remind you that you are still under oath, so you have to speak the
9 truth and nothing but the truth. Is it clear to you?

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

11 PRESIDING JUDGE FREMR: So now -- sorry. Now, Mr Suprun, you have the floor.

12 MR SUPRUN: (Interpretation) Thank you very much, your Honour.

13 QUESTIONED BY MR SUPRUN: (Interpretation)

14 Q. Witness, good morning.

15 A. Good morning.

16 Q. We know each other, but I'm going to give my name for the record; Dmytro Suprun
17 and I represent the victims of the attacks against the civil population who are
18 participating in these proceedings against Mr Ntaganda.

19 Now, I'd like to have more details with regard to your experience, as well as the
20 experience of your family.

21 MR SUPRUN: (Interpretation) Your Honour, could we now go into private session,
22 please?

23 PRESIDING JUDGE FREMR: Certainly.

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

25 (Private session at 9.48 a.m.)

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21 (Open session at 10.02 a.m.)

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

23 PRESIDING JUDGE FREMR: Thank you, court officer.

24 Mr Suprun, please proceed.

25 MR SUPRUN: (Interpretation)

1 Q. Witness, as a victim of the war in Ituri between 2002 and 2003 what do you expect
2 from the International Criminal Court at the outcome of this, this trial of
3 Mr Bosco Ntaganda?

4 A. Justice is there to issue a ruling. I am confident that the Judges will hand down a
5 judgment and that they do so based on what they have learnt and in order to ensure that
6 each person is put in their place.

7 Q. In the event that Mr Ntaganda is found guilty, would you wish to receive
8 reparations for the harm you have suffered?

9 A. If reparations were an availability or a possibility that would be a good thing. We
10 have lost our property and our belongings and if that could be compensated that would
11 be a wonderful thing, but if not our life will continue as before.

12 MR SUPRUN: (Interpretation) Thank you very much, Witness, for your assistance.
13 Your Honour, I have no other questions.

14 PRESIDING JUDGE FREMR: And I thank you, Mr Suprun, for your punctuality.
15 Now we can move to the Defence. So, Mr Bourgon. And I'm just reminding that the
16 Chamber decided to grant you three hours for cross-examination.
17 So, Mr Bourgon, you have the floor.

18 QUESTIONED BY MR BOURGON:

19 Q. Good morning, Mr Witness.

20 A. Good morning.

21 Q. Allow me to begin, sir, by introducing myself.
22 I believe we are in open session.

23 THE COURT OFFICER: Mr Bourgon, I'm sorry to interrupt you, but I would like to
24 remind you to turn off your microphone between two questions, especially when we are
25 in open session.

1 MR BOURGON: This is exactly what I just informed my crew.

2 Q. Sir, allow me to begin by introducing myself. My name is Stéphane Bourgon and
3 I'm a lawyer from Canada, and along with my assistants here we represent together the
4 accused in this case, Mr Bosco Ntaganda. Do you understand this?

5 A. Yes, I've understood perfectly.

6 Q. Sir, you remember that you and I had a chance to meet last week when you arrived
7 in The Hague; is that right?

8 A. Yes, that's right.

9 Q. I have a number of questions for you over the next three hours in respect of your
10 statement. And the same procedure applies, which means that once I've finished asking
11 a question, please wait a few seconds before giving a response. And I will also wait
12 before -- for a few seconds before asking my next question. Do you understand this?

13 A. Yes, I've understood.

14 Q. Also, it is very important that if I ask you a question which you do not understand,
15 then I invite you to ask me to repeat my question so that we are both on the same page
16 with respect to the information I am looking for. Do you understand this?

17 A. Yes, I've understood.

18 Q. And lastly, sir, in the course of my questions many -- on many occasions my
19 questions can be answered by a yes or a no which will allow us to save some time and I
20 invite you to give a yes or no answer where possible. Of course, if you have anything
21 that you wish to add, then by all means you have to add what you want to say. Do you
22 understand this?

23 A. Yes, I have.

24 Q. Sir, since arriving in The Hague you had a number of meetings with Prosecution
25 representatives in order to prepare for your testimony; is that correct?

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1 A. Yes.

2 Q. I refer in particular to meetings which took place on Monday, 13 June. Do you
3 recall these meetings?

4 A. Yes, we met on that day.

5 Q. And I take it, sir, that you remember that this meeting, for the most part, was audio
6 and video recorded; is that correct?

7 A. Yes, that's right.

8 Q. I also understand, sir, that you remember that part of this first meeting there were
9 other people present from the victims and witnesses section and that on this occasion
10 there was no audio-video recording; do you recall this, sir?

11 A. Yes, we met with them.

12 Q. Now, sir, what I'd like to begin as part of my cross-examination is to explore the
13 information that was discussed during that initial part of the meeting.

14 MR BOURGON: And for this we will go into closed session -- private session, sorry,
15 Mr President.

16 PRESIDING JUDGE FREMR: For sure.

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

18 And for the information of public, this witness is a protected witness, which means that
19 his -- he got granted that his identity will not be revealed to the public.

20 Ms Sim, any comment on that?

21 MS SIM: Very briefly. The reference to a Victims and Witness Unit representative
22 being present is actually incorrect, it was an investigator of the Court -- of the Prosecution.
23 I don't know if my friend intended to do that, but the individual named is actually an
24 investigator with the Office of the Prosecutor, not a representative of the Victims and
25 Witnesses Unit.

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- 1 PRESIDING JUDGE FREMR: All right.
- 2 Now, let's move into private session.
- 3 (Private session at 10.12 a.m.)
- 4 (Redacted)
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1 (Open session at 11.06 a.m.)

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

3 PRESIDING JUDGE FREMR: Thank you, court officer.

4 Mr Bourgon, according my information so far you used, yes, 59 minutes, so in fact you
5 still have at your disposal 2 hours, 1 minute.

6 There are two alternatives and that is why I am addressing you, the first one is to continue
7 in traditional manner, which means that you will have next morning session
8 taking -- lasting 90 minutes and then we will adjourn for approximately 30 minutes in the
9 afternoon, or there is a second alternative, to take longer two-hour morning session if that
10 would be enough for you to complete your cross-examination. So I am asking. It is up
11 to you. I don't want to push you.

12 MR BOURGON: Mr President, I would like to complete in a two-hour session. I think
13 that is possible. However, depending on if there are objections or loss of time and I
14 cannot complete, then I will let you know halfway through the next session.

15 PRESIDING JUDGE FREMR: We will not punish you if you will not succeed.

16 So okay then, so we will change our schedule accordingly. Now it is 11.10 almost so we
17 will continue -- we will break now for 30 minutes, so we will continue 11.40, and then we
18 will take two-hour session.

19 Now we break.

20 THE COURT USHER: All rise.

21 (Recess taken at 11.07 a.m.)

22 (Upon resuming in open session at 11.41 a.m.)

23 THE COURT USHER: All rise.

24 Please be seated.

25 PRESIDING JUDGE FREMR: Mr Bourgon, sit down for a while because I would like to

1 start, even if in a quick way, with delivery of our oral ruling. In fact I have two
2 follow-up procedural matters relating to the previous witness from yesterday that I would
3 like to address at this stage.

4 The Chambers notes that it received an email from the Prosecution yesterday confirming
5 that the parties have reached an agreement on the timestamps of the five video excerpts
6 used with Witness P-46. The timestamps are those initially indicated by the Prosecution
7 at edited transcript 101, page 59, lines 18 to 21, and there is, therefore, no need to amend
8 the Chamber's ruling on the admission of these five exhibits.

9 Now the Chamber wishes to also come back to the Prosecution request seeking to tender
10 into evidence document DRC-OTP-0152-0256 through Witness P-46 recorded at transcript
11 100. In this regard I recall that the Defence objected to the admission of this document
12 and that the Chamber received further submissions from the parties which are recorded at
13 transcript 103.

14 In taking its decision the Chamber has had particular regard to the evidence provided by
15 Witness P-46, including at page 91 of edited transcript 100 from line 8 to 23 and at pages
16 49 to 60 of live transcript 103.

17 The Chamber notes that the witness indicated that she herself received the account of the
18 event reported at page 265 of the document but observes that she does not appear to have
19 any particular recollection of the details of this meeting.

20 The Chamber further took into consideration the corrections she provided at pages 2 and
21 3 of live transcript 103 where she indicated of her own initiative that the corresponding
22 individual story referred to at page 1844 of DRC-OTP-2082-1832 is more accurate than the
23 information recorded in the draft report sought to be admitted.

24 The Chamber is satisfied that the report is relevant to the present case but wishes to
25 emphasise that it considers it appropriate to exercise caution, in particular, noting the

1 content which could be prejudicial to the accused. Accordingly, having found that prima
2 facie probative value of the information contained in this document is outweighed by the
3 potential prejudice that admission would cause to the accused, the Chamber sustains the
4 Defence objection and document DRC-OTP-0152-0256 is not admitted into evidence.

5 Finally, concerning the Defence request seeking clarification from the Chamber
6 concerning the eventual use of the related information appearing on the record, the
7 Chamber considers that this is a matter that is more appropriately assessed in light of the
8 full evidentiary record. Nonetheless, the Chamber notes that the nature of the material
9 currently before it is such that it's likely to attribute little to no weight to this particular
10 evidence.

11 This concludes the Chamber's ruling.

12 Now, Mr Bourgon, you may proceed.

13 MR BOURGON: Thank you, Mr President.

14 Q. Welcome back, Mr Witness.

15 A. Thank you.

16 (Redacted)

17 (Redacted)

18 (Redacted)

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3 PRESIDING JUDGE FREMR: Ms Sim.

4 MS SIM: I just wanted to remind opposing counsel that we're in public session right now.

5 So I don't think that the transcript caught any names, but I -- in French it did, I'm told. So

6 we're going to have to seek a redaction to that as well.

7 PRESIDING JUDGE FREMR: So, yes, I'm ordering redaction of those names, the part of

8 the transcript containing the names. And I guess it would be safer to move into private.

9 MR BOURGON: Yes, Mr President.

10 PRESIDING JUDGE FREMR: So, court officer, let's move into private session.

11 (Private session at 11.49 a.m.)

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24 (Open session at 1.03 p.m.)

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

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1 PRESIDING JUDGE FREMR: Thank you, court officer.

2 And before we break, update on timing. According to my information Defence still have
3 at its disposal 47 minutes.

4 And even I know I'm rather premature, Ms Sim, at this moment do you envisage any
5 request for redirect?

6 MS SIM: At this moment very brief -- there would be a very brief redirect.

7 PRESIDING JUDGE FREMR: So we break now and we will reconvene half past 2.

8 THE COURT OFFICER: All rise.

9 (Recess taken at 1.03 p.m.)

10 (Upon resuming in open session at 2.30 p.m.)

11 THE COURT USHER: All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: So for the record, the Chamber entered the courtroom, but
14 the light disappeared.

15 Court officer, could you verify that everything is okay with our equipment?

16 (Pause in proceedings)

17 PRESIDING JUDGE FREMR: So it seems that everything is now in order, which means
18 we can continue with cross-examination of our witness.

19 Mr Bourgon, you have the floor.

20 MR BOURGON: Thank you, Mr President.

21 Q. Welcome back, Mr Witness.

22 PRESIDING JUDGE FREMR: And, Mr Bourgon, do you think we can remain in open
23 session or does it a need to -- is there a need to move into --

24 MR BOURGON: I prefer to stay in private session, Mr President, please.

25 PRESIDING JUDGE FREMR: It's reasonable.

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- 1 Let's move into private session, please.
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22 (Open session at 3.07 p.m.)

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

24 PRESIDING JUDGE FREMR: Actually the first one will be delivered in public but the
25 second one will be delivered in private session.

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1 The first ruling concerns Defence request for disclosure of the biographic data and
2 security questionnaire, the so-called BSQ, relating to Witness P-888 contained in filing
3 1392.

4 After the Chamber shortened the deadline by way of email, the Prosecution responded on
5 16 June 2016 in filing 1401.

6 The Chamber notes that the Defence request was based on a speculative assessment of the
7 likely content of the BSQ, having reviewed an investigation note which had been
8 disclosed summarising certain of its content. While noting that responsibility for making
9 an assessment of the materiality of information for disclosure purposes rests with the
10 Prosecution in the first instance, the Chamber found it appropriate on this occasion to
11 request a copy of the BSQ in order to facilitate its assessment. Having reviewed the
12 relevant material, the Chamber confirms that all information contained within the BSQ
13 that is subject to a disclosure obligation has been disclosed to the Defence by way of the
14 investigation note, and considers that any further disclosure would be merely duplicative.
15 In these circumstances, the Chamber rejects the Defence's request.

16 So that concludes the first oral ruling. And the second one will be delivered at the end of
17 the session.

18 (The witness enters the courtroom)

19 PRESIDING JUDGE FREMR: Now let's continue with cross-examination of the witness.

20 And kind reminder, Mr Bourgon, you still have 14, one-four, 14 minutes.

21 MR BOURGON: Thank you, Mr President.

22 Q. Sir, I read from paragraph --

23 PRESIDING JUDGE FREMR: I'm sorry, because in the meantime, we moved into open,
24 so we have to return back into private session.

25 (Private session at 3.10 p.m.)

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- 15 (Open session at 3.28 p.m.)
- 16 THE COURT OFFICER: We're in open session, Mr President.
- 17 PRESIDING JUDGE FREMR: (Microphone not activated)
- 18 MR BOURGON: I just wanted to say thank you to the witness, Mr President.
- 19 PRESIDING JUDGE FREMR: All right. Now I am turning to Ms Sim.
- 20 Ms Sim, any request for redirect?
- 21 MS SIM: I have one question that I would like to ask.
- 22 PRESIDING JUDGE FREMR: Please go ahead.
- 23 QUESTIONED BY MS SIM:
- 24 Q. Mr Witness, opposing counsel asked a question of you about the second attack
- 25 starting at the airstrip at 5 a.m., we're talking about Mongbwalu. And I would like you

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1 to refer to the map of Mongbwalu that you drew and tell the Chamber whether or not the
2 location of the airport is depicted on that map.

3 So if we could pull up the map it's DRC-2076-0211?

4 A. Could I be shown that map on the screen maybe so that I can take a look at it.

5 Q. Absolutely. It's going to be up on your screen in just a minute. Can you see the
6 map now, Mr Witness?

7 MS SIM: I understand it's upside down. Is there a way we could rotate it so that the
8 signature is at the top? Perhaps not. Perhaps not.

9 THE COURT OFFICER: The signature was at the top.

10 THE WITNESS: (Interpretation) The airstrip is right here, just above here. Here.

11 THE INTERPRETER: Says the witness.

12 MS SIM:

13 Q. Now unfortunately we can't see what you're pointing at. So if you could perhaps
14 situate the location of the airport against maybe other words or something else on the
15 picture so that we could know what you're speaking about. Maybe you could circle the
16 location of the airport.

17 PRESIDING JUDGE FREMR: It would be ideal.

18 MS SIM: Thank you very much.

19 And at this point, Mr President, if we could submit this additional version of the map as
20 an exhibit. Thank you.

21 PRESIDING JUDGE FREMR: Defence, any objection to that?

22 MR BOURGON: No objection, Mr President.

23 PRESIDING JUDGE FREMR: So this map or sketch, now newly annotated and indicated
24 where is the airport is admitted -- by the witness, is admitted into evidence as a further
25 Prosecution exhibit.

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1 So that's it, madam?

2 MS SIM: That's it. Thank you.

3 PRESIDING JUDGE FREMR: Very well.

4 Now, Defence, any request for a recross?

5 MR BOURGON: Well, just on the same exhibit, I just may have like one marking and
6 admit the exhibit.

7 PRESIDING JUDGE FREMR: All right.

8 QUESTIONED BY MR BOURGON:

9 Q. Mr Witness, now that you have the pencil with you, I'd just like you to circle camp
10 Baru where you say there was a group that came in for the second attack at 8 o'clock.

11 THE COURT OFFICER: Mr Bourgon, just a clarification, would you like the witness to
12 circle the same map or would you like to have a new version of the original map?

13 MR BOURGON: The same is fine with me.

14 PRESIDING JUDGE FREMR: No problem with the Chamber.

15 THE WITNESS: (Interpretation) Very well. The airport is here, the military camp is
16 here. Between the airport and the military camp there is a bush. The military camp is
17 in one area and the airport as well but then there is a footpath that goes from there to
18 camp Baru. There is another footpath that goes towards camp Sindangombe, right here.
19 Camp Baru, from camp Baru there is another footpath that goes to the centre and all the
20 way to Sayo. This other footpath goes to Pluto. Then we have here the, the cemetery
21 where people are buried and then we have a footpath there which goes all the way to
22 Sindangombe camp, and then there are several footpaths all over.

23 PRESIDING JUDGE FREMR: Mr Witness, the easiest way would be if you just make a
24 circle about the place where according to you is camp Baru on the sketch again, like you
25 did it with airstrip.

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1 THE WITNESS: (Interpretation) Baru is here.

2 PRESIDING JUDGE FREMR: We can see it is on the left.

3 MR BOURGON:

4 Q. And, sir, can you make a circle around BMO, the feature called BMO we referred to
5 earlier where you say a meeting was held on the fourth day of the battle?

6 A. Camp Sayo, at camp Sayo there is a playground for the school.

7 Q. Sir, I was referring to the place called BMO in Mongbwalu which you referred to in
8 your statement, BMO.

9 A. BMO is here. Here. BMO is a school and there is -- there was a camp there as well
10 and that camp was known as the BMO camp.

11 Q. And this is the place where the meeting took place on the fourth day of battle; that's
12 your testimony?

13 A. Well, that is where the Lendu held a meeting at which they said that Mongbwalu
14 should be liberated because their ancestors had said that they were no longer able to -- to
15 have victory in this battle.

16 PRESIDING JUDGE FREMR: Mr Bourgon, you are beyond the scope of redirect, so you
17 are --

18 MR BOURGON: I'm finished.

19 PRESIDING JUDGE FREMR: -- you are (Overlapping speakers).

20 MR BOURGON: I just made markings and I'm finished. I just him to sign and it's over.

21 PRESIDING JUDGE FREMR: All right. So are you tendering this?

22 MR BOURGON: Yes, I would like to tender this in evidence with the witness's signature
23 and that is it, Mr President.

24 PRESIDING JUDGE FREMR: Ms Sim.

25 MS SIM: Seeing that we now have four markings and four circles, I'm wondering if it

1 wouldn't be a good idea to maybe have the witness indicate one, two, three, four for each
2 of the four places that he spoke about in order so that there's no problem later when
3 people are looking back at this map.

4 PRESIDING JUDGE FREMR: (Microphone not activated)

5 Sorry, sorry, once more.

6 Mr Witness, please add apart of those circles also numbers as you gradually indicated
7 those places starting with, I think the airstrip was number 1. So make just number 1
8 close to the circle. Yes. Then the second point was camp Sayo, if I am not wrong.

9 MS SIM: I believe the second was the military camp.

10 PRESIDING JUDGE FREMR: You are right. The second was the military camp.

11 Sorry, Witness, it was number 3, am I right? Nice exercise. So, Mr Witness, sorry, it
12 was number 3, camp Sayo was number 3. Sorry for confusing you. Then strike number
13 3. It was number 2 if I am not wrong. Strike 3 and make 2. And then the last point is
14 Baru, if I am not wrong, it is number 4. But I think it's anyway clear from your sign
15 there.

16 So this sketch additionally annotated by points 2, 3 and 4 on the request of the Defence
17 counsel is admitted into evidence as a further Defence exhibit.

18 Thank you very much, Mr Witness. And now there is also -- Mr Bourgon.

19 MR BOURGON: Just one quick point, Mr President. Just as the witness, before he
20 leaves, I would like to seek to have admitted in evidence for the sake of impeachment the
21 Demande de participation pour les victimes, a document that was referred to with the
22 witness. He provided many answers in respect of paragraphs 1, 2 and 3. He also
23 referred to the second page and he also referred to the fourth page and the document that
24 comes from the officier de l'état civil.

25 Our submission, Mr President, this document is necessary for the Chamber's evaluation of

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1 the testimony of this witness. The number of the document is DRC-OTP-2090-0099 and it
2 is a five-page document going until 0103. We believe that this is relevant, has probative
3 value and of course it is only being admitted for the purpose of impeachment.

4 Thank you, Mr President.

5 PRESIDING JUDGE FREMR: Prosecution, any objection?

6 MS SIM: We object to the admission of the document simply because the portions that
7 Defence counsel suggest impeach the witness have all been read into the record, so
8 it's -- there's no need to put the document itself in.

9 PRESIDING JUDGE FREMR: I think we will be in harmony with our previous decision
10 because, in fact, it was almost the same issue. Just to have a clear picture what are the
11 discrepancies, if any, between this and his testimony we, as already did, we admit also
12 this evidence -- this exhibit into evidence just for the purpose of witness impeachment.
13 So now we are done with redirect and recross. There is also some space for Chamber to
14 put questions, if any.

15 I have two questions or two issues that I would like to clarify with you, Mr Witness.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 We are in -- oh, so let's move into private session for this response because it could reveal
21 identity of the witness.

22 So hold on, Mr Witness.

23 (Private session at 3.42 p.m.)

24 (Redacted)

25 (Redacted)

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9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Open session at 3.57 p.m.)
15 THE COURT OFFICER: We're in open session, Mr President.
16 PRESIDING JUDGE FREMR: Thank you, court officer.
17 So we are going to continue on Monday with testimony of Witness P-888. And before we
18 adjourn, are there any requests for the floor?
19 Mr Bourgon, please.
20 MR BOURGON: Thank you, Mr President. We just finished the testimony of Witness
21 P-894 and pursuant to Rule 68(3) it is a first, according to 68(3), of course there was an
22 expert witness earlier on, but it is the first one. In this case, Mr President, we had a
23 statement that was in English and the witness was not able to read the statement. I think
24 it is important and I simply make a suggestion that if we are going to have many
25 witnesses pursuant to Rule 68(3), it is important that they have a statement that they can

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1 read so that we can accelerate the process during the asking of questions.

2 So I'm just making this suggestion both to the Prosecution and the Chamber because the
3 resources are in your hands and certainly not in the Defence's hands, and I think it would
4 be something that would make the process much better and be in the interest of justice.

5 Thank you.

6 PRESIDING JUDGE FREMR: Before I give the floor to Prosecution, the problem is if the
7 original statement had been made in the other language, then it should be just translated.

8 But anyway, Prosecution, you have the floor.

9 MR IVERSON: Thank you, Mr President. I understand Defence counsel's suggestion
10 and concerns. I can't make any promises on that right now because that involves
11 resources so I would have to go back to talk to other Prosecution staff to see about the
12 possibility of that. So that's all I have to say about that. I don't think I can make any
13 promises or positions of the Prosecution at this time.

14 PRESIDING JUDGE FREMR: All right. Well noted.

15 So now we adjourn and we will continue on Monday, 9.30.

16 THE COURT USHER: All rise.

17 (The hearing ends in 3.59 p.m.)