

Trial Hearing
WITNESS: DRC-OTP-P-0014

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing - Courtroom 3
7 Thursday, 22 September 2016
8 (The hearing starts in open session at 9.31 a.m.)
9 THE COURT USHER: [9:31:57] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:32:04] Good morning to everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:32:17] Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: [9:32:34] Thank you, court officer.
19 Appearances as usually, please.
20 MR PACE: [9:32:39] Good morning, Mr President, your Honours. For the Prosecution
21 today are Eric Iverson, trial lawyer; Selam Yirgou, case manager; Kristy Sim, assistant trial
22 lawyer; Nicole Samson, senior trial lawyer, and I am James Pace, assistant trial lawyer.
23 PRESIDING JUDGE FREMR: [9:32:57] Thank you, Mr Pace.
24 Defence, please.
25 MR BOURGON: [9:33:04] (Interpretation) Good morning, your Honour,

Trial Hearing
WITNESS: DRC-OTP-P-0014

(Open Session)

ICC-01/04-02/06

1 your Honours, as well as everybody present in the courtroom. Representing
2 Bosco Ntaganda, who is absent this morning with the leave of the Chamber,
3 Mademoiselle Han Catherine Morin, Eric Cookson-Montin, Chloé Grandon, and myself,
4 Stéphane Bourgon. Thank you, your Honour.

5 PRESIDING JUDGE FREMR: [9:33:28] Thank you, Mr Bourgon, and now Legal
6 Representative of Victims, please.

7 MS PELLET: [9:33:34] (Interpretation) Thank you, your Honour. The former child
8 soldiers are represented by Mohamed Abdou and by myself, Sarah Pellet, counsel for the
9 Office of Public Counsel for Victims.

10 MR SUPRUN: [9:33:49] Good morning, your Honour, your Honours. The victims of
11 the attacks are represented by the Office of Public Counsel for Victims, Anne Grabowski,
12 associate lawyer, and myself, Dmytro Suprun, counsel.

13 PRESIDING JUDGE FREMR: [9:34:00] Thank you very much, Ms Pellet. Thank you
14 very much, Mr Suprun.

15 And before we continue with testimony of our witness, I would like to clarify one point
16 concerning our yesterday ruling on admission.

17 The Chamber may wish to clarify that in accordance with its preliminary ruling, and now
18 I refer to transcript number 127, pages 71 to 72, the portions of the witness's prior
19 recorded testimony related to video DRC-OTP-0159-0441 have not been considered for
20 admission under Rule 68(3) of the Rules.

21 Just to make it more precise, it is part of the prior recorded testimony containing
22 comments our witness on video that was at that time showed to him.

23 Now, Mr Witness, good morning. Are you feeling okay to testify?

24 WITNESS: DRC-OTP-P-0014 (On former oath)
25 (The witness speaks French)

Trial Hearing
WITNESS: DRC-OTP-P-0014

(Open Session)

ICC-01/04-02/06

1 THE WITNESS: [9:35:30] (Interpretation) Good morning, your Honour. Not 100
2 percent good.

3 PRESIDING JUDGE FREMR: [9:35:36] Very well. Mr Witness, it is my duty to remind
4 you that you are still under oath, which means that you have to speak the truth and
5 nothing but the truth. I guess you understand.

6 THE WITNESS: [9:35:51] (Interpretation) I understand, your Honour.

7 PRESIDING JUDGE FREMR: [9:35:55] So as we decided yesterday, now will be turn
8 for LRV, which will be represented by Mr Abdou, and Mr Abdou was allotted 15 minutes
9 in order to deal with harm caused to child soldiers.
10 So Mr Abdou, you have the floor.

11 MR ABDOU: [9:36:22] Thank you, Mr President.

12 QUESTIONED BY MR ABDOU: (Interpretation)

13 Q. Witness, good morning. We had the opportunity to meet briefly last week. For
14 the purposes of the transcript, I would like to introduce myself, I'm Mohamed Abdou, and
15 I'll be putting questions to you about child soldiers who participated as victims. Now,
16 I'm limited with the amount of time I had, I've just got 15 minutes to ask all my questions,
17 so in order to progress as quickly as possible, I would like to ask for -- or, make certain
18 clarifications before starting.

19 First of all, I would like to say that all the questions that I am going to put refer to the
20 events which occurred between 2002 and 2003. I state that so that you have that in mind.
21 And secondly, when I use the term "child soldier" or when this term is generally used
22 within the framework of the proceedings, this term has a specific meaning; it concerns not
23 just any child soldier but the children aged under 15. I would like to make that clear so
24 that you clearly have in mind what I understand when I use that.

25 THE INTERPRETER: [9:38:14] Your Honour, could counsel come closer to the

1 microphone, or the microphone be pointed towards him.

2 THE WITNESS: [9:38:26] (Interpretation) That's clear.

3 MR ABDOU: [9:38:28] (Interpretation) Perfect.

4 PRESIDING JUDGE FREMR: [9:38:29] Mr Abdou, there are some problems for the
5 interpreters to listen to you. Either please move closer or, yes, maybe just change
6 position of your mic.

7 MR ABDOU: [9:38:54] Well, as I can see on the transcript, nothing of what I've said has
8 been recorded, at least on the French transcript. So shall I repeat what I've already
9 stated?

10 PRESIDING JUDGE FREMR: [9:39:05] As concerns, you mean -- if you mean this
11 original statement about child soldiers, it had been transcribed, at least in the English
12 version, which is at my disposal.

13 MR ABDOU: [9:39:18] Okay.

14 PRESIDING JUDGE FREMR: [9:39:18] So I think you can proceed.

15 MR ABDOU: [9:39:20] Okay, I'll proceed on this basis, Mr President.

16 Q. (Interpretation) I'll go over to my questions, Witness. There are certain issues that
17 I'd like to address with you with regards to the recruitment campaign within the UPC,
18 and I'm not talking about a general recruitment campaign but here I'm talking specifically
19 about a recruitment campaign concerning the child soldiers. Do you know about an
20 awareness-raising campaign when it came to child soldiers?

21 A. [9:39:57] Positively.

22 Q. [9:39:58] Could you explain to us how this took place?

23 A. [9:40:09] Unfortunately, you're limiting me in time as well. You talk
24 about 2002-2003, but recruitment started with the child soldiers of course long before that
25 date. And, briefly, according to what I saw and what I heard and confirmed, the

1 UPC -- well, we talk about the UPC at the moment, it continued to do what it had already
2 started doing; namely, to ask each family to contribute financially and materially, and in
3 other ways as well. Those who didn't have the means to do so, even if they could not
4 contribute in another way, they were asked to give one child per family.

5 Q. [9:41:15] So, Witness, you can confirm that also happened between 2002-2003?

6 A. [9:41:26] I confirm that happened in that period.

7 Q. [9:41:30] What I'd like to know, apart from what you stated concerning one child
8 per family, were there other messages that were addressed concerning the recruitment of
9 children?

10 A. [9:41:51] Another mode? Well, I think you're referring there to another type of
11 recruitment, this is forced recruitment. As I already mentioned, sometimes UPC troops
12 went through -- went to schools or sometimes they awaited the children on their return
13 from school.

14 Q. [9:42:19] Yes, I've understood that, but the objective of my question was to know
15 how children were persuaded to join the ranks of the UPC. What was the messages that
16 were given to raise awareness amongst the children such that they would join the UPC,
17 according to what you can testify to?

18 A. [9:42:47] To my knowledge, and according to what I know and what I've heard,
19 they asked the children to contribute to ensuring that they were fighting the enemy, their
20 enemy, so the enemies of the Gegere-Hema, and thereafter there was a political and
21 military enemy which was very well defined.

22 Q. This awareness-raising campaign, in which locality did that take place?

23 A. [9:43:24] Well, starting firstly in Bunia, because that was in the centre, and then in
24 all the other different villages, Djugu, Irumu, in particular, and after that that was
25 extended into other territories such as Aru, Mahagi. That's it.

Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

- 1 MR ABDOU: [9:43:49] Mr President, if I may move into private session.
- 2 PRESIDING JUDGE FREMR: [9:43:53] Certainly.
- 3 Court officer, please move -- let's move into private session.
- 4 MR ABDOU: [9:44:07] (No interpretation)
- 5 PRESIDING JUDGE FREMR: [9:44:11] Hold on, Mr Abdou.
- 6 (Private session at 9.44 a.m.)
- 7 (Redacted)
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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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7 (Open session at 9.47 a.m.)

8 THE COURT OFFICER: [9:47:25] We're in open session, Mr President.

9 PRESIDING JUDGE FREMR: [9:47:28] Thank you.

10 Mr Abdou, please proceed.

11 MR ABDOU: [9:47:32] (Interpretation)

12 Q. [9:47:33] Witness, I'm going to go on to another subject. This concerns disciplinary
13 measures within the UPC. I'm not talking about them generally but I want to focus on
14 discipline with regard to child soldiers. What I'd like to know, do you know about
15 disciplinary measures applied to child soldiers within the UPC during the period
16 indicated?

17 A. [9:48:03] Certainly, yes. I have experience, what I've experienced myself, and also
18 from what I've heard.

19 Q. [9:48:15] Could, Witness, you describe for us what these measures were?

20 A. [9:48:23] I don't know which to start with. It wasn't consistent, but I can give you
21 a simple example. Chef Kahwa, for example, for him, discipline was about eliminating
22 the person who was missing. I don't know what order you want to go through. Or
23 he -- he would kill them. If somebody -- and it was also the same for Bosco Ntaganda, he
24 would do the same.

25 The other punishments that were inflicted on these children was, for example, not to give

1 them food during a long period, and something that I saw when I was in the UPC camp in
2 Bunia, they could also be flogged as well. They were flogged. Didn't matter where, it
3 could be on their buttocks, on their back, on their stomach. That's something that I saw
4 with my own eyes, in the UPC camp in Bunia in 2002.

5 Also, another type of punishment that was meted out and that I didn't see myself was that
6 children could be put in water. They could be submerged into water up to their necks,
7 and there they could end up spending a whole night or several hours.

8 Q. [9:50:08] Very good, Witness. I'll now go to another question. Were you a
9 witness of certain measures which gave rise to injuries among the children?

10 A. [9:50:27] Certainly, yes. I spoke to you a moment ago about what happened,
11 more or less, in the UPC camp in Bunia. Floggings, that wasn't just a tickling or touching,
12 that was inflicting pain on the body. That's something that I saw in the UPC case.

13 Q. [9:50:58] Where it concerns the type of punishment that was meted out, do you
14 know what type of object was used?

15 A. [9:51:10] Well, most commonly they used branches of trees, or they used rope,
16 cords, and sometimes, if the child was found in the enemy camp, they even used iron bars.
17 That's something that I saw with my own eyes.

18 Q. [9:51:39] As you say that you saw it with your own eyes, could you describe what
19 you saw where it concerns the reaction of the child soldiers to such measures? What was
20 the reaction of these children who were subject to such measures?

21 A. [9:52:02] Well, you have to understand, a child remains a child, so when that child
22 is hit with force, not only one person, several people at the same time hit the child. It's an
23 atrocious pain, and even I would feel the same thing. Yes, I felt it because I was subject
24 to the same conditions later. So, it really hurts. The children cried, of course. Me too, I
25 also cried.

1 Q. [9:52:38] Very well, Witness, I'll go on to another subject that concerns -- well, you
2 indicated yesterday that the children were trained to participate in combat. Do you
3 know about children who were injured during operations, military UPC operations?
4 Here I'm talking about child soldiers, still talking about the 2002-2003 period.

5 A. [9:53:04] Well, I saw a certain number. If you remember, yesterday I told you that
6 I spoke about a certain number of children, a lot. Of course, a lot had injuries, either
7 from bullets or from bladed weapons, knives, machetes. I saw that a lot.

8 Q. [9:53:37] Apart from the injured children, did you know about children who died
9 during the operations carried out by the UPC? Do you know about that?

10 A. [9:53:57] Certainly. That's to say the answer is yes. I saw bodies of children who
11 were engaged in the operations who were killed.

12 THE COURT OFFICER: [9:54:11] Mr Abdou, could you please turn off your
13 microphone when you are not talking. Thank you.

14 MR ABDOU: [9:54:18] My apologies.

15 THE WITNESS: [9:54:25] (Interpretation) The example that I can give to you -- well, I
16 spoke about the fact that I arrived after the clashes of 9 August. I came to the subregion,
17 Molondo camp, and there were bodies. Among the bodies -- there were bodies of child
18 soldiers among the other bodies that I saw on that day.

19 MR ABDOU: [9:54:56]

20 Q. [9:54:57] Do you know how many there were? What period are we talking about?
21 Could you be precise in that regard?

22 A. [9:55:11] I can think of two bodies of child soldiers, that's what I can think of.

23 Q. [9:55:21] During what period?

24 A. [9:55:23] 9 August 2002.

25 Q. [9:55:28] Very well. I will now go on to another subject.

Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

1 Now, you said during your testimony yesterday --

2 PRESIDING JUDGE FREMR: [9:55:38] Mr Abdou, you have two last minutes.

3 MR ABDOU: [9:55:41] Duly noted, Mr President.

4 Q. [9:55:48] (Interpretation) Yesterday, you indicated that there were child soldiers
5 recruited by force within the UPC, others died in combat. Do you know what the
6 reaction of their parents was?

7 A. [9:56:16] One thing is clear, the UPC told the parents firstly that a soldier is
8 exposed to death. That's clear. A lot of parents understood that. However, some of
9 them, their children were taken by force. A parent's a parent, you feel pain when your
10 child dies. And there were parents who reacted negatively as well, but they couldn't do
11 anything about it.

12 Q. [9:56:48] You said that there were parents who reacted negatively. Do you have
13 any specific examples that you can give?

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 PRESIDING JUDGE FREMR: [9:57:32] We have to move into private session and
19 redact the last part of the answer.

20 (Private session at 9.57 a.m.)

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22 (Redacted)

23 (Redacted)

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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2 (Open session at 10.01 a.m.)

3 THE COURT OFFICER: [10:01:51] We are back in open session, Mr President.

4 PRESIDING JUDGE FREMR: [10:01:54] Thank you.

5 Mr Bourgon, please proceed.

6 MR BOURGON: [10:02:04] (Interpretation)

7 Q. [10:02:09] Now, Witness, my last question to you was whether or not you knew
8 that I represented Bosco Ntaganda in this case.

9 A. [10:02:26] Yes, I know.

10 Q. [10:02:30] (Redacted), so you understand the role of the Defence; is that correct?

11 PRESIDING JUDGE FREMR: [10:02:40] Excuse me.

12 Mr Pace.

13 MR PACE: [10:02:43] Yes, your Honour, we should move into private session if we're
14 going to touch this issue which, as explained yesterday, should be in private session for
15 the reasons we provided.

16 PRESIDING JUDGE FREMR: [10:02:55] Yes, Mr Bourgon, I guess you got this concern
17 that we shouldn't reveal connection of this witness with now what Mr Pace mentioned.
18 So, if that is the case, we have to move into private session.

19 (Private session at 10.03 a.m.)

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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4 (Upon resuming in open session at 10.30 a.m.)

5 THE COURT USHER: [10:30:17] All rise.

6 Please be seated.

7 PRESIDING JUDGE FREMR: [10:30:30] So after short break we still have 30 minutes to
8 the regular break.

9 Mr Bourgon, are you feeling okay to continue?

10 MR BOURGON: [10:30:38] Yes, Mr President.

11 PRESIDING JUDGE FREMR: [10:30:40] And a slight comment from my part,
12 Mr Bourgon, we are very well aware of the fact that you were extremely busy last week,
13 that you were under very strong pressure, but I believe that you as an experienced
14 professional will be able to overcome those hard moments you sometimes faced in the
15 courtroom. I know that probably you have been disappointed yesterday, but it is I think
16 part of your job. So please now proceed. And do you want to proceed in open session
17 or in private session?

18 MR BOURGON: [10:31:29] Private session, please, Mr President.

19 PRESIDING JUDGE FREMR: [10:31:31] All right.

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

21 (Private session at 10.31 a.m.)

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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- 12 (Redacted)
- 13 (Redacted)
- 14 (Upon resuming in open session at 11.30 a.m.)
- 15 THE COURT USHER: [11:30:47] All rise.
- 16 Please be seated.
- 17 PRESIDING JUDGE FREMR: [11:31:20] We will continue with cross-examination of
- 18 our witness by Defence.
- 19 Mr Bourgon, private or open session?
- 20 MR BOURGON: [11:31:28] Private session, Mr President, please.
- 21 PRESIDING JUDGE FREMR: [11:31:30] All right.
- 22 Court officer, let's move into private session.
- 23 (Private session at 11.31 a.m.)
- 24 (Redacted)
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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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13 Page redacted – Private session

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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13 Page redacted – Private session

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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13 Page redacted – Private session

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

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- 10 (Upon resuming in open session at 2.32 p.m.)
- 11 THE COURT USHER: [14:32:14] All rise.
- 12 Please be seated.
- 13 PRESIDING JUDGE FREMR: [14:32:42] Good afternoon, everybody.
- 14 Good afternoon, Mr Witness. We can directly continue with your cross-examination.
- 15 Mr Bourgon, open or private session?
- 16 MR BOURGON: [14:32:57] Private session, Mr President, please.
- 17 PRESIDING JUDGE FREMR: [14:33:01] Very well.
- 18 Court officer, let's move into private session.
- 19 (Private session at 2.33 p.m.)
- 20 (Redacted)
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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

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(Private Session)

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ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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13 Page redacted – Private session

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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13 Page redacted – Private session

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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13 Page redacted – Private session

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0014

(Open Session)

ICC-01/04-02/06

1 (Open session at 4.25 p.m.)

2 THE COURT OFFICER: [16:25:51] We're in open session, Mr President.

3 PRESIDING JUDGE FREMR: [16:25:54] Mr Witness, it concludes your testimony for
4 today, so I thank you very much because I can imagine it was very hard day for you, but I
5 appreciate that you remained concentrated and that you clearly answered all questions
6 put to you. So thank you very much and as yesterday it's my duty to remind you that in
7 the meantime until tomorrow you must not discuss your testimony with anybody else. I
8 guess it's clear to you. So now I'm asking court officer to guide you out of the courtroom.

9 (The witness stands down)

10 PRESIDING JUDGE FREMR: [16:26:49] And last habitual issue, update on timing. So
11 according to my information Mr Bourgon utilised so far 3 hours and 57 minutes, which
12 means that you still have 4 hours and 3 minutes at your disposal. Nevertheless I would
13 like, Mr Bourgon, to ask you for update because you yesterday indicated that it's some
14 chance that you could finish earlier. So in such a case to be ready and prepared to
15 commence testimony of the next witness, what is your estimation at the moment?

16 MR BOURGON: [16:27:29] Mr President, I believe that I will use all the time at my
17 disposal. Thank you.

18 PRESIDING JUDGE FREMR: [16:27:35] All right. So we adjourn now and we will
19 continue tomorrow 9.30.

20 THE COURT OFFICER: [16:27:45] All rise.

21 (The hearing ends in open session at 4.27 p.m.)