

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 Wednesday, 7 September 2016
9 (The hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: [9:32:11] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:32:45] Good morning to everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:32:48] Good morning.
16 The Court is sitting in the case of The Prosecutor versus Bosco Ntaganda.
17 PRESIDING JUDGE FREMR: [9:32:59] Appearances please, starting with Prosecution.
18 MR IVERSON: [9:33:04] Good morning, your Honours. Appearing today for the
19 Prosecution are Kristy Sim, assistant trial lawyer; Nicole Samson, senior trial lawyer;
20 Selam Yirgou, case manager; and myself, Eric Iverson, trial lawyer.
21 PRESIDING JUDGE FREMR: [9:33:19] Thank you, Mr Iverson.
22 Defence, please.
23 MR GOSNELL: [9:33:22] Good morning, Mr President. Present this morning for
24 Mr Ntaganda, who is here in the courtroom, are Jules Guillaum , Maria-Kim Vasconi,
25 Marl ne Yahya Haage, Margaux Portier, St phane Bourgon, and myself,

1 Christopher Gosnell. Thank you.

2 PRESIDING JUDGE FREMR: [9:33:43] Thank you, Mr Gosnell. And Legal
3 Representatives of Victims, please.

4 MS PELLET: [9:33:49] (Interpretation) Thank you, your Honour. The former child
5 soldiers are represented by Mohamed Abdou and by myself, Sarah Pellet, counsel with
6 the Office of Public Counsel for Victims.

7 MR SUPRUN: [9:34:08] (Interpretation) Good morning, your Honour, your Honours.
8 The victims of the attacks are represented by the Office of Public Counsel for Victims,
9 Marine Corhay, intern, Anne Grabowski, associate lawyer, and myself, Dmytro Suprun,
10 counsel.

11 PRESIDING JUDGE FREMR: [9:34:21] Thank you very much, Ms Pellet and
12 Mr Suprun.

13 Today we are going to continue with examination of our expert witness, Mr Kal, but there
14 is one procedural issue. We have to start with making an inquiry about
15 yesterday's -- Mr Iverson's listening to the audio recording of the courtesy meeting
16 between Defence and our expert witness.

17 Mr Iverson, what is the outcome of your listening to this audio?

18 MR IVERSON: [9:34:56] I have no further questions based on my listening to the audio,
19 so I'm finished with my questioning, Mr President.

20 PRESIDING JUDGE FREMR: [9:35:03] Very well. So we can now move to
21 cross-examination. It will be you, Mr Gosnell? All right. So you have the floor and
22 you may proceed.

23 MR GOSNELL: [9:35:14] Thank you, Mr President. Perhaps I should just say for the
24 record, it actually wasn't a courtesy meeting, it was a substantive meeting, and I
25 understand in the language in this Court there is a distinction between a courtesy and a

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1 substantive.

2 PRESIDING JUDGE FREMR: [9:35:30] It was my error. Thank you for this
3 clarification. Thank you.

4 MR GOSNELL: [9:35:32] Thank you, Mr President.

5 QUESTIONED BY MR GOSNELL:

6 Q. [9:35:35] Good morning, Dr Kal. We've met before. My name is Christopher Gosnell. I
7 have a few questions for you this morning and I'd like to start, if I may, by bringing up,
8 and this is not for broadcast, Defence tab 58, which is DRC-OTP-2070-0062.

9 And I'm afraid, Mr President, just for a few moments we should go into private session.

10 PRESIDING JUDGE FREMR: [9:36:11] All right. Court officer, now let's move into
11 private session.

12 (Private session at 9.36 a.m.)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Open session at 9.38 a.m.)
- 13 THE COURT OFFICER: [9:38:17] We are in open session, your Honour.
- 14 PRESIDING JUDGE FREMR: [9:38:32] Thank you. And allow me in this connection
- 15 to stress that the Chamber really strongly supports this approach used now by Mr Gosnell
- 16 that would or will allow us to use some confidential documents or to deal with some
- 17 confidential facts within the open session by using code. So we highly promote this
- 18 approach.
- 19 Mr Gosnell, you have the floor.
- 20 MR GOSNELL: [9:39:04] Thank you, Mr President.
- 21 Q. [9:39:05] Dr Kal, I would like to ask you a few questions just to ensure that I
- 22 properly understand the nature of kinship analysis. Now, am I correct first of all that
- 23 you did not have any biological, for example, ante-mortem biological samples for
- 24 person A?
- 25 A. [9:39:34] That is correct, so we did not receive any biological samples that are

1 directly related to person A.

2 Q. [9:39:46] And am I correct that kinship analysis involves -- and if you wish to
3 answer with reference to the document in front of us, that's perfectly fine, but am I right
4 that a kinship analysis involves, in essence, determining whether any of the DNA profiles
5 that you have obtained from the unidentified remains fits into the position of person A as
6 reflected in this family tree?

7 A. [9:40:23] Yes, a kinship analysis involves fitting together DNA profiles from
8 unidentified human remains at specific positions in the family trees.

9 Q. [9:40:38] And in this case am I correct that you are able to do that based upon the
10 DNA samples of persons B and C, each of whom you have been told are, in the case of
11 person B, a son, in the case of person C, a daughter, of the potential person?

12 A. [9:41:14] We were provided with this family tree indicating that the missing person,
13 person A, in the pedigree is the biological father of persons B and C, from whom we
14 received a reference sample. So using the DNA profiles of persons B and C together with
15 their respective mothers, we can build the pedigree and with this pedigree we can do a
16 comparison with the DNA profiles from the unidentified human remains and see if this is
17 a fit or not.

18 Q. And that's because if you have the DNA profiles of persons B and C, you can come
19 up with an expected profile of person A, is that correct?

20 A. [9:42:11] In kinship analysis it is important to consider the relationships that are
21 being investigated. Here we are looking at two father-children pairs, and because a child
22 inherits half of his DNA from the first parent, from father, and the second half of his DNA
23 from the mother, we have to see in the DNA profiles on every position that we inspect the
24 same DNA marker for half of the markers that we investigate. So there's clear
25 requirements for a DNA profile to fit in this pedigree. Not only the -- the position of the

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1 DNA profile of the unidentified remains have to fit with person B, but it also has to fit
2 with person C at the same time, so the combined information will give you the
3 information if this is a familial match in the pedigree or not.

4 Q. [9:43:18] Thank you. Now, if I could ask you to turn to page 8 of your report.
5 I'm not sure if you have a hard copy with you.

6 A. [9:43:26] I don't have a hard copy.

7 MR GOSNELL: May I ask that the --

8 PRESIDING JUDGE FREMR: [9:43:40] Court officer, yes, please assist.

9 MR GOSNELL: [9:43:41] -- that the book that we received from the Prosecution be
10 handed to the witness. We have a copy too. It's -- and that should be, I believe, at tab 2
11 of your binder. I'm not sure if your Honours have a copy with you or whether it should
12 be displayed on the screen.

13 PRESIDING JUDGE FREMR: [9:44:05] We do.

14 MR GOSNELL: Thank you, Mr President. It's helpful because I do wish to maintain the
15 pedigree on the screen for the benefit of the people in the courtroom while looking at the
16 report.

17 Q. [9:44:19] Now, doctor, if we could just look down at the bottom of table 3 on page 8
18 of your report. Am I correct that you obtained a DNA profile from the biological
19 material associated with body number SAI2-F1-B1?

20 A. [9:44:48] Yes, that is correct.

21 Q. [9:44:50] And if we turn the page, page 9, am I correct that the last line of table 4,
22 read in conjunction with the paragraph above, indicates that there is no evidence of a
23 biological relationship, parent, child or sibling, between SAI2-F1-B1 and any of the
24 possible -- any of the 11 possible relatives?

25 A. [9:45:38] That is correct. So for the body number with the number SAI2-F1-B1, we

1 were able to generate a DNA profile but we were not able to match this to one of the four
2 pedigrees that were part of this investigation.

3 Q. [9:45:59] And yesterday, at page 99, line 4 of the transcript, you said, and I quote:
4 "The fact that we were not able to find familial matches of the other eight DNA profiles
5 means that these eight individuals are not part of the pedigrees that we have been
6 provided."

7 Now, when you said "pedigrees that we have been provided," does that include the family
8 tree on the screen in front of us?

9 A. [9:46:40] Yes, the -- the family tree on the screen is one of the four family trees that
10 we were provided and indeed the eight individuals summarised in table 4 have not been
11 matched to one of those four family trees.

12 Q. [9:47:02] And does that mean that SAI2-F1-B1 is not part of the pedigree reflected
13 on the screen in front of us?

14 A. [9:47:15] Yes, that is correct. So the SAI2-F1-B1 DNA profile is not part of the
15 family tree as present on the screen.

16 Q. [9:47:28] Thank you, doctor. I'm done with this document.

17 At page 98, line 11, of your testimony yesterday, you said, and I quote:

18 It would be very unlikely for an unrelated individual to have the same profile as any other
19 individual. And the term 'unrelated' is crucial in here because it -- these numbers are
20 different for related individuals versus unrelated individuals.

21 And this quotation of yours was in reference to, I believe, again page 9 of your report, in
22 respect of the two matches. And in respect of the two matches, this is what you say in
23 your report:

24 "The DNA profiling results of the human remains SAI1-F1-B3 show a familial match," and
25 I won't mention the name of the family. "Given the family tree, the DNA typing results

1 are more than 1,000 million times more likely if the human remains SAI1-F1-B3 originated
2 from" - and then there's a name - "than if these human remains originated from an
3 unrelated random male." So here we see the use of this word or this expression
4 "unrelated random male," and in your testimony you say this is crucial. Could you tell
5 us why it's crucial and what's the difference between related and unrelated?

6 A. [9:49:36] The difference between related and unrelated with these wordings, I
7 mean a biological relationship or not. And when we do the calculations to come with a
8 likelihood ratio, it is important that we compare two hypotheses with one another. So, in
9 general, one hypothesis is that two individuals are related versus they are not related.
10 In the case that we have at hand here, we are dealing with more complex pedigrees so we
11 are not looking at one individual but, in certain family trees, we are looking at multiple
12 missing individuals and, therefore, we have to be very specific in the way we formulate
13 these hypotheses. It could also be, for instance, in hypothesis one, that the unidentified
14 human remains are related to the pedigree in a way that it identifies person A, but that
15 has to be compared with the second hypothesis, unrelated, but it could also be compared
16 to another missing person in the same pedigree. So if we want to make a distinction
17 between two individuals in the same pedigree, we have to adjust these hypotheses to see
18 how much more likely our results are if it is person A in the pedigree, person B in the
19 same category. But that is why it is very important to specify in the conclusion which
20 relationships we're actually testing.

21 Q. [9:51:17] (Microphone not activated)

22 PRESIDING JUDGE FREMR: [9:51:19] Your mic was not switched on.

23 MR GOSNELL: [9:51:23]

24 Q. [9:51:24] How would the likelihood ratio be affected if instead your hypothesis
25 being a comparison being a related and an unrelated person, you were trying to see

1 whether the remains might belong to a related person, does the likelihood ratio go down?

2 A. [9:51:48] Yes, if we are changing the hypothesis to showing a familial match with a
3 certain individual in the pedigree versus his brother in the same pedigree, or another
4 closely related individual, the likelihood ratio will go down.

5 Q. [9:52:15] Perhaps this is a good time now to have a -- to illustrate this point with
6 reference to another pedigree.

7 And this is not for broadcast, Defence tab 59, which is DRC-OTP-2070-0040.

8 Now we're not going to mention any names, Doctor, that appear on this document in our
9 questions and answers, but I'm interested in particular in the box just to the right of where
10 it says "twin brother".

11 Now, let's defer discussion of the twin brother for a moment and let's hypothesise
12 whether there is a third brother who is not a twin brother, a non-twin brother. What is
13 the likelihood ratio that the person, the remains that you have found, the unidentified
14 remains, what is the likelihood that they belong to the person in bold versus a non-twin
15 brother? Can you express that? Or can you not because you didn't do that test?

16 A. [9:54:12] The likelihood ratio for an hypothetical brother that you have just added
17 to this pedigree will be the same as for the person indicated in my conclusion in the report.
18 So it has more to do with the position in the pedigree than the individual itself.

19 So the conclusion in my report is based on the pedigree as we see it on the screen right
20 now. If the pedigree changes, if more individuals are added, or individuals move to a
21 different position in the pedigree, I would have to adjust the conclusions of my report.

22 Q. [9:54:54] Let me put it a different way because I'm not sure I understand your
23 answer: Is it equally unlikely that the remains that you matched as being the person in
24 bold, as born in 1930 there, is it equally unlikely that those remains belong to an unrelated
25 male person as that they do not belong to a related male person? And in this case I'm

1 hypothesising another brother who is not on the chart.

2 A. [9:55:43] I'm not sure I understand your question. For another brother in this
3 pedigree, so a brother -- a full sibling of the person born in 1930, we will calculate -- no, I
4 have to re -- I have to explain this in a different way.

5 So if there would be another brother from the person born in 1930, the likelihood ratio of
6 unidentified human remains matching, at this position in the pedigree for this person, the
7 likelihood ratio would be the same as for the person born in 1930.

8 Q. [9:56:38] Yes, that's well understood. And let me come back to basic principles
9 because perhaps I'm confused, as I'm not a scientist, but I understand that the conclusion
10 in your report is that it is 1,000 million times more likely that the human remains that you
11 tested for SAI1-F1-B3 1,000 million times more likely that they belong to the person in this
12 position, born in 1930, on the pedigree chart versus an unrelated male; is that understood?

13 A. [9:57:30] The way that's -- the conclusion is now rephrased is not correct. The
14 likelihood ratio is deduced from the DNA profiling results, so the likelihood ratio is -- is
15 telling you something about the DNA profiling results and also it is given the family tree.
16 So the likelihood ratio that I report is only true for this given family tree.

17 If the family tree changes, then I would have to adjust my -- my calculations and the
18 likelihood ratio might be different. But the likelihood ratio -- the -- the DNA profiling
19 results, they are more than a billion times more likely if we have a relationship as depicted
20 in the family tree compared to unrelated.

21 Q. [9:58:31] And based on DNA analysis, is there any way to know whether the
22 remains in question are from the twin brother or from the person to the right of the twin
23 brother?

24 A. [9:58:52] If the twin brothers are identical twins they will have the same DNA
25 profile and, based on DNA analysis, we will not be able to distinguish between the two.

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1 So this distinction can be made by other means than DNA, other information that is not
2 available to me.

3 Q. [9:59:15] Thank you, Dr Kal.

4 Now, I just have one last set of questions arising from your - and we're done with this
5 document, Mr President - arising from an answer that you gave yesterday at page 69, and
6 at line 7 you said the following, quote:

7 "So a reporting officer is not necessarily a person who does the work in the laboratory
8 itself, for instance, the DNA analysis, but has a coordinating role, collects all the results
9 from the different teams that are involved in this work and then reports ... to the court."

10 Then the question was, quote: "Are you as a reporting officer also -- in addition to
11 coordinating, are you qualified to conduct DNA analysis yourself as well?"

12 And then your answer was: "No, I am not qualified to conduct DNA analysis myself."

13 Now, Doctor, I found that answer a bit puzzling, especially in light of your CV, and the
14 answers that you've given in the course of today and yesterday, that seem to suggest a
15 high level of expertise in DNA analysis. Can you clarify what you meant when you said
16 you're not qualified to conduct DNA analysis?

17 A. [10:01:06] As also was discussed yesterday, the NFI works under accreditation,
18 that means that we have quality measurements in place, like standard operating
19 procedures, but also we have personnel that is qualified to -- to do the tasks that are
20 specified in these standard operating procedures.

21 So when I said I am not qualified to conduct DNA analysis myself, I meant I'm not
22 qualified to do the DNA laboratory activities for generating a DNA profile because I'm
23 not one of the members of the team who does this type of work in our department.

24 PRESIDING JUDGE FREMR: [10:01:54] Sorry. Yeah, now it's okay. We lost the light
25 for a few seconds but now it seems that everything is okay. So we can proceed. Okay.

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1 THE WITNESS: [10:02:03] So not being qualified means I'm not qualified in the setting
2 of the NFI in which I work with the different teams, as I have explained yesterday.

3 It -- I have to make the distinction between the laboratory work for generating the DNA
4 profiles and the interpretation of the DNA profiles and the kinship analysis. That part,
5 so after generating the DNA profiles, is part of my qualifications and I'm qualified to do
6 that at the NFI.

7 MR GOSNELL: [10:02:38] Thank you for that (Microphone not activated).

8 PRESIDING JUDGE FREMR: [10:02:40] Mr Gosnell, your mic.

9 MR GOSNELL:

10 Q. [10:02:43] Thank you for that clarification, Doctor. And so am I correct that you
11 didn't participate or yourself personally conduct any of the testing of the samples that
12 were provided to the NFI?

13 A. [10:14:42] It means that my involvement in the analysis is not in the laboratory
14 work, not in generating the DNA profiles, but it is in the coordination, the interpretation
15 of the results, the calculations and the reporting.

16 Q. [10:14:42] And am I correct in recalling that you said yesterday that you testify
17 approximately 20 times a year in various courts?

18 A. [10:14:42] I testified 20 times in 15 years.

19 Q. [10:14:42] Twenty times in 15 years, so that's a little more than once per year?

20 A. [10:14:43] That is correct.

21 Q. [10:14:43] And are you the person who normally testifies on behalf of the NFI in
22 respect of DNA results obtained by the NFI, or do others normally do it?

23 A. [10:14:43] Well, I'm not the only reporting officer at the NFI, so we have a team of
24 about 30 reporting officers who all can go to court and testify.

25 Q. [10:14:43] Thank you very much, Dr Kal.

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1 MR GOSNELL: That completes my cross-examination, Mr President.

2 PRESIDING JUDGE FREMR: [10:14:43] All right.

3 Prosecution, any need for re-direct?

4 MR IVERSON: [10:14:43] No. Thank you, Mr President.

5 PRESIDING JUDGE FREMR: [10:14:43] All right.

6 So it means, Dr Kal, that your testimony concludes. On behalf of the Chamber I would
7 like to thank you that you came and testified because it was very interesting and I believe
8 that it helped us to understand those not easy issues and I'm sure it will assist us in our
9 deliberations. So thank you very much.

10 (The witness is excused)

11 PRESIDING JUDGE FREMR: And now we will -- any problem? No. Okay.

12 Now we will break for five minutes before we call the next witness in order to
13 allow -- even our team will make changes and I guess that maybe also your teams will
14 need to make some changes in its composition.

15 Mr Gosnell.

16 MR GOSNELL: [10:14:44] Mr President, may I make one submission and I can do it in
17 the presence of the witness, there's no difficulty with that.

18 PRESIDING JUDGE FREMR: [10:14:44] All right.

19 MR GOSNELL: [10:14:45] It concerns the procedure that we followed in respect of
20 recognizing expertise and not to do with the substance at all, but the procedure. And I
21 wish to clarify why I raised -- why I suggested that we defer recognizing expertise until
22 the cross-examination.

23 The reason for having done that, Mr President, is precisely the answer that was given by
24 the witness during -- that I've just been asking him about, which did raise unexpectedly
25 certain questions about whether he should be qualified as a -- as an expert that were not at

1 least apparent to me upon reviewing the written materials, and that was why there was
2 no objection on the written materials.

3 When I said that there have been previous cases where the recognition of expertise was
4 deferred until after cross-examination, I actually mistakenly believed it had been in this
5 case, that's not true, but it has arisen in other cases at the ICTY, in particular at the Hadzic
6 case.

7 And the reason why it is a suitable procedure is because instead of wasting time in a voir
8 dire, which is the procedure followed in many countries for qualifying an expert, the
9 questions can just be rolled into the cross-examination. And there's no prejudice caused
10 to the Prosecution, they can continue with their questions just as they normally would.

11 So it actually is a streamlined way of assessing expertise but also probative value and the
12 general credibility of the testimony in one go.

13 And the reason why it's important for the Defence to have this opportunity is that if
14 something comes up unexpectedly and that's not apparent on the papers and if
15 recognition of expertise occurs immediately during the direct examination, that deprives
16 the Defence of the opportunity to raise before your Honours certain questions that might
17 be pertinent to your determination about expertise.

18 So it was not an attempt to obstruct the procedure or to delay things or to raise matters
19 that hadn't been previously raised, it was because something unexpected came up and in
20 those circumstances, your Honours, I would commend to you that procedure as a way of
21 giving the Defence an opportunity to raise those issues with your Honour before -- your
22 Honours before you've made a determination. Thank you.

23 PRESIDING JUDGE FREMR: [10:14:47] All right. Point taken.

24 And comment from my part: If such case will repeat, then I think your proposal would
25 be accepted, but I expect that in most cases if there will be any doubt or objection against

1 the expertise of the expert witness it should be apparent just from the paper materials and
2 then it will be most appropriate to raise this kind of objection in advance. But in case
3 you have mentioned, yeah, you are right we can follow this procedure.

4 Mr Iverson.

5 MR IVERSON: [10:14:48] I am a bit caught off guard by the submissions, but because
6 he has made them, I would like to offer the Prosecution perspective.

7 In filing 1032 the Defence stated in paragraph 59 that in light of his curriculum vitae, the
8 Defence does not challenge this witness's qualifications as an expert. So with that in
9 mind, I truncated the foundation for qualifying him as an expert, so I think that this is a
10 bit maybe not a good example of what the Defence counsel is trying to get at.

11 He called voir dire, which is a term of art in common law, a waste of time. Essentially
12 what that is is just asking the expert questions about their qualifications so that the Court
13 is in a position to make a determination whether or not they can be qualified as an expert.
14 It's at that time that the Defence has a full opportunity to object, to point out things that
15 they want to point out that may give the Court pause in qualifying that person as an
16 expert. So I would object to the proposal by the Defence to wait until after the
17 cross-examination is finished or during the cross-examination for expert qualification
18 because it's something that should happen in the beginning so that the Chamber is aware
19 of the expert's qualifications and then in what field of science or what field the expert can
20 be qualified. So I would -- I would disagree respectfully with what sounded to be very
21 reasonable submissions, Defence counsel framed them in a very reasonable light, but I
22 would ask that the Chamber think about that very carefully before launching into a novel
23 way of qualifying experts.

24 And additionally I would ask instead of 5 minutes if we could have 10 minutes.

25 PRESIDING JUDGE FREMR: [10:14:50] All right. So now we break and we will

1 resume at 10.20.

2 THE COURT USHER: [10:14:51] All rise.

3 (Recess taken at 10.11 a.m.)

4 (Upon resuming in open session at 10.26 a.m.)

5 THE COURT USHER: [10:26:51] All rise.

6 Please be seated.

7 PRESIDING JUDGE FREMR: [10:27:31] So we will continue now with our next

8 witness.

9 Good morning, Mr Witness.

10 Since this witness is not a protected witness, we can refer to him by name, just

11 Mr Sivignon. In this connection, I would like to highlight one thing, there is I guess even

12 common agreement between parties and the Chamber accepts this agreement that because

13 of special reasons we will not in open session mention current employment of

14 Mr Witness.

15 Could you confirm, Prosecution and Defence?

16 MS SOLANO: [10:28:24] Yes, your Honour. Thank you.

17 MR BOURGON: [10:28:28] I confirm, Mr President. Thank you.

18 PRESIDING JUDGE FREMR: [10:28:30] Thank you both.

19 So unless there are any further -- Mr Bourgon, you have some submissions, so please go

20 ahead.

21 MR BOURGON: [10:28:45] Thank you, Mr President. I would just like to update the

22 Chamber with the composition of the Defence where Maria-Kim Vasconi, Maître

23 Marlène Yahya Haage and Maître Christopher Gosnell have left the courtroom. Thank

24 you, Mr President.

25 PRESIDING JUDGE FREMR: [10:29:01] Good point. I would like the same point from

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1 Ms Solano.

2 MS SOLANO: [10:29:06] Your Honour, Mr Iverson is no longer with us. Ms Samson
3 remains in the room, along with Ms Yirgou. The Prosecution has been joined by
4 Rens van der Werf, assistant trial lawyer; and Paola Sacchi, assistant legal officer; and I am
5 Julieta Solano, trial lawyer.

6 PRESIDING JUDGE FREMR: [10:29:26] Thank you, Ms Solano.

7 And I'm adding for the record that as to the legal representatives the composition remains
8 the same, or am I wrong?

9 MR SUPRUN: [10:29:35] (Interpretation) Your Honour, Anne Grabowski is no longer
10 in the courtroom for the rest of the day.

11 PRESIDING JUDGE FREMR: [10:29:39] Mr Suprun, thank you very much for this
12 clarification.

13 So now a few practical matters:

14 Mr Witness, this Chamber has been established to try the case the Prosecutor against
15 Bosco Ntaganda and you are called today by Prosecution to testify as an expert to assist us
16 in our search for the truth.

17 Before we move to your testimony itself I would like to provide some brief guidance.

18 We want you to tell the truth and we want you to only testify within the sphere of your
19 expertise. You are before us as a technical expert, in particular in relation to
20 photographic and video imagery and will be testifying in relation to your participation in
21 the exhumation missions in Kobu-Wadza and in Sayo.

22 In case you do not know an answer to a question put to you or you do not feel that it falls
23 within your area of professional expertise, please indicate so. Is it clear?

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25 (The witness speaks French)

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1 THE WITNESS: [10:31:16] (Interpretation) Yes.

2 PRESIDING JUDGE FREMR: [10:31:18] Very well.

3 Now, can you please read the solemn undertaking to tell the truth which now you have in
4 your hands, please.

5 THE WITNESS: [10:31:29] (Interpretation) I solemnly declare that I will tell the truth,
6 the whole truth and nothing but the truth.

7 PRESIDING JUDGE FREMR: [10:31:40] All right. It means, Mr Sivignon, that now
8 you are under oath, so it's my duty to remind you that it's an offence within the
9 jurisdiction of this Court to give false testimony. Do you understand that?

10 THE WITNESS: [10:32:01] (Interpretation) Yes.

11 PRESIDING JUDGE FREMR: [10:32:05] All right. Now a few practical matters you
12 should have in mind when giving your testimony:

13 I understand you will be testifying in French today, but since everything we say is written
14 down and simultaneously translated into English, it's important to speak clearly and to
15 speak at a slow pace. And what is even more important, and what sometimes creates
16 troubles, that you will be asked questions, please wait always for at least 3 seconds before
17 you answer because we need this pause to allow interpreters to translate your answer and
18 to give them enough time. So please have it in mind.

19 And if you have any question yourself, please indicate so by raising your hand and in
20 such a case we will then give you the opportunity to speak. Have you understood all
21 this?

22 THE WITNESS: [10:33:27] (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: [10:33:35] All right. So now we can proceed with your
24 testimony and the Prosecution will be asking your questions first.

25 Ms Solano, you have the floor.

1 MS SOLANO: [10:33:49] Thank you, your Honour.

2 QUESTIONED BY MS SOLANO:

3 Q. [10:33:52] Good morning, Mr Sivignon. We've met on Monday. I am
4 Julieta Solano and I will be asking questions on behalf of the Prosecution. I know you
5 understand English and I know you speak it as well. I just remind you that if you
6 happen to switch languages mid sentence, you should observe the same pause that the
7 Presiding Judge has just mentioned, to give the interpreters a chance to catch up. And if
8 you don't understand my questions, please just ask me to repeat and I will gladly do so.
9 Can you state your full name?

10 A. [10:34:33] Adrien Sivignon.

11 Q. [10:34:35] And your date of birth?

12 A. [10:34:42] 22 September 1987.

13 Q. [10:34:46] Are you French?

14 A. [10:34:48] Yes.

15 Q. [10:34:50] Are you currently employed by the French Minister of the Interior,
16 concretely by the French police?

17 A. [10:35:01] Yes, indeed.

18 MS SOLANO: [10:35:04] Your Honour, may we pass briefly to private session, please.

19 PRESIDING JUDGE FREMR: [10:35:09] Certainly. Court officer, let's move into
20 private session.

21 (Private session at 10.35 a.m.)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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13 Page redacted – Private session

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- 1 (Redacted)
- 2 (Redacted)
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- 19 (Open session at 10:41 a.m.)
- 20 THE COURT OFFICER: [10:41:17] We are in open session, your Honour.
- 21 PRESIDING JUDGE FREMR: [10:41:22] Thank you. Just a second. We will continue
- 22 as soon as Mr Witness is provided with materials. Yes, please.
- 23 So now, Ms Solano, you may proceed.
- 24 MS SOLANO: [10:41:48] Thank you, your Honour. Thank you to the court officer.
- 25 Q. [10:41:51] Sir, this binder that has been provided to you contains your reports and

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1 some associated exhibits and I will take you through them in a moment. It also contains
2 the report of Mr Sapin, and you have also been given a large colourful chart which is an
3 Excel report of photographs linked to the work that you and Mr Sapin did for the
4 Prosecution.

5 Can you please turn to tab --

6 PRESIDING JUDGE FREMR: [10:42:21] Sorry to interrupt you. Mr Bourgon.

7 MR BOURGON: [10:42:24] Thank you, Mr President. Before we move on to the
8 documents, I would like my colleague to establish at least a minimum foundation. We
9 all know that he participated in two missions but that is nowhere in the record. So
10 simply a foundation that he was called upon to participate in certain missions and where
11 and when, and then we can go into the reports, rather than just giving him right away the
12 reports. Thank you, Mr President.

13 PRESIDING JUDGE FREMR: [10:42:51] Ms Solano.

14 MS SOLANO: [10:42:52] Thank you, your Honour. I regret that Mr Bourgon is just a
15 tad too fast for me, I was going there, but fair enough.

16 Q. [10:43:02] Sir, if you can turn to -- well, since Mr Bourgon objects to me doing it
17 this way: Can you explain briefly what work you have done for the Office of the
18 Prosecutor in the context of the current case?

19 A. [10:43:25] So the mission that was entrusted to me by the Office of the Prosecutor
20 consisted of, well, two different missions that were carried out in the Democratic Republic
21 of Congo at the beginning of 2014, so these missions consisted of taking photographs of
22 different types of the exhumation sites that there were in the village of Kobu, Tchudja, and
23 Sayo as well, and during the second mission, that is to say the Sayo mission, I also had a
24 role as an exhibit manager -- evidence manager.

25 Q. [10:44:15] Sir, and after participating in those two missions, did you in fact

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1 produce anything in writing at the request of the Prosecution?

2 A. [10:44:31] Indeed. In accordance with the instructions that were given to me by
3 the Office of the Prosecutor, I also drafted two reports, each of them corresponding with a
4 mission.

5 Q. [10:44:49] Can you please turn to tab 1 of the binder in front of you, and that is a
6 document bearing ERN DRC-OTP-2075-0056. And if you can turn to page 0065.
7 Can this page please not be displayed publicly.

8 And on this page this report is described as a report and follow-up to the mission
9 conducted between 17 January and 2 February 2014 to Kobu-Wadza and Tchudja, Ituri
10 district, Democratic Republic of the Congo. Is this your report, sir?

11 A. [10:46:17] Yes, absolutely.

12 Q. [10:46:21] Can you please turn to page 0092, which should also not be displayed
13 publicly, please.

14 And on page 0092 and 0093 is this your CV, sir?

15 A. [10:46:58] Yes.

16 Q. [10:46:59] And on page 0093, do we have a full and accurate listing of your studies
17 and your training?

18 A. [10:47:21] Yes, absolutely. There's just one exception to that because, since the
19 drafting of this curriculum vitae, I've also been promoted within my administration to a
20 higher level and I've gone up in rank. And the updated CV is in the report on the second
21 mission.

22 Q. [10:47:47] Can you turn to the report that is in tab 2 of your binder,
23 DRC-OTP-2083-0011.

24 And it should not be displayed publicly.

25 And according to what it says on page 0023 this is a report in follow-up to the mission

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1 conducted in 7 -- between 7 and 16 April 2014 in Sayo and Bunia, district of Ituri,
2 Democratic Republic of Congo. Is this your second report, sir?

3 A. [10:48:38] Yes.

4 Q. [10:48:41] Can we please turn to page 0080, and can you confirm that on that page
5 and on page 0081, that is the updated version of your CV?

6 A. [10:49:08] Yes.

7 Q. [10:49:11] And I note that on page 0081 there is a title referred to next to
8 October 2014, and I'm not sure if you are comfortable with me reading it in open session.
9 It says that since October 2014 you are technicien de police technique et scientifique
10 (concours interne). Is that your current employment?

11 A. [10:49:48] Yes.

12 Q. [10:49:49] And can you say in public session from what institution you obtained
13 the -- the training listed for the years 2009 through 2013 on that page of your CV?

14 A. [10:50:18] Well, all of the training that I followed and the qualifications that I got
15 were issued by the French Ministry of the Interior, DG national police.

16 Q. [10:50:36] Is your CV accurate in all other respects?

17 A. [10:50:47] Yes. Yes.

18 MS SOLANO: [10:50:50] Your Honour, the Defence stated in filing 826 that they do not
19 challenge Mr Sivignon's qualifications or expertise. I therefore now seek your leave to
20 have him qualified as an expert on the collection of evidence from crime scenes.

21 PRESIDING JUDGE FREMR: [10:51:09] Mr Bourgon, can you confirm that you insist
22 on this position?

23 MR BOURGON: [10:51:19] No objection, Mr President.

24 PRESIDING JUDGE FREMR: [10:51:20] Okay, so this request is granted and
25 Mr Witness is recognized as an expert in this sphere.

1 MS SOLANO: [10:51:30] Thank you, your Honour.

2 Q. [10:51:32] Sir, on Monday of this week did you have an opportunity to review your
3 two reports along with certain materials that you prepared at the request of the
4 Prosecution?

5 A. [10:51:52] Yes.

6 Q. [10:51:55] Can you state which materials you reviewed?

7 A. [10:52:06] So on Monday, I was able to read my two reports, which were drafting
8 following the mission carried out in the Congo, and I was also able to read the report of
9 Mr Eric Sapin who was also responsible for taking photographs during these two
10 missions, and I was also able to have access to all of the photographs that were taken on
11 those two missions.

12 Q. [10:52:43] Did you also have an opportunity to review certain video materials and
13 some panoramic presentations?

14 A. [10:52:57] Indeed, I did. I was able to see all the videos that were taken during the
15 mission and also to the panoramic reconstructions or to panoramic reconstructions that I
16 carried out.

17 Q. [10:53:17] In relation to the mission to Kobu and Wadza, can you describe briefly
18 the exact role that you played?

19 A. [10:53:30] Well, during the mission, in accordance with the letter of instruction,
20 which was issued to me by the Office of the Prosecutor, my role was as a photographer to
21 cover all of the exhumation sites from the preparation of the ground to the post-mortem
22 examination, and these missions were carried out in agreement with Mr Eric Sapin, so we
23 shared the task between us.

24 These photographs were taken on the exhumation sites firstly, and then in the mortuary
25 during the examinations of the bodies carried out by the forensic experts and the

1 anthropologists.

2 Q. [10:54:33] How did you and Mr Sapin distribute the work amongst you?

3 A. [10:54:45] So on the first day, because the exhumations were starting, so this was
4 the stage of the preparation of the ground and the start of the operations, so what we did
5 we were both on the exhumation site and we also took photos of these sites, and when the
6 exhumation exercises were being carried out simultaneously with the post-mortem
7 examinations at the morgue, then we divided the work between us, namely that Mr Sapin
8 dealt with taking photographs of the exhumation exercises and myself I carried out
9 photographs, I took photographs at the morgue.

10 Q. [10:55:44] In the latter period while you and Mr Sapin were no longer
11 photographing the same operations, did you have any contact with him?

12 A. [10:56:04] Yes, we frequently had contact during the day because in Kobu the
13 morgue was about 50 metres from the location of the exhumations. So we were very
14 frequently in contact with each other.

15 Q. [10:56:25] And where were you staying during this mission after the work was
16 done each day?

17 A. [10:56:39] During these missions we were staying in Bunia, and we went there in
18 the morning, evening we went to the exhumation sites.

19 Q. [10:57:02] Did you discuss with Mr Sapin the work that each of you was doing
20 during the mission?

21 A. [10:57:16] Of course when we arrived in Bunia on the first day we had a meeting
22 with the team, with Mr Sapin as well, so that on the one hand we could make clear the
23 exact roles that we had to take into account during this mission and we anticipated a
24 possible division of tasks therein.

25 Q. [10:57:48] Now, you were both taking photographs. Are you aware whether

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1 Ms Sapin followed a similar or a different methodology than the one you followed during
2 the mission?

3 A. [10:58:12] During the meeting and the briefing that we had we agreed on a
4 common working methodology, starting with coding or referencing of the evidence that
5 we were going to take photographs of. And afterwards, we also agreed on a common
6 way of ensuring secure archiving of all photographs and also a common way of taking the
7 photographs as well.

8 Q. [10:58:56] And what did this secure archiving of the photographs consist of? Can
9 you explain it briefly, please?

10 A. [10:59:12] So at the end of the day, when we returned to Bunia, we would carry out
11 the archiving of the photos, that's to say, first of all, the SD cards contained in the cameras
12 were taken out and the data was transferred to the computer. This archiving, therefore,
13 was carried out in file forms, they were divided up into different dates and thereafter a
14 copy of the file would be put on the hard drive, the external hard drive provided by the
15 International Criminal Court.

16 Q. [10:59:58] And you're saying "we" which I suppose involves Mr Sapin. Is this
17 something that you did together at the same time?

18 A. [11:00:14] Yes, indeed we would do it at the same time. We each had a computer
19 and each of us would save our own photos, so I would save the photos which I personally
20 had taken over the course of the day on my computer.

21 Q. [11:00:34] In this context, did you actually see the photographs that he had taken,
22 or any of the data associated with his photographs?

23 A. [11:00:54] I did. We would do our photograph archiving in the evening and we
24 would then often discuss the day and review certain number of photos together.

25 PRESIDING JUDGE FREMR: [11:01:25] Ms Solano, I don't want to bother you, there's

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1 no need to break immediately, but generally we would like to make our regular break, so
2 please find the convenient point to break in a few minutes, okay?

3 MS SOLANO: [11:01:37] Yes, your Honour.

4 Q. [11:01:47] Sir, during this mission how did you determine the locations at which
5 you would be taking photographs?

6 A. [11:02:03] Well, the places where we were to take our photographs were indicated
7 to us by the anthropologists at the exhumation sites and in the mortuary by the medical
8 examiners or the archaeologists. When it came to the panoramic photos that we took at
9 Kobu-Wadza, it was a member of the Office of the Prosecutor who would indicate the
10 locations.

11 Q. [11:02:44] And --

12 PRESIDING JUDGE FREMR: [11:02:45] Sorry, Ms Solano.

13 Mr Bourgon, or you gave up?

14 MR BOURGON: [11:02:50] Yes, Mr President, there are just -- I would like to bring to
15 the attention of the Chamber a correction in the transcript because we have a discrepancy
16 between the French and the English and it's a word that makes a difference. In French,
17 and I quote from page 33, lines 16 to 18, the witness answered:

18 (Interpretation) "Indeed, when we would carry out those photograph archiving sessions,
19 we would discuss the day and we would review a certain number of ...

20 (Speaks English) In English this has been translated, and this is our page 39, at lines 12 to
21 14, where it is mentioned:

22 "We would do our photograph archiving in the evening and we would then often discuss
23 the day and review certain numbers of pictures."

24 So we have the word English -- the word "often" has been added in the English transcript
25 and I don't think the witness said "often." Thank you, Mr President.

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1 PRESIDING JUDGE FREMR: [11:03:56] Ms Solano, could you confirm what just
2 Mr Bourgon said?

3 MS SOLANO: [11:04:01] Your Honour, I see there is that discrepancy. I will just ask a
4 clarification question to the witness with:

5 Q. What frequency did you and Mr Sapin discuss the day and review photographs
6 together?

7 A. [11:04:21] When I said that we would do that, in fact, we did it every evening when
8 we returned from our work of the day. Our main concern was to carry out the archiving,
9 so it would happen. What I mean to say is I wouldn't necessarily see 100 percent of the
10 photos which he had taken during the course of the day and that's why I used the
11 conditional "I would."

12 Q. [11:04:59] Who was the member of the Office of the Prosecutor who identified for
13 you the locations at which you should take the panoramic 360 photos?

14 A. [11:05:20] At the briefing which took place on the first day when we arrived into
15 Bunia, Mr Alistair Graham, who was the leader of the mission, gave us a general
16 instructions regarding the location of the sites, and then in the field in Kobu I was with
17 Mr Joe Reynolds.

18 Q. [11:05:44] And what was Joe Reynolds' role in this context?

19 A. [11:05:56] When I arrived at Kobu for the first time, we conducted a visit to the
20 village in the company of Mr Reynolds. Following that visit, he briefly explained to me
21 where the exhumation sites might be located and then, later, when I was taking the
22 panoramic photos, it was Mr Reynolds who was physically present with me in the village
23 and who indicated to me where I should take pictures of.

24 Q. [11:06:34] To the best of your knowledge, are the contents of your report true and
25 accurate, to the best of your knowledge and belief?

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1 A. [11:06:53] Yes.

2 Q. [11:06:53] Sir, would you consent to having this report admitted into evidence?

3 A. [11:07:02] Yes.

4 Q. [11:07:04] And would you be available for the Defence and the Chamber to ask you
5 questions?

6 A. [11:07:16] Yes.

7 MS SOLANO: [11:07:20] Your Honour, I seek the admission of this report, it is
8 DRC-OTP-2075-0056.

9 PRESIDING JUDGE FREMR: [11:07:31] Mr Bourgon, any objection?

10 MR BOURGON: [11:07:33] None, Mr President.

11 PRESIDING JUDGE FREMR: [11:07:34] Very well. Then the report specified by
12 Mr Solano is admitted into evidence as a further Prosecution exhibit.

13 And now I guess we can break. So we will continue at 11.40. And before leaving, and I
14 don't want to make you stressed, Ms Solano, just allow me to remind you because we
15 granted Prosecution one-and-a-half hours for direct examination, you still have roughly
16 one hour. So now we break.

17 THE COURT USHER: [11:08:12] All rise.

18 (Recess taken at 11.08 a.m.)

19 (Upon resuming in open session at 11.43 a.m.)

20 THE COURT USHER: [11:43:36] All rise.

21 Please be seated.

22 PRESIDING JUDGE FREMR: [11:44:04] So we will continue with examination of our
23 witness, but first of all I see Mr Bourgon on his feet.

24 Mr Bourgon, you have the floor.

25 MR BOURGON: [11:44:15] Thank you, Mr President. Before we continue, I just

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1 would like to make an observation concerning the qualification of the witness who was
2 qualified by the Chamber before the break with the Defence's consent as an expert on the
3 collection of evidence from crime scenes.

4 I would just like to note for the record that when this witness was presented to the
5 Defence in earlier submissions he was referred to as a photographer. Now, admittedly
6 we had the report and we could tell that he was not a photographer and this will be part
7 of my questions to him, and we did not object to his expert status. But I think, I believe it
8 is important to note for the record that it is the first time that there is a request to have this
9 witness qualified in this field, which is an expert on the collection of evidence from crime
10 scenes, and of course my questions in cross-examination will be directed to that.

11 So I'll just say this in support of my colleague's earlier argument, we do not object that he's
12 qualified, but I would not like to be preempted from asking questions in this area during
13 my cross-examination. Thank you, Mr President.

14 PRESIDING JUDGE FREMR: [11:45:35] Ms Solano, any comment on that from your
15 side?

16 MS SOLANO: [11:45:39] Your Honour, I don't intend to prevent the Defence from
17 asking questions. Of course I note that the Chamber has already ruled on the
18 Chamber -- on the witness's qualifications and expertise.

19 PRESIDING JUDGE FREMR: [11:45:51] Then maybe again also I will not prevent you
20 from asking any questions, but to me, at least, I wouldn't be so formalistic. To me the
21 main issue is whether any expert before us which is really qualified to do the job is
22 presenting to us, and whether is called expert on this, on that, is in my view not so
23 important, but the main core, what is relevant for me at least, whether he is qualified to
24 present something that will be relevant for our case.

25 Now, Ms Solano, you may proceed.

1 MS SOLANO: [11:46:33] Thank you, your Honour.

2 Q. [11:46:35] Sir, at page 38, 14 of the English transcript you described that not only
3 did you agree with Mr Sapin about how you would preserve the photographs you were
4 taking, but that you would also -- that you also agreed on the coding of the evidence that
5 you would be using and on the common way to take the photographs. Can you explain
6 briefly what you mean, what was it that you and Mr Sapin agreed?

7 A. [11:47:16] Yes, when we had the first mission meeting, that is to say when we had
8 the briefing of the whole team in Bunia, it struck myself and Mr Sapin as important that
9 we agree on a common method to reference all of the evidence that we would gather over
10 the course of the mission. I proposed a referencing method which is based on the
11 method I use in my home department and which I had applied in many cases.
12 Now, this referencing system is based on a root, a root for each item of evidence, and the
13 root was made up of the first letter of the site at which we were, followed by the number
14 of the grave, that is to say the feature, followed by the number of the body, et cetera,
15 et cetera.

16 Q. [11:48:24] How about items other than bodies, did you have an agreement about
17 those?

18 A. [11:48:39] Yes, when it comes to other types of evidence, we would use the root "B"
19 for "body," and the root "A" for "artefacts."

20 In the event where we would come across an artefact which was connected to a body, we
21 would have the number of the site, of the grave, of the body and then the number of the
22 artefact. This made it possible for us to maintain perfect traceability of the evidence
23 because the evidence number would make it clear where that piece of evidence had been
24 found.

25 Q. [11:49:22] Do you know --

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1 PRESIDING JUDGE FREMR: [11:49:23] Ms Solano, sorry to interrupt you. I will
2 make some preliminary comment or guidance - I hope that it is not unfair - because I -- it
3 is obvious that you are making some foundation for admission of Mr Sapin's report.
4 We even preliminarily deliberated on that and we also took into account, I mean the
5 whole Chamber, objection made by the Defence. They made no objection against
6 40 pictures made by Mr Sapin, but they objected to the admission of those two reports.
7 And in fact, the Chamber shares this opinion because in our view, and we also would like
8 to remain consistent with our previous Chamber's jurisprudence, that in our view the
9 Rule 68(2)(b) is best tailored to admit the reports made by Mr Sapin. So that is why I'm
10 saying it now, even if we are not making a formal decision, but we will make it, and I
11 don't believe that we would -- that the Chamber would change its views, so I would like
12 to spare your time and to -- because even I believe it would be no problem to meet the
13 requirements of 68(2)(b) in case of reports prepared by Mr Sapin, but probably wasting of
14 time if you now while focussing on foundation for admission according 68(3), so please
15 take it into account.

16 MS SOLANO: [11:51:13] Thank you, your Honour, I'm guided.

17 Q. [11:51:18] Sir, I would like to return to the mission to Sayo. And in the binder in
18 front of you there is at tab 2 your report. Can you please go to it now? And can it
19 please not be displayed publicly.

20 PRESIDING JUDGE FREMR: [11:51:51] All right.

21 MS SOLANO: [11:51:54]

22 Q. [11:51:54] And, sir, you've already confirmed earlier that you had an opportunity
23 to review this report and its associated exhibits during the witness preparation session.
24 What I would like to ask you now is if you can again describe very briefly what the report
25 deals with.

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1 A. [11:52:20] Well, this report was produced following the mission to Sayo and it was
2 drawn up in line with the letter of instruction which I received from the Office of the
3 Prosecutor. So I wrote this report, which covers the mission that was entrusted to me.
4 My mission was to take photographs during the exhumations, the post-mortem
5 examinations, to take panoramic photographs in order that a panoramic reconstruction
6 could be made, and also to manage evidence recovered during the mission.

7 Q. [11:53:08] Apart -- what do you mean by "managing evidence recovered during the
8 mission"? What exactly were you asked to do and what exactly did you do?

9 A. [11:53:38] Well, the work which the Office of the Prosecutor asked me to do was to
10 ensure the chain of custody. As regards the evidence that was recovered during this
11 mission, to maintain that chain of custody, my task was to fill out the forms provided by
12 the Office of the Prosecutor and to ensure the documentation was in order. So each item
13 of evidence which was recovered had a corresponding form, and any movement of that
14 evidence, for instance, if the evidence was moved from one location to another or if the
15 evidence was used by any of us, that was carefully logged in the respective form.

16 Q. [11:54:33] And did you in fact carry out this role?

17 A. [11:54:41] Yes.

18 Q. [11:54:44] Sir, having reviewed -- earlier this week having reviewed this report, can
19 you say whether, to the best of your knowledge and belief, its contents are true and
20 accurate?

21 A. [11:55:10] Yes, that is correct.

22 Q. [11:55:14] Would you consent to having it admitted into evidence?

23 A. [11:55:25] Yes.

24 Q. [11:55:28] And are you willing to answer questions from the Defence and from the
25 Judges concerning this report?

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1 A. [11:55:38] Yes.

2 MS SOLANO: [11:55:41] Your Honour, I seek to have the report admitted into
3 evidence. It is DRC-OTP-2083-0011.

4 PRESIDING JUDGE FREMR: [11:55:49] Mr Bourgon, any objection?

5 MR BOURGON: [11:55:51] None, Mr President.

6 PRESIDING JUDGE FREMR: [11:55:54] So this report, ERN specified by Ms Solano, is
7 admitted into evidence as a further Prosecution exhibit.

8 MS SOLANO: [11:56:08] Thank you, your Honour.

9 I also wish to seek admission of the exhibits logs and chain of custody forms. They are
10 part of the witness' report which has just been admitted into evidence, but I request the
11 admission of the -- of the logs and forms individually as well. They have different ERN
12 numbers and they are listed at numbers 7, 9, 11, 13, 15, 17 and 19 of the Prosecution's
13 further updated list of evidence communicated last night.

14 PRESIDING JUDGE FREMR: [11:56:51] Just to double-check because in my notes I had
15 items 5 to 7, but probably you are right. So just 7. Otherwise, the other numbers
16 correspond to my notes. Okay, so you are right.

17 Mr Bourgon, any objection to that? Preliminary you agreed, but...

18 MR BOURGON: No objection. I'm not sure that the numbers match what I have. 7, 9,
19 11, 13, 15, 17. Yes. And 19? Yes, and 19. No objection. I note, however, that the
20 witness talked about this form but never said anything on them, and I will have some
21 questions on the forms themselves. Thank you.

22 PRESIDING JUDGE FREMR: [11:57:46] All right. So those --

23 MS SOLANO: [11:57:49] Your Honour.

24 PRESIDING JUDGE FREMR: Yes, Ms Solano.

25 MS SOLANO: I apologise for interrupting, but actually the list should start at number 7,

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1 indeed, and not at number 5. So I'm seeking the number of 7, 9, 11, 13, 15, 17 and 19.

2 PRESIDING JUDGE FREMR: [11:58:06] It was my fault. So those documents referred
3 to now by Ms Solano are admitted into evidence as a further Prosecution exhibit.

4 MS SOLANO: [11:58:22] Thank you, your Honour. I also wish to seek the admission
5 of the two panoramic 360-degree presentations that the witness prepared and which are
6 extensively discussed in each of his two reports, and they are items 5 and 6 on the
7 Prosecution's further updated list of evidence. The ERNs are DRC-OTP-2075-0094 and
8 DRC-OTP-2083-0083.

9 PRESIDING JUDGE FREMR: [11:58:56] Defence, any objection?

10 MR BOURGON: None, Mr President.

11 PRESIDING JUDGE FREMR: [11:59:01] Then again those two documents are admitted
12 into evidence as a further Prosecution exhibit.

13 MS SOLANO: [11:59:13] Thank you, your Honour.

14 And finally, I wish to move on to the photographs taken by -- taken during the missions to
15 Kobu and to Sayo.

16 Q. [11:59:32] Sir, you've described earlier the coding convention, if I may call it that,
17 that you and Mr Sapin agreed to use to keep track of the photographs that you were
18 taking and the evidence that you were obtaining. Is this coding convention reflected
19 somehow in the photographs that you took and that Mr Sapin took?

20 A. [12:00:19] What do you mean by encryption convention? Do you mean the
21 naming system that we had for evidence, the one that I just described?

22 Q. [12:00:29] I think we're talking about the same thing, the codes such as those
23 identified the location, the grave, the body, the artefact.

24 A. [12:00:47] Very well. We used this coding system to ensure that all evidence was
25 traceable, and the codes were written on a tablet which appeared on all of the photos

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1 which we took, whether they be detailed photos, close-up photos or other.

2 Q. [12:01:17] And in their electronic rendition, was this coding also reflected in the
3 photographs, let's say in the -- in the metadata associated with the photographs taken by
4 you and Mr Sapin?

5 A. [12:01:42] Indeed. Earlier I was talking about the archiving work which we
6 would do in the evening when we would return to Bunia. Now, that archiving work was
7 done, in general terms, day by day, dated by day, and those files, those dossiers, were also
8 ordered based on the evidence reference number. Let me explain more.

9 We might have a number of photos that were related to the post-mortem examination of a
10 particular body. These would be grouped together in one file, one dossier, and that
11 dossier was labelled using the coding convention that we had agreed upon on the first
12 day.

13 Q. [12:02:51] And when you say that the photographs would be grouped together in
14 one file, should I understand that you mean an electronic file in that laptop that you were
15 using and in the computer -- the hard drive that was being used by the ICC?

16 A. [12:03:20] Yes. We would save photos by date in two locations, on the computer
17 and on the hard disk which had been provided by the ICC. And the files were ordered
18 on my computer. I would first copy all of the photographs and then I would organise
19 them in two files on my computer. So on my computer I would have two versions of the
20 picture, I would have the original unedited photo, and then I would have a file with a
21 number of -- or folder and with a number of subfolders with all of the photos according to
22 our classification.

23 Q. [12:04:06] Thank you. I would like you to now look at a --

24 PRESIDING JUDGE FREMR: [12:04:09] Sorry, is your mic on? Fine.

25 MS SOLANO: [12:04:16]

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1 Q. [12:04:16] Sir, can you please now take the coloured Excel chart that is in front of
2 you. And during your witness preparation session, did you see a chart similar to this
3 one?

4 A. [12:04:44] Yes.

5 Q. [12:04:46] And how, sir, did you use that chart during your witness preparation
6 session in the course of the review of the photographs?

7 A. [12:05:06] Well, this chart assisted me in locating and/or understanding the
8 organisation of the folders containing the photos that you provided to me. There was a
9 computer with nine different folders containing these photographs, so in order to be able
10 to match the photos on the computer to my method of organising those photos, that is to
11 say the method I used when I provided the photos to the Court, this chart was very
12 helpful in that matching process.

13 Q. [12:05:54] And were you able to confirm that the photographs shown to you
14 during your witness preparation session were taken by you and in some cases by
15 Mr Sapin?

16 A. [12:06:09] Yes, absolutely.

17 MS SOLANO: [12:06:14] Your Honour, I seek your guidance. I can now either move
18 directly to seek the admission of the photographs, but of course if the Chamber wishes or
19 if Mr Bourgon prefers it, I can also ask the witness more detailed questions as to what it is
20 that he sees on the chart that's currently in front of him that permits him to confirm that
21 these are photographs that he had an opportunity to review and that are the photographs
22 taken by him and Mr Sapin during the Kobu mission.

23 PRESIDING JUDGE FREMR: [12:06:46] What is the position of the Defence?

24 MR BOURGON: [12:06:54] Mr President, the position of the Defence we don't need to
25 look at the pictures; however, I would like before we admit the pictures to have the

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1 witness at least explain further the chart and the information on the chart that allows him
2 to identify, as my colleague just suggested.

3 PRESIDING JUDGE FREMR: [12:07:15] It will be also fine with the Chamber, so please
4 proceed this way, Ms Solano.

5 MS SOLANO: [12:07:20] Of course, your Honour.

6 Q. [12:07:24] Sir, can you take item 1 on this chart, and for the record I intend,
7 your Honour, at the end of this exercise to request that this chart be marked for
8 identification so that the court officer can retrieve from it the relevant ERNs, if that is
9 satisfactory.

10 PRESIDING JUDGE FREMR: [12:07:43] All right.

11 MS SOLANO: [12:07:48]

12 Q. [12:07:48] Sir, for item 1 this chart provides you with a "Doc ID," which is what we
13 in the Court normally know as the evidence registration number, and then some
14 information in a column called "1 Path." I want you to focus your attention on the
15 information in that column, "1 Path." And can you please explain for item 1 what the
16 data tells you, what does that data mean?

17 A. [12:08:38] Well, on line 1 the path that you are referring to allows me to ascertain
18 that these pictures were extracted from the E drive of the computer you provided me,
19 ORI_TAS --

20 THE INTERPRETER: The interpreter approximates.

21 THE WITNESS: (Interpretation) That indicates my name. And then the last three
22 parts of the information say how the information was classified and how it was
23 transmitted by me to the ICC, notably the date is given, so there's a photo DSC07 --

24 THE INTERPRETER: The interpreter does not have this document in front of her so
25 cannot provide all the details.

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1 THE WITNESS: [12:09:35] (Interpretation) The date concerned was 31 January 2014.

2 MS SOLANO: [12:09:45]

3 Q. [12:09:45] In item 7 I notice the word "panoramics" and it seems to repeat itself on
4 quite a number of photographs. What does that refer to?

5 A. [12:10:06] That term "panoramics" refers to all of the circular photographs which
6 were taken using a different camera and lens and which were used by me to make the
7 panoramic reconstruction.

8 Q. [12:10:32] Can you go to item 85. And I want you to explain generally what the
9 data says in relation to that item, but also I notice that at the end of the path there is a
10 capital letter M which I see appears to also exist in many of the entries that are below
11 item 85, so could you also explain what that means please?

12 A. [12:11:22] First of all, item 85 under path, as you go from the end of that path you
13 see that DSC0184_M.jpg refers to an artefact that was found on body number KOB1-F1-B1
14 taken during the post-mortem examination of KOB1-F1-B1 body from grave 1 at site
15 KOB1, from that site KOB1.

16 Furthermore, _M which appears after the negative -- after the photo and which you
17 referred to indicates that the image was improved upon, so M stands for "modified" to
18 make the image more legible and cropped accordingly. So M means modification, which
19 I did not for the purpose of actually substantively modifying the content of the image but
20 rather simply to improve its clarity, and the idea was not to correct or take off any parts of
21 the image whatsoever.

22 Q. [12:13:18] In entry 372 what does the data in the path field refer to?

23 A. [12:13:42] That path refers to a photo that was improved, number DSC_0135.
24 That photo refers to the exhumation of a body found at site SAI1-F1 so it refers to
25 exhumation of body B1 from grave 1 at the Sayo site, Sayo 1 site.

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1 Q. [12:14:23] And in item 378 what do the words "Sauvegarde Brute" refer to?

2 A. [12:14:41] That path refers to photo DSC_0002 taken with photo camera number
3 one used on 8 April 2014. And here we are dealing with a photograph, a general photo
4 or a 360-degree panoramic photograph. According to the file that you provided to me on
5 computer, this image was taken from the first saving which I did on the evening of our
6 return to Bunia.

7 Q. [12:15:35] And if you can go to the last page of this report, to item 584, can you
8 explain what the metadata related to that photograph relates to?

9 A. [12:16:14] The data you see on that path at line item 584 refers to a photo taken by
10 Mr Sapin, and that photo number MG_6479.jpg relates to body number 1 at grave 6 at site
11 KOB1.

12 Q. [12:16:47] And how do you know that this photograph was taken by Mr Sapin?

13 A. [12:16:56] We did not use the same root for our photo numbers. Mr Sapin's
14 numbers started with _MG or _K, whereas mine started with DSC.

15 MS SOLANO: [12:17:26] Your Honour, I seek to admit the photographs that are listed
16 on this report between numbers 85 and 601. And in case it's helpful to the Defence, the
17 reason I'm not seeking to admit the first 84 photographs are that those are the
18 photographs that underlie the two panoramic presentations, and given that the
19 presentations are already admitted we see no need to admit the photographs in addition
20 to them.

21 PRESIDING JUDGE FREMR: [12:18:05] Defence, do you need any further clarification
22 from Ms Solano or are you fine with this request?

23 MR BOURGON: [12:18:13] Well, in principle we are fine, Mr President, but we would
24 require some time in order to run a check between the list of items to be used and this
25 chart, but in principle we do not have any objection, we said that earlier, but we would

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1 like to maybe defer until we have time just to run the check between the two lists to make
2 sure the numbers match.

3 PRESIDING JUDGE FREMR: [12:18:34] Okay, maybe then we can defer decision on
4 that until after the lunch break. How much time do you think you will need to make this
5 exercise?

6 MR BOURGON: [12:18:43] Well, at the lunch break it would be preferable because I
7 believe it will take about a half hour just to make the match between the numbers and
8 then we will be ready to say yes, but we do not have an objection.

9 PRESIDING JUDGE FREMR: [12:18:50] Yeah.

10 MR BOURGON: [12:18:52] We just want to make a check.

11 PRESIDING JUDGE FREMR: [12:18:53] All right. So I think we -- Ms Solano?

12 MS SOLANO: [12:18:56] No problem, your Honour. If it assists the Defence, I can
13 specify that in this Excel report the photographs are -- they should be sorted by PRF
14 number and that's metadata the Defence have available so that might expedite the
15 comparison that you want to run.

16 And, your Honour, my last request is for the chart to be marked for identification, please.

17 PRESIDING JUDGE FREMR: [12:19:24] So I think we -- at least we can decide on
18 identification, so this chart will be marked for identification, court officer.

19 I guess it's done.

20 And Mr Bourgon.

21 MR BOURGON: [12:19:38] Mr President, my colleague just mentioned the numbers 85
22 to 601. The chart I have is maybe the old chart, but it ends at 592.

23 MS SOLANO: [12:19:55] The Defence is absolutely correct and I'm grateful for that
24 clarification because 601 is indeed the number from the old report, so I wish to correct,
25 your Honour, my request is for admission of items 85 through 592, which is the last item

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1 on the Excel chart.

2 PRESIDING JUDGE FREMR: [12:20:13] So it seems that Defence is very well
3 orientated.

4 MR BOURGON: [12:20:17] And just one last observation, Mr President. I'd like to -- if
5 my colleague could confirm because we have this new form which ends at 592, is that the
6 form -- we were informed yesterday that we would get a new chart. The one that is with
7 the witness now is it the new one or the old one?

8 PRESIDING JUDGE FREMR: [12:20:38] Ms Solano.

9 MS SOLANO: [12:20:40] The chart that is in front of the witness which contains 592
10 items is the one that was notified to the Chamber and the Defence at the same time last
11 night by email in the same email in which we provided the further updated list of
12 evidence.

13 MR BOURGON: [12:20:58] Thank you, Mr President.

14 PRESIDING JUDGE FREMR: [12:21:00] All right.
15 So now you may proceed if you want.

16 MS SOLANO: [12:21:05] Your Honour, I have no more questions for the witness.

17 PRESIDING JUDGE FREMR: [12:21:09] All right.

18 So it means that we can start with cross-examination if Defence is ready or if you -- yes,
19 take your time to prepare what is necessary.

20 (Pause in proceedings)

21 PRESIDING JUDGE FREMR: [12:22:26] You may start.

22 MR BOURGON: [12:22:28] Thank you, Mr President.

23 QUESTIONED BY MR BOURGON: (Interpretation)

24 Q. Good afternoon, Witness. We met yesterday early evening and I would like to
25 introduce myself again, Stéphane Bourgon is my name, and along with my colleagues

1 here we are representing Mr Bosco Ntaganda, who is the accused in this case, and I'm sure
2 you're not surprised by that.

3 A. [12:23:06] Very well.

4 Q. [12:23:07] I have a few questions to put to you as well arising from your reports
5 and the photographs that were taken as well as on your role during the mission. The
6 President or the Presiding Judge has already indicated that because both of us speak the
7 same language we must be careful to speak slowly and to observe a break between the
8 question and the answer. Is that fine by you?

9 A. [12:23:38] Yes, that is fine.

10 Q. [12:23:43] Without any further ado I would like to start by referring to your
11 qualifications and raising a few questions about your CV to enable me better understand
12 your area of expertise.

13 You were qualified as an expert by the Chamber and I quote:

14 (Speaks English) "expert on the collection of evidence from crime scenes."

15 (Interpretation) Did you understand that?

16 A. [12:24:24] Yes.

17 Q. [12:24:24] Does that title correspond to your qualifications? Do you consider
18 yourself to be an expert in the collection or gathering of evidence from crime scenes?

19 A. [12:24:43] The training I received as well as the qualification obtained through the
20 ministry of home affairs in France do indeed refer to research identification and collection
21 of all evidence and indicia which, according to my training relating to that kind of
22 evidence also requires that other skills be used, including photography, so for
23 photography and forensic photography as well as other techniques that were used during
24 that mission made use of the experience and skills that were employed during that
25 mission on a daily basis.

1 Q. [12:25:41] That is not exactly the question that I put to you, but of course it is one of
2 the things that I would like to examine with you; namely, what your title as technician of
3 crime sites, what does that mean? I do understand that taking photographs at a crime
4 site is part of your qualification; is that correct?

5 A. [12:26:03] Yes, that is correct.

6 Q. [12:26:05] But please correct me if I'm mistaken, now within your department there
7 are people who are photographers and who are experts in photography at crime sites; is
8 that correct?

9 A. [12:26:26] No. In the French system and when it comes to training of forensic
10 police officers in France photography is part of the initial training for all forensic
11 technicians. There is no specialisation in photography, for example, because
12 photography is simply part of our routine work when we go to a crime scene regardless of
13 the type of crime scene. So we would use photography as a technique as well as other
14 skills for gathering evidence.

15 Q. [12:27:14] Now, I'm concerned about your technical training relating to crime
16 scenes, particularly when it comes to photography.

17 A. [12:27:25] This training was provided by the ministry of home affairs through a
18 training centre of the ministry. It is a basic training that takes place at the very beginning
19 when one is recruited after passing the competitive examination into the government.
20 The training is provided at a centre by photographers over a period, if I am not mistaken,
21 of about two and a half months. During that time we are taught the various
22 photography techniques specific and general as it were.

23 Q. [12:28:13] When it comes to cameras you are very familiar with them?

24 A. [12:28:21] What do you mean by that?

25 Q. [12:28:26] Well, I'm sorry, I spoke too fast. I have to observe a 3-second rule.

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1 When I talk about photographic equipment that you use or that you used during the
2 mission on behalf of the OTP, the various cameras or equipment, pieces of equipment that
3 you use, you know this equipment and you're the one who selected the equipment; is that
4 correct?

5 A. [12:28:55] Yes.

6 Q. [12:28:55] When reference is made to the various pieces of equipment used for the
7 panoramic reconstruction, you know exactly what equipment you use; is that correct?

8 A. [12:29:09] Yes. I can say that the material used for that panoramic reconstruction
9 came from the department, which I belong to, and I'm very used to using that material on
10 a daily basis.

11 Q. [12:29:25] When I look at your report I see that you are -- made reference to the
12 fisheye, something which you are familiar with; is that correct?

13 A. [12:29:37] Yes, it is part of -- it was part of my training. And I also use that
14 equipment on a daily basis at work, especially with regard to other -- to several other
15 crime scenes.

16 Q. [12:29:55] The material or equipment you use was it video equipment, or did you
17 use the former type of photographic tools, such as cameras and -- which used films and
18 negatives, or was it all video or digital?

19 A. [12:30:19] Well, most of what we used was digital. We no longer use film rolls as
20 was the case in the past.

21 Q. [12:30:29] According to your CV as a crime scene technician I understand that
22 when you get to a crime site after a crime has been committed, that is usually the time
23 when you come to the scene after the crime has been committed; is that correct?

24 A. [12:30:49] Yes. When we become aware that a crime may have been committed,
25 then it is true that there is some delay actually between the time of the crime and our

1 arrival at the scene.

2 Q. [12:31:03] The crime scene technician's work, does it differ when you are dealing
3 with a crime scene -- an old crime scene that has been in place for a long time?

4 A. [12:31:14] No. The work is the same because it's technical work and the
5 techniques that are used are exactly the same and the qualification is exactly the same,
6 whether it be an old crime scene or a recent crime scene.

7 PRESIDING JUDGE FREMR: [12:31:30] Please, both of you please observe really the
8 3-second pause because you are really put in troubles our interpreters. Thank you.

9 MR BOURGON: [12:31:47] (Interpretation)

10 Q. [12:31:48] Mr Sivignon, can you give us an example of a crime scene which you
11 visited sometime after the crime had been committed?

12 A. [12:31:59] I do remember a scene which, if I'm not mistaken, I visited in 2012 and at
13 that site we were called to a place where some bones had been discovered at a particular
14 site. Someone had discovered what appeared to be bones and we were called to the site
15 and we worked with an anthropologist and a forensic doctor to exhume the remains at
16 that site.

17 Q. [12:32:37] Would I be correct to say that most of your work is done at recent crime
18 scenes?

19 A. [12:32:49] I wouldn't say most of my work. And again it all depends on what you
20 mean by "recent." You see, understandably, crime scenes may be discovered some time
21 after the event and so that could also be the case.

22 Q. [12:33:15] In your daily work are you often called up to look at recent crime
23 scenes?

24 A. [12:33:29] Once again, it all depends on what you understand "recent" to mean. I
25 cannot answer that question directly.

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1 Q. [12:33:39] Let's take the example -- the following example. Your CV indicates that
2 you have experience in exhumation. Do you have any such experience?

3 A. [12:33:54] Yes, sure. Certainly. I have just mentioned an example to you
4 previously.

5 Q. [12:34:07] Have you often participated in such operations before your mission to
6 Bunia?

7 A. [12:34:18] Over my seven years of experience I have had the experience in
8 circumstances similar to those which I have described to you, to work on exhumations
9 such as discovery of bones during the building of a -- of a house or something of that
10 nature. This is work -- the kind of work that we usually do within the purview of our
11 mandate.

12 Q. [12:34:58] I would try to be a little more specific. Over the seven years of work in
13 your department, have you ever been called up to a place where a body was being
14 exhumed at that time as organised?

15 A. [12:35:21] Could you be more specific? Do you mean -- what do you mean by "as
16 organised"?

17 Q. [12:35:29] I mean that you knew before going that you would be dealing with an
18 exhumation.

19 A. [12:35:35] Yes, and I have already mentioned that if an individual or a company at
20 a building site calls us and mentions that they have discovered something that looks like
21 bones, when we leave our office for the site, we know ahead of time that we are going to
22 have to deal with an exhumation.

23 Q. [12:36:07] Well, maybe we might have to go into private session, but could you
24 again try to explain to the Court any circumstance when you have participated in such an
25 operation? Or would you prefer that we do this in private session?

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1 A. [12:36:27] I think this would be preferable if I am going to provide a lot more detail
2 on this.

3 PRESIDING JUDGE FREMR: [12:36:33] No problem.

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

5 (Private session at 12.36 p.m.)

6 (Redacted)

7 (Redacted)

8 (Redacted)

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1 (Redacted)

2 (Open session at 12.42 p.m.)

3 THE COURT OFFICER: [12:42:01] We are in open session, your Honour.

4 PRESIDING JUDGE FREMR: [12:42:04] Thank you, court officer.

5 Mr Bourgon, please proceed.

6 MR BOURGON: [12:42:08] Thank you, Mr President.

7 Q. [12:42:11] (Interpretation) In private session I referred to the word "protocol" and
8 "cordoning off." Now, my question is this: Do you cordon off the area in order to
9 prevent persons from entering the crime scene? I presume that is the case, is it?

10 A. [12:42:40] Yes, we cordon off the area in order to conserve the traces and the
11 indicia that may be located within the scene.

12 Q. [12:42:56] So, first of all, you want to conserve the evidence, but secondarily do
13 you also want to prevent third parties from having access to the crime scene?

14 A. [12:43:10] Yes, that is also part of our procedures because if a person were to enter
15 the crime scene, we would have to ensure that the traces and indicia would be protected
16 in such a case.

17 Q. [12:43:49] Is the area cordoned off sufficiently large to ensure that bystanders
18 cannot get close enough to see what is happening?

19 A. [12:44:07] Well, in fact, there are two types of cordoning off. They are not always
20 physical in nature. You have a zone which is not immediately -- of immediate
21 importance and a zone which is immediately important. The area that is more directly
22 important is of course the area where the exhumation is taking place. The larger area to
23 be cordoned off is a sort of security zone which allows us to keep passersby, et cetera,
24 away from the site.

25 Q. [12:44:49] Okay. Well, this second perimeter, if you like, the one that keeps out

1 passersby, what is the purpose thereof?

2 A. [12:45:01] As I said before, it allows us to keep people who are unauthorised from
3 entering the crime scene or seeing the content of the crime scene.

4 Q. [12:45:22] And why is it that passersby are not to enter or see inside the crime
5 scene?

6 A. [12:45:33] Well, because, first of all, this crime scene must remain confidential.
7 Generally, our work is part of an investigation and, therefore, the only parties who are
8 concerned are the police or the investigating magistrates who have been called to the site
9 or experts who have been brought in, but nobody else should be able to become
10 knowledgeable of the crime scene.

11 Q. [12:46:04] Okay, you've mentioned confidentiality. When it comes to ensuring
12 confidentiality in a case of exhumation, would you agree with me that this is important,
13 whether it -- the exhumation be taking place in France or in Africa?

14 A. [12:46:19] Yes.

15 Q. [12:46:22] And one of the reasons why it is important is because -- or one of the
16 things that is important is to ensure that persons who have -- who are not directly
17 involved in the exhumation should not come into possession of information which they
18 could just disseminate as they saw fit?

19 A. [12:46:43] Yes.

20 Q. [12:46:54] If we return now to the mission that you carried out for the Office of the
21 Prosecutor, and you referred to your experience there. In the letter of instruction
22 received, there was much emphasis on the confidentiality of the work that you carried out;
23 is that correct?

24 A. [12:47:15] Yes.

25 Q. [12:47:16] And given your experience as a crime scene technician, I'm -- I presume

1 this didn't surprise you?

2 A. [12:47:23] No, I understood entirely that the nature of the work had to remain
3 confidential.

4 Q. [12:47:32] You've just described another operation you were involved in, I believe
5 it was in France, and you referred to interested parties. I think that was the term that
6 you used.

7 A. [12:47:49] Yes, perhaps I did.

8 Q. [12:47:52] Or persons who had an interest in knowing what was going on?

9 A. [12:47:59] Yes.

10 Q. [12:48:03] These interested parties or persons who were interested in knowing
11 what was going on, presumably you're going to know the identity of the people who
12 should be involved and who are going to participate; is that correct?

13 A. [12:48:23] If your question is in relation to my own experience, I would say yes.

14 Q. [12:48:32] And why would it be important to know the identity of all those who
15 had taken part in the operation?

16 A. [12:48:41] Based on my own training and my own experience checking the identity
17 of people at the entrance point to a crime scene is something which makes it possible for
18 us to draw distinctions afterwards; for example, if we are collecting biological or DNA
19 samples on the scene and if we collect something which does not fall within the subject
20 matter of the investigation, we will be able to identify whether that sample perhaps is
21 related to a person who entered the site.

22 Q. [12:49:31] Is it also important to know who was present to know who had access to
23 the findings of the investigation?

24 A. [12:49:43] Well, that I don't know. I think I'm probably not the right person to
25 answer on that point because I don't know to what degree the findings of that

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1 investigation were visible or could be identified by somebody coming from the outside.

2 PRESIDING JUDGE FREMR: [12:50:06] Mr Bourgon, we are three professional
3 criminal judges, so I don't really see very much reasonable to examine witness generally
4 on proper rules of making investigation on the scene of crime. I think for us it's
5 something really very well-known. I can understand your point, but then maybe better
6 to focus on the concrete situation when Mr Witness has been present in Ituri, but to
7 discuss generally what are the rules of investigation in France, in my view, it's for us, it's
8 really wasting of time.

9 MR BOURGON: [12:50:49] Thank you.

10 PRESIDING JUDGE FREMR: [12:50:50] I get your point and if you will focus on
11 concrete situation it will be highly relevant.

12 MR BOURGON: [12:50:56] Thank you, Mr President. I was moving exactly into a
13 practical example which has to do with the operation conducted in the republic of -- the
14 Democratic Republic of Congo, which has to do with the experience of the witness.

15 Q. [12:51:19] (Interpretation) Mr Sivignon, my next question is to ask you for a
16 practical example. When you were taking part in an exhumation operation, if a specific
17 item or artefact is retrieved from the grave, for instance, let's imagine for instance a red
18 T-shirt, my question to you, and perhaps you can confirm that it's the case, that it is
19 important that people who can see the crime scene cannot see identifiable objects which
20 are retrieved from the grave; is that not the case?

21 A. [12:52:18] It does indeed seem to me that it would be better if they could not see
22 those artefacts. In the Congo we had only basic equipment and means available to us.
23 And it was indeed possible that outsiders could see artifacts despite the cordoning off,
24 which we did, and it is possible that they could see what was going on despite the fabric
25 located at the outside of the crime scene.

1 Q. [12:53:05] I'd like to turn to the matter of the photographs. As a crime scene
2 technician, as you have told us, you have much experience of taking photographs. Now,
3 tell me, in your personal experience, who decides what photos are to be taken, the
4 technician or the investigator?

5 A. [12:53:30] Well, my answer is both because the two have different perspectives.
6 The investigator may have a greater overview of the scene or the investigation. The
7 technician might have a more technical approach and may feel that one photograph or
8 another might be a better way of capturing the particular piece of evidence at play.

9 Q. [12:54:02] And when you arrived into the DRC in January 2014 for your first
10 mission, would you say that doing -- or during that first operation your work was more
11 that of a crime scene technician or of a photographer?

12 A. [12:54:30] The remit that was given to me when we went to Kobu and to Tchudja
13 was in line with the letter of instruction provided to me by the OTP. My role was to act
14 as photographer or in any case to take photographs. And during the second mission I
15 also had the task of crime scene management if that proved necessary. That did not
16 prove necessary and therefore my mission, my remit focused on taking photographs.

17 Q. [12:55:06] A little earlier in your testimony you testified to modification of
18 photographs, there was the M on the chart provided to you by the Prosecution, for
19 instance. Now, according to your CV you are very familiar with Photoshop software; is
20 that correct?

21 A. [12:55:29] Yes.

22 Q. [12:55:33] And would you agree with me that photos can be modified in various
23 different ways?

24 A. [12:55:39] Yes.

25 Q. [12:55:42] And would you agree with me that a person who is skilled can highlight

1 or bring forth certain aspects of the photo in relation to others?

2 A. [12:55:56] A very skilled person could undoubtedly do that.

3 Q. [12:56:02] In your case who decided to modify the photos which you modified?

4 A. [12:56:12] Well, the modifications which were made to photographs were simply
5 improvements of the image. And as I stated in my report, there -- it was not a matter at
6 all of modifying the substance, the substantive content of the images. So I did not make
7 any substantive modifications.

8 Now, the only modifications which I made were corrections to the picture in relation to
9 colour, brightness or contrast. Those modifications were applied to the full image and
10 not to simply areas of the image. And finally, a final adjustment that could be made was
11 to crop a photo; for instance, in the case where one would take a photograph of a
12 particular artefact and the ruler which appeared on the picture was not perfectly straight,
13 by using cropping this could be rectified. These are the only modifications made to
14 photographs.

15 Q. [12:57:33] Now, when you would make such a change would you make it on -- at
16 your own initiative?

17 A. [12:57:42] I would make them myself, but in agreement with the Office of the
18 Prosecutor and purely for the purposes of making the picture clearer. All of these
19 photographs were dealt with using Photoshop software and that software makes it
20 possible to modify photographs using layers. What that means is you start with an
21 original photograph and then you will add layers on top of that; for instance, a layer
22 regarding brightness, a layer for the cropping of the image. The PSD is the format of the
23 resulting photograph, that is the Photoshop format, and this format makes it possible to
24 trace back any modifications made to a photograph and to return to the original
25 photograph if one so wishes.

1 Q. [12:58:44] Mr Sivignon, I have another question for you before we break for lunch.
2 If we take -- you had two missions and you took photographs during these missions. If
3 we take the first mission I believe that during that mission you mostly took photographs
4 in the mortuary; is that correct?

5 A. [12:59:06] That is the case for the first mission, indeed.

6 Q. [12:59:12] You took photographs of the results, the findings of the experts who
7 were at work; is that correct?

8 A. [12:59:21] Yes.

9 Q. [12:59:23] Well, I have a question, I haven't been able to get an answer to it yet.
10 You referred to tablet, I believe at one point, I believe what you mean is a kind of board on
11 which the code would be written; is that correct? In any case, you'll be talking about that
12 to us this afternoon. And that board is placed in the photo, but who arranges these
13 things on the photo, is it you or the person who works in the mortuary?

14 A. [12:59:55] Could you explain what you mean by "arranging" objects?

15 Q. [13:00:02] I'm talking about placing an artefact on a white background or whatever.
16 Is it you who places the artefact or is it somebody else?

17 A. [13:00:23] No. When it comes to photographs taken of artefacts, for instance,
18 clothing or indeed bones, those artefacts were set out either by the anthropologist or the
19 medical examiner. They were the ones who took care of or were responsible for
20 displaying the bones or other. I would -- I, however, would place down the tablet, the
21 board with the number.

22 Q. [13:00:53] Ah, so this tablet is something that was placed by you so that the photo
23 could be logged?

24 A. [13:01:04] Oui.

25 MR BOURGON: [13:01:05] Mr President, I think we can -- I think 1 o'clock is the time

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1 to stop for the break and we can resume this afternoon.

2 PRESIDING JUDGE FREMR: [13:01:11] All right.

3 So before we break, two minor issues.

4 Mr Bourgon, you as Defence have been granted two hours, then you responded that
5 probably two hours will be fine with you. Do you still keep this estimation or --

6 MR BOURGON: [13:01:32] Yes, Mr President, I do. I believe I've used a little more
7 than half hour and I will below the two hours quite certainly, Mr President, which of
8 course brings the issue of what do we do for the rest of the week. I don't know if my
9 colleagues on the Prosecution side are ready to discuss this, but we have another expert
10 coming up tomorrow and then what do we -- whether we start witness number five this
11 week or not I guess is a question that we need to answer. Thank you.

12 PRESIDING JUDGE FREMR: [13:02:03] Yes, you should also discuss because according
13 to my information the next expert witness, which is P-937, will not be able to testify until
14 tomorrow. So tomorrow morning he will be available. As concerns the other one I have,
15 at the moment I don't have any information.

16 And last issue, please don't forget to review the material that have been intended to
17 tender by Prosecution during the lunch break.

18 So if there are no further requests for the floor we break now and we will continue at half
19 past 2.

20 THE COURT USHER: [13:02:40] All rise.

21 (Recess taken at 1.02 p.m.)

22 (Upon resuming in open session at 2.32 p.m.)

23 THE COURT USHER: [14:32:04] All rise.

24 Please be seated.

25 PRESIDING JUDGE FREMR: [14:32:25] You can sit down, Mr Bourgon, because before

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1 we continue with cross-examination I would like to return back to the issue of request for
2 admission made by Prosecution, by Ms Solano, which had been updated a bit during the
3 lunch break.

4 So maybe for the record could you just repeat the new version, Ms Solano.

5 MS SOLANO: [14:32:57] Thank you, your Honour. The updated version is that the
6 Prosecution seeks admission of items 85 through 377, 426 and 457 through 592 on the
7 Excel chart that has been marked for identification.

8 PRESIDING JUDGE FREMR: [14:33:26] Thank you.

9 Mr Bourgon, I hope that you had enough time to verify those documents during the lunch
10 break. So what is your position to this request?

11 MR BOURGON: [14:33:37] We did, Mr President, have time to review the numbers
12 provided by the Prosecution and there is no difficulty with the numbers; however, I
13 would ask the Chamber to defer until the end of cross-examination. I just have a few
14 questions to ask on the chart. But our position remains the same, it's not the pictures that
15 we have the problem with, it's just how we refer to the pictures.

16 PRESIDING JUDGE FREMR: [14:34:03] Ms Solano, your position?

17 MS SOLANO: [14:34:08] Your Honour, I'm in your hands. I have no real problem
18 waiting for the end of cross-examination.

19 PRESIDING JUDGE FREMR: [14:34:15] I also don't expect any big issues, but I think
20 it's no problem to wait because I guess even Mr Bourgon indicated that the rest of
21 cross-examination would be short, so I think we can defer this decision.

22 All right then, Mr Bourgon, you may proceed.

23 MR BOURGON: [14:34:32] Thank you, Mr President.

24 Q. [14:34:41] (Interpretation) Good afternoon, Mr Witness.

25 PRESIDING JUDGE FREMR: [14:34:50] And before we continue please I would like to

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1 both of you remind that sometimes you did not perfectly observe the 3 seconds, so please
2 have it in mind because really our interpreters, as I had a chance to listen to them, they
3 were under strong pressure. So please have it in mind.

4 MR BOURGON: [14:35:14] Will do, Mr President. Thank you very much.

5 Q. [14:35:24] (Interpretation) Mr Sivignon, I would now like to address an issue
6 which is very close to the one we were dealing with before the lunch break; namely, the
7 artefacts and how they were treated on site during exhumations. You know what I'm
8 talking about, don't you?

9 A. [14:35:47] Yes, I do.

10 Q. [14:35:49] Before the break you explained to us that you used a small card with
11 numbers which enabled you to provide an inventory of the photographs in Kobu; is that
12 correct?

13 A. [14:36:04] Yes, it was the same case in Sayo I must say.

14 Q. [14:36:12] If I understood your report, the second report, your role in Sayo was a
15 lot more elaborate; is that not correct?

16 A. [14:36:22] Yes, indeed, I also had to manage the evidence additionally.

17 Q. [14:36:29] I would like to know whether your role in Sayo, and we will be looking
18 at the general framework of the mission later on, but when it comes to handling the
19 artefacts I would like you to explain to us what happened in Sayo where you were the
20 photographer at the exhumation site and you also were the manager of the evidence.
21 Did you have any role to play when it came to handling the artefacts between the grave
22 and the --

23 THE INTERPRETER: [14:37:07] We missed the last word of counsel. We didn't get his
24 last word.

25 THE WITNESS: [14:37:13] (Interpretation) When it came to handling evidence in

1 Bunia, evidence had to be transported from the site to the mortuary.
2 Now, when the artefacts were exhumed, they were promptly placed in individual bags
3 and treated accordingly in those bags.
4 My duty was to fill out the log on the chain of custody pertaining to the artefact, then the
5 bags would be taken to a place in Sayo which was constantly under police guard, that is
6 the Congolese police. So at the end of the day all the artefacts that had been exhumed,
7 including any other human remains, would have been taken in the vehicle in which I was
8 to the mortuary in Bunia. Those items will be offloaded into the mortuary and it would
9 be locked with two padlocks and I kept the keys. At night, the mortuary building was
10 also guarded by the Congolese police.

11 MR BOURGON: [14:38:37] (Interpretation)

12 Q. [14:38:38] That provides some clarification on the situation.

13 Now, at the grave site when you were present and taking those photographs, I would like
14 to know what happened when the artefacts were taken out, be it a piece of cloth or an
15 item of dressing. In the circumstances where you were present, were the artefacts
16 separated at the gravesite or was the skeleton taken out as a whole and the separation
17 done in Bunia?

18 A. [14:39:17] Well, we always made a photograph of the entire grave on site. When
19 the body would be discovered with artefacts either on the body itself or nearby, we would
20 make a photograph at that time. Then, if I recollect properly, but I might have to consult
21 my report if necessary, it appears to me that the artefacts were separated from the body.
22 And when it came to numbering and codification of each item of evidence we are able to
23 trace the position of an artefact and determine whether it was on the body or in the grave.

24 Q. [14:40:20] Let us take an example to clarify your testimony so that we can
25 understand it.

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1 MR BOURGON: Mr President, I would like to have displayed on the screen the
2 following picture, photograph and it's DRC-OTP-2069-0301?

3 PRESIDING JUDGE FREMR: [14:40:40] Is it public?

4 MR BOURGON: I guess it is public. There is no -- my colleague came to see me about
5 certain photographs she does not want to display publicly, but I believe that this one can
6 be displayed publicly.

7 PRESIDING JUDGE FREMR: [14:40:55] I see nodding, Ms Solano, so we can make it
8 public.

9 MR BOURGON: [14:41:07] (Interpretation)

10 Q. [14:41:08] Mr Witness, the photograph will soon be displayed on the screen before
11 you. Do you recognize it, that photograph?

12 I don't think we need to revisit the codes that were used on the white card. You are the
13 one who prepared that card, isn't it?

14 A. [14:41:48] Yes, I'm the one.

15 Q. [14:41:56] If I do understand properly that white sheet of paper refers to three
16 bodies; is that correct?

17 A. [14:42:02] Yes, that is correct.

18 Q. [14:42:05] Information pertaining to the number of bodies on the photograph, who
19 provided that information?

20 A. [14:42:17] The information was provided by the anthropologists who carried out
21 the exhumation.

22 Q. [14:42:27] I believe that this picture represents what you referred to as the initial
23 photographs of the grave; is that correct?

24 A. [14:42:36] Yes.

25 Q. [14:42:39] You see on this photograph a number of artefacts or a number of pieces

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1 of fabric alongside other items; is that correct?

2 A. [14:42:53] Yes, that is correct.

3 Q. [14:42:56] My question, therefore, as I return to what we -- as I hark back to what
4 we were talking about a short while ago is the following: When these items are taken out
5 of the grave, these items that we see on the photograph, was there a separation or sorting
6 carried out before putting the items into the bags, or what is your testimony?

7 A. [14:43:26] This is a photograph amongst several others that were taken during the
8 mission, but I can from memory say that what happened was the following: If it was
9 possible to attach the artefacts specifically to a body, for example, a body that would be
10 found on the human remains or -- then at that time the artefact will be identified as
11 directly related to the body. And I think that is what I was saying a short while ago in
12 my answers. In which case, the artefact ID would be provided after the number of the
13 body.

14 So if the artefacts could not be linked directly to the body, it would be linked to the grave
15 and not to the body, that is why on this photograph where you see B1, B4, B5 and A1 and
16 according to the red arrow at the top of the screen you will see artefact A being a small
17 green shoe. That artefact could not be linked directly to any of the bodies, so it was
18 identified separately.

19 Q. [14:45:00] Let me take one of the artefacts on this photograph, and I'll show you
20 another photograph.

21 (Speaks English) I'd like to have on the screen please exhibit number
22 DRC-OTP-2069-0574.

23 (Interpretation) Mr Sivignon, based on the little card on the picture which says
24 SAI1-F1-B1-A2, can you confirm that this is the second artefact from the grave that we saw
25 on the previous picture?

1 A. [14:46:22] Correction, this is the second artefact on body number 1 from grave
2 number 1 -- grave number 1.

3 Q. [14:46:35] Was this artefact taken from the grave we saw on the previous picture?

4 A. [14:46:42] It would appear that it was.

5 Q. [14:46:48] My question relates to the handling of the artefact from the time it is
6 taken out of the grave to the time the photograph is actually taken. How do we proceed
7 to have such a clear artefact on the photograph before you as compared to what we see in
8 the grave on the previous picture?

9 A. [14:47:15] At the exhumation site the human remains were put together in a bag
10 depending on their anatomy and the parts in question. Now, you saw a T-shirt on
11 that -- on that body previously, so there were two artefacts relating to body number 1 in
12 the previous picture, and they would all be put in a brown paper bag and they would be
13 identified as SAI1-F1-B1-A2 in the case at hand. Furthermore, whenever an artefact was
14 taken out by the anthropologists they would show me the artefact and I would enter the
15 form and then the corresponding numbers would be ascribed to the various artefacts and
16 these would be unique to each artefact from each exhumation site.

17 Q. [14:48:35] As far as you know, Mr Witness, was this artefact washed or was it just
18 pulled out of the bag as is and is that what is reflected on the photograph, as far as you
19 know?

20 A. [14:48:53] I cannot give you a 100 percent affirmative answer, but given that this
21 was taken to the mortuary, it is possible that it may have been (Overlapping speakers) --

22 MS SOLANO: [14:49:07] Excuse me, your --

23 PRESIDING JUDGE FREMR: Ms Solano.

24 MS SOLANO: Excuse me, your Honour, I request a transcript correction. In the French
25 transcript on page 80, at line 15, the last word that the witness said was the word

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1 "artefact." It appears to have been transcribed in the English transcript at page 86, lines 6
2 to 7, as the expression at "the case at hand." So what I heard the witness say was artefact,
3 and I believe the English transcript is incorrect.

4 PRESIDING JUDGE FREMR: [14:49:45] Mr Bourgon.

5 MR BOURGON: I believe my colleague is right, I think the correction can be made for
6 the word "artefact."

7 PRESIDING JUDGE FREMR: [14:49:53] Okay, so just please make correction as now
8 confirmed by both counsel.

9 Proceed, Mr Bourgon.

10 MR BOURGON: [14:50:07] Thank you, Mr President.

11 Q. [14:50:10] (Interpretation) Witness, I will show you a third photograph still from
12 the same site.

13 (Speaks English) I would like to have on the screen please the exhibit

14 DRC-OTP-2069-0572.

15 (Interpretation) That third photograph will soon be displayed before you.

16 So, Witness, you would agree with me that this is the first artefact from the first body in
17 the first grave; is that correct?

18 A. [14:51:12] Yes, it is.

19 Q. [14:51:15] Now when we see B1 we are talking about two items that are linked to
20 the first body; is that correct?

21 A. [14:51:25] Yes.

22 Q. [14:51:29] Now let me hop back to had previous question which you had already
23 answered. I simply wanted to know whether you had knowledge of -- since you were in
24 charge of the evidence, do you know whether the items were washed between the time
25 they were taken out of the grave and when you were asked to take those two photographs

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1 we have just looked at?

2 A. [14:52:06] The artefacts were washed by the anthropologist or the medical
3 examiners at the mortuary during the two missions that we conducted, but I cannot
4 guarantee to you that the artefacts on the two photographs we have seen were washed.
5 Normally the photographs were supposed to be taken after the artefacts were washed and
6 that made it possible to read information that made it possible to identify the artefacts and
7 also eliminate any material that could impede the legibility of the item.

8 MR BOURGON: [14:52:54] Mr President, I would like to have the three photographs
9 used in my last few questions admitted in evidence, please.

10 PRESIDING JUDGE FREMR: [14:53:00] Ms Solano.

11 MS SOLANO: [14:53:02] No objection, your Honour.

12 PRESIDING JUDGE FREMR: [14:53:06] So those three photographs are admitted into
13 evidence as further Defence exhibits.

14 Mr Bourgon, you may proceed.

15 MR BOURGON: [14:53:18] Thank you, Mr President.

16 Q. [14:53:27] (Interpretation) Mr Witness, I will now move on to another line of
17 questioning relating to your assignment from the beginning to take part in the two
18 missions to Kobu and to Sayo.

19 In your first report you confirmed a number of dates. Let's talk about the dates of your
20 mission. This morning and in your report you referred to from 17 January to 2 February.
21 You can look at your report to confirm those dates. Do you confirm them?

22 A. [14:54:23] That is correct.

23 Q. [14:54:26] Mr Witness, that letter -- or should I say you received a letter containing
24 instructions from the Prosecutor, and in your report that letter bears the date 22 January;
25 is that correct?

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1 A. [14:54:50] Yes, that is correct.

2 Q. [14:54:55] Do you remember receiving any letter prior to this one given that this
3 one mentions a revised letter?

4 A. [14:55:13] You are asking me to answer from memory, but I don't remember
5 receiving any other letter. In any event, I had received oral instructions before that date,
6 before the date appearing on this letter.

7 Q. [14:55:34] I'm not testing your memory, Mr Witness, but don't worry about this.
8 Anyway, we received a letter from the Prosecutor dated 20 January. The original letter,
9 which appears to contain a different paragraph or a paragraph which is absent. Now, to
10 point out the difference between the two letters .

11 (Speaks English) I would like to have on the screen, please, exhibit number
12 DRC-OTP-2075-0056, that's the first page of the report, but the letter is on page 0057.

13 (Interpretation) Mr Witness, you see here the revised letter of 22 January. Now, if you
14 compare that letter to the letter of 20 January which was disclosed to us by the
15 Prosecution, we found that the paragraph that does not appear in the first letter is the one
16 beginning at the bottom of what you have on the screen.

17 (Speaks English) "Please find attached the following relevant documentary evidence."

18 (Interpretation) As you can read (Overlapping speakers)

19 (Speaks English) ...satellite photographs of Kobu-Wadza.

20 (Interpretation) That paragraph did not appear in the first letter. Do you remember at
21 what point in time you received this document, Mr Witness?

22 A. [14:57:42] No, I'm not able to give you an exact date off the cuff. However, I
23 remember receiving this document during the mission.

24 Q. [14:58:03] I would now like to ask about the assignment. If I understand well,
25 you were on the ground since 17 January, but you only received your instruction letter

1 on 20 or 22 January. Now, before travelling to the DRC, did you have any other contacts
2 with the Prosecution for the purpose of obtaining a few more details about your mission?

3 A. [14:58:38] I had contact with the OTP before travelling to the DRC and we
4 discussed the content of the mission and what was expected of my participation in that
5 mission. Those contacts were by telephone or by email before I travelled.

6 Q. [14:59:02] Those contacts, how long did they take place prior to your travelling?

7 A. [14:59:10] I cannot tell you. I have no clue.

8 Q. [14:59:16] Let me be more specific. How long had you been aware that you were
9 going to travel before you knew that you were, your service -- how long had you known
10 that your services were going to be required before you travelled to the DRC?

11 A. [14:59:38] The answer I believe can be found at page DRC-OTP-2075-0067, second
12 paragraph. The official request by note verbale to the Ministry of Home Affairs is dated
13 19 December 2013.

14 Q. [15:00:28] Did you have the opportunity to see this note verbale, to see this
15 document within your ministry before travelling to the DRC?

16 A. [15:00:42] The note verbale came in through diplomatic channels, as usual, and I
17 became aware of it, and then I was designated within the Ministry of Home Affairs to be
18 the one to conduct the mission or to participate in the mission.

19 Q. [15:01:02] Do I then take it that contacts with the OTP before you travelled took
20 place between 19 December and 15 January; is that correct?

21 A. [15:01:17] Quite probably.

22 Q. [15:01:31] So I shall now turn to your arrival in the field. This morning you
23 referred to the first meeting that took place and what was discussed at it.

24 Now, I'd like to learn a bit more about how the mission operated. Now, we know that
25 you were responsible for taking photographs during the first mission on 5 January, and

1 we also know that you were working together with Mr Sapin, to a certain degree, and we
2 know that Mr Alistair Graham was the person who identified where the
3 reconstruction -- the panoramic reconstructions should be taken. I think we've
4 established that.

5 Now, I'd like to turn to the production of the panoramic reconstructions. Were you in the
6 company of Mr Alistair Graham at that point in time?

7 A. [15:02:57] In identifying the sites where the photographs would be taken, yes.
8 Taking the panoramic pictures took place over a number of days. Given the security
9 conditions in the field, we could not move around the village easily and, therefore, we
10 arranged with those who were responsible with security and logistics that the photograph
11 taking would take place at different points in time. I believe that Mr Sapin was with me
12 on the first day that we took those photos and I -- after that, I took the photos alone, but in
13 the company of Mr Reynolds from the Office of the Prosecutor.

14 Q. [15:03:51] Now, during the Kobu mission, Mr Reynolds did the work which you
15 were asked to do in Sayo regarding management of evidence; is that right?

16 A. [15:03:59] Yes.

17 Q. [15:04:01] Now, you've mentioned a detail which I must have missed this morning,
18 or I may have missed, that was regarding the location of the mortuary in Kobu. You
19 referred to a distance of 50 metres; is that correct?

20 A. [15:04:15] Yes, it's -- I've made an estimate but that is indeed what I said.

21 Q. [15:04:20] So it was a mobile mortuary; is that correct?

22 A. [15:04:25] Well, in fact, it was a building which I imagine the Office of the
23 Prosecutor had rented for the period and which had been equipped. It was a -- a
24 permanent structure and two autopsy tables had been set up inside it.

25 Q. [15:04:49] Unless I'm mistaken, I don't think I've seen a photograph of that

1 building amongst the photos which you took; is that possible?

2 A. [15:05:01] Indeed, I -- I personally did not take a photograph of the building as a
3 whole, but there are photographs of the work which took place inside the building.

4 Q. [15:05:16] Now, given that the building that served as a mortuary was located in
5 the vicinity of the graves, did that apply equally at Kobu 1 and Kobu 2?

6 A. [15:05:34] Yes.

7 Q. [15:05:37] So in your report you stated that, after the first few days, most of your
8 time was spent at the mortuary; is that correct?

9 A. [15:05:50] Yes.

10 Q. [15:05:53] And was the mortuary close to the graves?

11 A. [15:05:58] Yes.

12 Q. [15:06:01] And so that allowed you to follow what was happening at Kobu 1 and
13 Kobu 2; is that correct?

14 A. [15:06:08] As I said, the operations at the mortuary were inside a closed building so
15 I spent most of my time indoors in the autopsy room. It was easy, indeed, for me to
16 access the exhumation sites but I didn't spend most of my time on those sites.

17 Q. [15:06:35] Now, I had photographs earlier regarding photographs taken at
18 different locations. I now have another question regarding photos but regarding Tchudja
19 in particular. Was the same mortuary used or was it a different building?

20 A. [15:06:56] No, the same mortuary was used.

21 Q. [15:07:07] I'll turn now to Sayo. We've already established that your role was
22 different and that you were dealing with matters of chain of custody of evidence.

23 Logbooks and forms were entered into evidence this morning. Those are documents on
24 which you logged various movements. I'd like to turn to one of those logs with you so
25 that you have the opportunity ...

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1 (Speaks English) I would like to have on the screen, please, DRC-OTP-2071-0004.

2 (Interpretation) So this document is "Exhibit Log and Chain of Custody." We see it
3 marked on the document. Do you recognize the document before you?

4 A. [15:08:20] Yes.

5 Q. [15:08:23] On one of the central sections of the document there is date and time and
6 we see 9 April 2014 at 11.30; is that correct?

7 A. [15:08:42] Yes.

8 Q. [15:08:46] To what date, or sorry, to what day or event does that date refer?

9 A. [15:08:56] That date refers to the exhumation of human remains, human remains
10 B1 of grave 1 at SAI1.

11 Q. [15:09:15] So this is the point of time at which the body was exhumed, is it the start
12 time?

13 A. [15:09:24] Yes, that is undoubtedly the start time.

14 Q. [15:09:32] And the -- how long did the exhumation operations take in Sayo, how
15 many days?

16 A. [15:09:41] May I consult my report?

17 Q. [15:09:44] Certainly.

18 A. The exhumation operations at site Sayo 1 took place on 8 and 9 April 2014 and the
19 exhumation operations at Sayo 2 took place on 10 and 11 April 2014. I'd like to make a
20 correction as regards the operation Sayo 1: The dates are in fact 8 to 10 April 2014.

21 Q. [15:10:57] I put the question because where I see date and time, we see the 9th. So
22 on the basis of your last answer, I look at the exhibit before us on the screen, 9 April 2014
23 at 11.30, and you're working on the first grave in Sayo, and according to your answer, this
24 does not correspond either to the start or the end of exhumation of grave 1.

25 A. [15:11:43] Well, in that case I think that 8 April was the start of the exhumation

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1 operation at grave 1 of Sayo 1. That was a grave containing five bodies. And the
2 information I gave you a moment ago was drawing on my memory and was not correct.
3 It would -- it is indeed entirely logical that the form was completed at the point in time
4 when the anthropologist provided the human remains to me. So what is written in the
5 log is in fact the time that the body was removed.

6 Q. [15:12:30] Can you explain the chain of custody between yourself and Mr Congram
7 through to the end, based on this form?

8 A. [15:12:43] Yes, Mr Congram and Mr Nieva would -- or, provided the bones of body
9 B1 to me at 11.30. So at that point in time I take possession of them. We then return to
10 Bunia. At that point in time Mr Congram officially provides the bones to me for storage
11 on the 9th, at 3 p.m. You see that on the first line. So he gave them to me at the Bunia
12 field office. That's written there under "location." I then go to store them at the
13 mortuary. And when the post-mortem examination takes place on 12 April, I provide
14 the -- these bones to Mr Uhlin-Hansen at 10.30 to carry out his examination.
15 When he returns those bones to me for storage, they are in a body bag, under seal, bearing
16 a number which appears on the table. Those bones are then stored at the Bunia mortuary
17 until the body was reburied, and the body was provided to a relative and that took place
18 at 9.30 on the 14th.

19 Q. [15:14:33] I'd now like to put a question concerning use of video during the two
20 missions. It is stated in your report, and you stated it this morning and -- a number of
21 videos were taken during the two missions. You've provided some details on that in
22 your report, but I'd like to know how this worked and what was your role in particular as
23 regards these videos.

24 A. [15:15:06] Well, Ms Zanetta of the Office of the Prosecutor was responsible for
25 videos. She was the person who brought the equipment necessary to take videos. She

1 also positioned it on the site. She is the one who selected the camera position, and for
2 practical reasons because Ms Zanetta needed to travel from place to place and between
3 the exhumation site and the mortuary, for instance, so for those practical reasons she
4 would ask myself and Mr Sapin to change videotapes every couple of hours.

5 Q. [15:15:56] Was there a link between taking the video and a lack of correspondence
6 between what is in the video and what is in the photographs?

7 A. [15:16:07] Well, the objective which was set by the Office of the Prosecutor was to
8 film the way in which the work was being done and the way in which events were
9 proceeding around the exhumation site or the mortuary. There was no intention to film
10 the evidence itself or the chain of custody or traceability of the evidence; it was simply a
11 matter of capturing the work in progress at the exhumation site and mortuary.

12 Q. [15:16:38] Regarding the working conditions, you witnessed the exhumation work,
13 and I have a few questions regarding that. My questions relate to the various sites and
14 I'd like to use photos.

15 (Speaks English) Mr President, we are done with this exhibit. It's already in evidence,
16 so we don't need this exhibit any further.

17 I would like to have on the screen, please -- I think this one can be broadcasted publicly,
18 the number is DRC-OTP-2069-0223.

19 (Interpretation) Do you recognize this photograph? I understand that you took a few
20 hundred but do you recognize this one?

21 A. [15:18:02] Yes.

22 Q. [15:18:05] What do we see here?

23 A. [15:18:13] Well, speaking from memory, I believe that this photo was taken at the
24 Sayo 1 site and the photo was taken at the request of the Office of the Prosecutor. So, in
25 the foreground, we see from the back a delegation of "officials," between inverted commas,

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1 from the village or the region where we were. That delegation had come to visit us and
2 was hosted by the Office of the Prosecutor on site, so they were authorised by the Office of
3 the Prosecutor to enter the scene, and we then took a photograph of them present on site.

4 Q. [15:19:04] You were in a position to see that from their position they were well able
5 to see what was taking place in the grave; is that correct?

6 A. [15:19:20] Yes, although I don't know at what stage the exhumation is in at that
7 point in time. I don't know if there are already bones which have been uncovered.

8 Q. [15:19:35] Based on your experience there in Sayo, can you confirm that the
9 exhumation operations that were conducted were followed by a large number of people?
10 That's correct, isn't it?

11 A. [15:19:56] What do you mean "were followed by"?

12 Q. [15:20:00] There were a lot of people who were interested, curious about what you
13 were doing.

14 A. [15:20:09] Indeed, there were a lot of people from the village who were present and
15 around the periphery and who were indeed curious about what exactly was going on.

16 PRESIDING JUDGE FREMR: [15:20:22] Mr Witness, could you be more specific
17 because, you know, "a large number" or "a lot of people" is rather general. Could you
18 specify a bit this statement? So it was this official delegation which I guess includes
19 maybe 10 people, so how many people, apart from them, had a chance to watch?

20 THE WITNESS: [15:20:54] (Interpretation) Well, to be clearer, your Honour, when I
21 said observing what was going on, inside the periphery the only ones who were allowed
22 was this delegation. When the Defence was referring to inquisitive people, I extended
23 the people I was referring to and I was referring to people from the villages who were
24 around the periphery.

25 PRESIDING JUDGE FREMR: [15:21:30] All right. Thank you.

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1 MR BOURGON: Mr President, I would like to have a further exhibit on the screen.

2 This one can also be broadcasted publicly. And I refer to exhibit number

3 DRC-OTP-2069-0288.

4 Q. [15:22:22] (Interpretation) Do you recognize this photograph?

5 A. [15:22:24] Yes.

6 Q. [15:22:27] Well, I would put it to you that this photograph confirms what you were
7 referring to earlier, the fact that there was a general interest among the local people for
8 what you were doing in Sayo; is that correct?

9 A. [15:22:43] Yes, indeed.

10 Q. [15:22:46] And, Witness, I also note that the people here seem to be outside of the
11 periphery. Did you witness people, simple onlookers, not members of delegation, who
12 were able to enter the cordoned-off area?

13 A. [15:23:12] Not that I recall in any case.

14 MR BOURGON: [15:23:18] Mr President, I would like to have these two exhibits
15 admitted in evidence.

16 Q. [15:23:25] (Interpretation) Witness, of course you remember these two
17 photographs that you took yourself?

18 A. [15:23:31] I'm afraid I didn't catch your question due to the time lag.

19 Q. [15:23:37] These are two photographs that you took yourself; is that correct?

20 A. [15:23:44] I'm just going to check on the basis of the number.

21 I don't think it it's in this -- on this list but it seems to me indeed to be a photo that I took
22 myself.

23 THE INTERPRETER: [15:24:21] The interpreter did not catch the question.

24 THE WITNESS: [15:24:26] (Interpretation) No.

25 MR BOURGON: [15:24:30] (Interpretation) Mr President, I would like to have these

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1 two exhibits admitted in evidence.

2 PRESIDING JUDGE FREMR: [15:24:31] Ms Solano, any objection?

3 MS SOLANO: [15:24:34] None, your Honour.

4 PRESIDING JUDGE FREMR: [15:24:36] So those two pictures are admitted into
5 evidence as a further Defence exhibit.

6 And one question from my part, Mr Witness: Do you see this person in the blue shirt on
7 the left part of the picture keeping in his hand some bright, probably wooden, object?
8 Because we have seen this man in several pictures. Do you know or do you remember
9 who was it?

10 THE WITNESS: [15:25:16] (Interpretation) No, I do not recall.

11 PRESIDING JUDGE FREMR: [15:25:18] No problem.

12 Mr Bourgon, you may proceed.

13 MR BOURGON: [15:25:22] Thank you, Mr President.

14 Q. [15:25:24] (Interpretation) The sites that we have just seen on the photos, would
15 you agree that they are at Sayo, or were at Sayo 1?

16 A. [15:25:38] Yes.

17 Q. [15:25:41] Now, turning to the exhumation at Sayo 2, do you recall more or less
18 how things were in Sayo?

19 A. [15:25:52] Yes.

20 Q. [15:25:55] Do you agree with me, did you also witness that there were inquisitive
21 people there also who would approach the periphery to observe the exhumation work?

22 A. [15:26:10] Yes, I recall people present around the site.

23 Q. [15:26:15] How many people are we talking about? Or was it a matter of general
24 interest as we saw earlier?

25 A. [15:26:23] No, there were a lot fewer people at the second site because it was

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1 somewhat further from the village.

2 Q. [15:26:33] I'd like to turn now to the exhumation operations in Kobu, and I'd like to
3 show you a photo. This is a photo which you did not take, but I'm going to ask you if
4 you recognize the grave which is on the photo. It's DRC-OTP-2069-1788.

5 And I think that this photo can be broadcast publicly.

6 Witness, do you recognize this photograph, do you recognize the place where it was taken
7 with the blue tarpaulin?

8 A. [15:28:01] I am not sure that I took the photograph, but I recognize where it was
9 taken.

10 Q. [15:28:09] Based on the information provided to us by the Prosecution, this
11 photograph was taken by Mr Sapin, but you can't tell or can't say whether it was you who
12 took it or Mr Sapin; is that correct?

13 A. [15:28:25] Is this a photograph listed in the -- on the chart we were talking about
14 earlier?

15 Q. [15:28:33] No.

16 A. [15:28:37] Well, in that case I see here that we -- that the exhumation work is well
17 advanced here, there are a number of graves so it's more likely that Mr Sapin took this
18 photograph and that I was at the mortuary taking photographs regarding the bodies.

19 Q. [15:28:57] Of course the mortuary was immediately adjacent to the operations, so
20 you were not far from where this photograph was taken.

21 A. [15:29:06] No, I'm not far, but I'm in a closed building so I have no line of sight on
22 the -- on what is going on.

23 Q. [15:29:19] Was it usual for people to be -- to approach or did you witness people
24 attending, observing the exhumation work?

25 A. [15:29:31] No, I didn't witness that, but there were also a lot of local people who

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1 were involved in the work and so there were -- there were also representatives of the
2 villages and the region where we were who might come to visit the site.

3 Q. [15:29:54] I have a question regarding the local workers.

4 PRESIDING JUDGE FREMR: [15:29:58] Sorry, Mr Bourgon, I have to interrupt you.
5 Ms Solano.

6 MS SOLANO: [15:30:01] I'm sorry, your Honour, the English transcript on page 103,
7 line 13 has captured the witness' answer -- it's in an incomplete manner because all it says
8 is no, comma, eyewitness that. Whereas in the French transcript, page 98, line 4, the
9 transcript as made accurately reflects that the witness said (Interpretation) "I did not
10 witness that."

11 (Speaks English) So I request a correction in line with the French transcript, please.

12 PRESIDING JUDGE FREMR: [15:30:37] Because I'm following here English translation,
13 Mr Bourgon, could you confirm what just (Overlapping speakers).

14 MR BOURGON: [15:30:44] I confirm, Mr President.

15 PRESIDING JUDGE FREMR: [15:30:45] In such a case, I order to adjust the English
16 translation to the French version.

17 Mr Bourgon, you may proceed.

18 MR BOURGON: [15:30:54] Thank you, Mr President.

19 The next picture I would like to have on the screen is DRC-OTP-2069-1789.

20 MS SOLANO: [15:31:08] Your Honour.

21 PRESIDING JUDGE FREMR: [15:31:09] Ms Solano.

22 MS SOLANO: [15:31:11] I'm sorry, your Honour. I request that this photograph not
23 be displayed publicly.

24 PRESIDING JUDGE FREMR: [15:31:15] Any problem with that, Mr Bourgon?

25 MR BOURGON: [15:31:18] No problem. I cannot see. I looked at the other pictures.

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1 I cannot see any warrant of it, but my colleague knows better. So no problem.

2 PRESIDING JUDGE FREMR: [15:31:26] All right.

3 So, court officer, please bear it in mind. It's just for those who are in the courtroom.

4 MR BOURGON: (Interpretation)

5 Q. [15:31:45] Witness, do you recognize that scene?

6 A. [15:31:51] I did not hear your question.

7 Q. [15:31:57] Do you recognize what you see on the screen before you?

8 A. [15:32:04] I know the location, but I'm not the author of the photograph and I was
9 not present at that time.

10 Q. [15:32:16] You see a number of people very close to the site, to the grave. Would
11 you agree with me that those are not the local people who worked with you as you
12 mentioned a short while ago?

13 A. [15:32:34] I don't have in my memory the faces of all the local workers; therefore, I
14 cannot answer that question.

15 Q. [15:32:43] Talking about the local workers, you said there were several of them,
16 many of them; is that correct?

17 A. [15:32:48] Yes.

18 Q. [15:32:51] How did these things unfold, and I'm referring to the use of local
19 workers, as far as you know?

20 A. [15:33:09] From what I saw they were employed to take part in logistical tasks such
21 as setting up placards or banners and cordoning off areas around the site and, to some
22 extent, in some aspect of digging the graves.

23 Q. [15:33:39] Was there any relation between the local employers -- locally employed
24 people or any interaction between them and the others?

25 A. [15:33:57] Yes, to the extent that the tasks assigned to them had to be explained to

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1 them.

2 MR BOURGON: [15:34:03] Mr President, although the witness did not take these
3 pictures, he recognized those as being taken from the Kobu exhumation site and I would
4 like to have both of them admitted in evidence.

5 PRESIDING JUDGE FREMR: [15:34:14] Ms Solano, any objection?

6 MS SOLANO: [15:34:16] No, your Honour.

7 PRESIDING JUDGE FREMR: [15:34:17] So those two pictures are admitted into
8 evidence as further Defence exhibits.

9 MR BOURGON: [15:34:36] (Interpretation)

10 Q. [15:34:36] Mr Witness, I would like to now tackle a similar line of questioning, but
11 somewhat different. You took photographs of the inhumations or of the burials, didn't
12 you?

13 A. [15:34:52] Yes.

14 Q. [15:34:55] Was that part of your mission from the beginning or did it become part
15 of it during the mission?

16 A. [15:35:08] Are you talking about the mission in Sayo?

17 Q. [15:35:11] Yes.

18 A. [15:35:15] If that's what --

19 THE INTERPRETER: [15:35:17] Mr President, we did not hear the witness's
20 answer -- or sorry.

21 THE WITNESS: (Interpretation) I don't remember whether it was assigned right from
22 the beginning as part of the mission, but --

23 THE INTERPRETER: [15:35:35] Mr President, we didn't hear the last part of the
24 witness's answer.

25 PRESIDING JUDGE FREMR: [15:35:39] Sorry, the English booth haven't captured the

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1 last part of the witness's answer.

2 Could you just repeat, Mr Witness, the last part of your answer.

3 THE WITNESS: [15:36:01] (Interpretation) I was saying that I don't remember at what
4 time we received information that bodies would be returned to the families in our
5 presence.

6 PRESIDING JUDGE FREMR: [15:36:14] Thank you.

7 MR BOURGON: [15:36:29] (Interpretation)

8 Q. [15:36:29] Witness, talking about returning the bodies to the families, my first
9 question is: Who conducted those burials, was it the OTP or the families themselves, as
10 far as you recall?

11 A. [15:36:46] Are you talking about the act of reburials, reburials?

12 THE INTERPRETER: [15:36:56] Overlapping speakers.

13 MR BOURGON: [15:37:00] (Interpretation)

14 Q. [15:37:01] Reburials.

15 A. [15:37:05] It is the inhabitants of the village or the relatives of the victims who
16 conducted the reburials.

17 Q. [15:37:17] Did anyone explain to you why it was necessary to take photographs of
18 those reburials by the families?

19 A. [15:37:29] I think the purpose was simply to document the entire work that had
20 taken place, and that was one of the stages of the work, namely, the reburials, and that is
21 why those pictures were taken at that time.

22 Q. [15:37:50] Was it from a scientific standpoint relating to the gathering of evidence,
23 and if so, they would not be relevant, wouldn't that be the case?

24 A. [15:38:04] Which photographs are you talking about?

25 Q. [15:38:07] The photographs that came before the ceremony leading up to the

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1 reburials, that is at the time of the coffining.

2 A. [15:38:24] I understood from the OTP that the purpose was to document the work
3 that was done during that mission.

4 Q. [15:38:34] You even went as far as Bunia when it comes to at least one of the
5 bodies?

6 A. [15:38:41] Yes, indeed. One of the bodies from a grave at Sayo 2, the relatives
7 requested that the body be buried in a cemetery in Bunia and we followed that up, yes.

8 Q. [15:39:01] I take it that you have a very clear recollection of the fact that in both
9 cases, that is Sayo 1 and Sayo 2 the returning of the bodies and reburial were highly public
10 events that attracted huge crowds; is that correct?

11 A. [15:39:27] Yes.

12 Q. [15:39:27] I would like to show you a few photographs and ask you if you
13 recognize them. Let's take the first picture, photograph DRC-OTP-2069-2250.

14 Before the photograph is displayed, Mr Witness, can you confirm that you are the one
15 who took the photographs during the returning of the bodies and the reburials?

16 A. [15:40:00] Yes.

17 Q. [15:40:05] Now you have before you the first photograph on the screen. Now, can
18 you tell us from memory what time frame we are looking at in relation to this
19 photograph?

20 A. [15:40:24] This photograph was taken during the ceremony leading up to the
21 reburial of the bodies that you can see on the screen.

22 Q. [15:40:43] When you say "the ceremony leading up to the reburial of the bodies,"
23 are you referring to the time when the OTP handed over the bodies to the families?
24 Would it be the same time frame you're talking about?

25 A. [15:41:02] Yes, it was in fact at that time that I had the relatives sign on the log form

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1 and indeed that corresponds to this time frame.

2 Q. [15:41:22] From as far as you can remember was this image publicised or
3 advertised or announced so -- this event, rather, was it advertised so that people would
4 attend in such numbers?

5 A. [15:41:39] I do not know.

6 Q. [15:41:41] Let me show you another photograph, DRC-OTP-2069-2258.
7 This is a photograph of the same scene which we saw previously; is that correct?

8 A. [15:42:25] Yes.

9 Q. [15:42:27] I'll show you another photograph, DRC-OTP-2069-2262.
10 Do you recognize that photograph?

11 A. [15:43:09] Yes.

12 Q. [15:43:13] As far as you remember, Mr Witness, were these people demonstrating
13 or were they supporting the families, as far as you know?

14 A. [15:43:30] I do not know, but I did not at any time during the ceremony or during
15 the burial get the feeling that there was a demonstration or any kind of protest
16 whatsoever.

17 Q. [15:43:46] Let me show you another photo, DRC-OTP-2069-2264.
18 Do you recognize that photograph?

19 (Speaks English) Mr President, the last five pictures that I've used with the witness, I
20 would like them to be admitted in evidence?

21 PRESIDING JUDGE FREMR: [15:44:39] Ms Solano, any objection?

22 MS SOLANO: [15:44:42] No, your Honour.

23 PRESIDING JUDGE FREMR: [15:44:43] So those five pictures are admitted into
24 evidence as a further Defence exhibits.

25 MR BOURGON: [15:44:55] (Interpretation)

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1 Q. [15:44:57] I now go to the second site in Sayo and I have four photographs to show
2 you quickly. The first is DRC-OTP-2069-2448.

3 (Speaks English) If I can have this picture on the screen, please.

4 (Interpretation) Do you recognize that photograph?

5 A. [15:45:56] Yes.

6 Q. [15:45:58] What is it about?

7 A. [15:46:03] This is the moment prior to the burial of the body that was exhumed at
8 the Sayo 2 site.

9 Q. [15:46:14] As far as you remember was this body returned to the same person, the
10 same person who signed the form for the return of the bodies? Did you return this body
11 to the same person or to someone else?

12 A. [15:46:32] What do you mean? I'm not sure I understood your question. In fact,
13 this body was handed over at the Bunia mortuary and then the family transported the
14 body from the Bunia mortuary to the Bunia cemetery. So the person who signed the
15 register is the one who came to collect the body from the Bunia mortuary.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. [15:48:32] Let me move on to the next photograph, but let me confirm with you this
4 happened in Bunia as you said; is that correct?

5 A. [15:48:40] Yes, the handing over of this specific body happened at the Bunia
6 mortuary.

7 Q. [15:48:48] Next photograph DRC-OTP-2069-2448. I'm sorry, I repeated the same
8 number as previously, the number is 2069-2470.

9 Do you recognize that photograph?

10 A. [15:49:56] Yes.

11 Q. [15:49:59] On the photograph we clearly see that there are a number of legs or feet,
12 or the lower part of the body. Can you confirm, as far as you can remember, that there
13 was a general gathering of the people when this body was being buried?

14 A. [15:50:33] I do remember that a number of people gathered around that grave.

15 Q. [15:50:41] I'll show you a third photograph, DRC-OTP-2069-2461.

16 Do you recognize that photograph?

17 A. [15:51:24] Yes.

18 Q. [15:51:28] The photograph was taken during the same ceremony; correct?

19 A. [15:51:32] Yes.

20 MR BOURGON: [15:51:36] Mr President, I would like to have these, the three last
21 pictures used with the witness, admitted in evidence.

22 PRESIDING JUDGE FREMR: [15:51:41] Ms Solano.

23 MS SOLANO: [15:51:42] No objection, your Honour.

24 PRESIDING JUDGE FREMR: [15:51:45] All right. So those three pictures are admitted
25 into evidence as further Defence exhibits.

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1 MR BOURGON: [15:52:02] (Interpretation)

2 Q. [15:52:03] Witness, let me now put my last few questions to you pertaining to the
3 document that was given to you today in order to identify your photographs. Do you
4 still have that document with you?

5 A. [15:52:17] Yes.

6 Q. [15:52:19] I would like to confirm first of all that this document was not produced
7 or prepared by you; is that correct?

8 A. [15:52:27] Yes, that is correct.

9 Q. [15:52:32] If I have properly understood, flowing from the question I put to my
10 colleague this morning, but I'm not sure about it, the version in hand, the version you
11 have in hand does that correspond to the version you were shown during the preparatory
12 session?

13 A. [15:52:54] To be honest, I think the discrepancy between the number of
14 photographs, whether it is 600 or 601 or 592 -- I'm not sure which version I had with me
15 during the preparation.

16 Q. [15:53:14] What I'm interested in is not the number of items but rather the number
17 of columns in the document before you?

18 A. [15:53:29] It would seem to me that, yes.

19 Q. [15:53:47] Yesterday we received information from the OTP indicating that the
20 document will be modified, between the time you were shown it and the one we received
21 yesterday, so I just wanted to find out which document you were looking at, that's the
22 purpose of my question.

23 And now according to what we were told yesterday the document would be
24 modified -- please give me one second.

25 (Counsel confers)

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1 MR BOURGON: [15:54:47] (Interpretation)

2 Q. [15:54:50] The document before you, following what the Prosecution told us, was
3 to be modified, and the idea was to add two columns to the document or the chart, one
4 on ...

5 (Counsel confers)

6 MR BOURGON: (Interpretation)

7 Q. The information available to us indicated that the two new columns would be one
8 for date and one for the title; is that what you have before you?

9 A. [15:55:51] Yes.

10 Q. [15:55:54] Do you remember whether those two columns also appeared on the
11 document you looked at during the preparatory session?

12 A. [15:56:05] I would think so.

13 Q. [15:56:10] During your preparation you indicated, upon receiving the
14 document -- you requested that the chart be made available during your testimony; is that
15 the case?

16 A. [15:56:36] Yes.

17 Q. [15:56:37] You said that it was important for you to be shown that chart because
18 there was information therein that was not apparent on the surface as you looked at the
19 information on the list of photographs; is that correct?

20 A. [15:56:55] Yes, that is correct.

21 Q. [15:56:57] Do you remember what that information would be and do you
22 remember what it took for you to determine whether or not a photograph was taken by
23 you or by Mr Sapin?

24 A. [15:57:14] My request was made basically to ensure that there was correspondence
25 between the ERN numbers and the attendant path for the files because the dates do not

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1 always appear in the path of the file, because it all depended on which documents the
2 Prosecutor -- or which files the Prosecutor had chosen. So I didn't have the information
3 on the dates in the first document.

4 Q. [15:57:56] Is it possible to take all the information in the chart before you and is it
5 possible to deduct that information from your report or is it something that needs to be
6 analysed before drawing up a chart like the one you have before you?

7 A. [15:58:12] I have not understood your question.

8 Q. [15:58:15] Let me be more specific. Based on this chart before you, are you able to
9 say whether this item comes from you or from Mr Sapin?

10 A. [15:58:31] Yes.

11 Q. [15:58:32] Would you have been able to do that based exclusively on your report?

12 A. [15:58:45] What do you mean? Are you saying that if I was shown a picture on
13 the screen, I would know that it was from me or from Mr Sapin?

14 Q. [15:58:54] Let me be more specific. I'm referring both to the photograph and the
15 ERN number, as explained to you. Would those two have been sufficient for you to
16 determine whether a picture was taken by you or by Mr Sapin?

17 A. [15:59:08] I could not have done so with the ERN number only because all the
18 photographs that I had taken were transmitted and I did not have the corresponding ERN
19 numbers fed back to me. So I would not have been able to do so by ERN only.

20 Q. [15:59:28] When you were asked about the annex to Mr Sapin's report, it would
21 appear that your answer to that question was that it was not possible for you to identify,
22 or that you were able to identify the time but that you were not able to tell at what time
23 Mr Sapin took that photograph; is that correct?

24 A. [15:59:56] Going simply by the name of the photograph, it's not possible, but if you
25 look at the annex you can see clearly the date and the time at which the photograph was

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1 taken.

2 Q. [16:00:15] Thank you very much, Mr Witness. I have no further questions for
3 you.

4 MR BOURGON: [16:00:20] Mr President, I can immediately just -- I'm done with the
5 questions and I can immediately make a submission concerning the table of documents.

6 PRESIDING JUDGE FREMR: [16:00:28] Please go on.

7 MR BOURGON: [16:00:29] I suggest, Mr President, that rather than use the table which
8 was prepared by the Prosecution which corresponds and contains information that comes
9 from both Mr Sapin and this witness, that we simply refer to the number of the list of
10 items that the Prosecution prepared for this witness. We use these numbers and the
11 DRC numbers only and not provide marked for identification all of the other columns
12 which have been prepared by the Prosecution, so simply keep the list of items to be used
13 and identify the same numbers, and we have no objection. And again it is just a
14 matter -- I don't think that this table should be either marked for identification or admitted
15 in evidence. That's basically the gist of my submission, Mr President. Thank you.

16 PRESIDING JUDGE FREMR: [16:01:30] To me, a sort of technical point. Ms Solano,
17 what is your preference?

18 MS SOLANO: [16:01:35] Your Honour, I don't object to what I understand is the
19 Defence's request, which is for effectively a redacted version of this table to be marked, to
20 remain marked for identification. I don't have a problem with that. Ultimately, my
21 request is for the admission of the photographs and it doesn't really matter one way or the
22 other, I think, how they are identified by the court officer for that purpose.

23 PRESIDING JUDGE FREMR: [16:02:07] So the main issue that you request the
24 photographs now - I hope that I have the right numbers - under numbers 85 till 377, then
25 single 426, and then the other group starting with 457 to 592 would be admitted into

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1 evidence?

2 MS SOLANO: [16:02:37] Yes, your Honour. And those are items on the Excel chart.

3 PRESIDING JUDGE FREMR: [16:02:42] All right. So the request is granted and those
4 items are admitted into evidence as a further Prosecution exhibit.

5 And now, Ms Solano, do you have any need for re-direct?

6 MS SOLANO: [16:02:59] No, your Honour, I don't. Thank you.

7 PRESIDING JUDGE FREMR: [16:03:01] All right.

8 So it means, Mr Sivignon, that your testimony is concluded so, on behalf of this Chamber,

9 I would like to thank you that you came and testified, and I believe that the fact that you
10 share your expertise with us will help us in our deliberations. So thank you very much.

11 And now, court officer, you may assist Mr Witness to leave the courtroom.

12 And in the rest of the time we will address some housekeeping matters.

13 (The witness is excused)

14 PRESIDING JUDGE FREMR: [16:03:54] Actually, it is just the issue of planning the
15 next witnesses.

16 So, as I already indicated, the next witness, which is P-937, is going to be ready tomorrow
17 morning, so we are a bit ahead of our schedule, and if parties will keep their estimation, it
18 would mean that this testimony should be finished around noon on Friday.

19 And according to my information, because of logistical reasons, the next witness, which is
20 Witness P-100, will not be ready to continue on Friday. And since on Monday there is an
21 ICC holiday, so the testimony of this witness, P-100, is going to start on Tuesday.

22 Any observation on that issue? No, I don't see.

23 So, if there are no further observations, we can finish today. We adjourn and we will
24 reconvene tomorrow, 9.30.

25 THE COURT USHER: [16:05:49] All rise.

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- 1 (The hearing ends in open session at 4.05 p.m.)