

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 Wednesday, 28 September 2016
8 (The hearing starts in open session at 9.32 a.m.)
9 THE COURT USHER: [9:32:56] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:33:15] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:33:31] 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: [9:33:45] Thank you, court officer.
19 Now appearances, please starting with the Prosecution.
20 MS SOLANO: [9:33:50] Good morning, your Honours. For the Prosecution
21 appear Ms Nicole Samson, senior trial lawyer; Ms Kristy Sim, assistant trial lawyer;
22 Selam Yirgou, case manager; and I am Julieta Solano, trial lawyer.
23 PRESIDING JUDGE FREMR: [9:34:04] Thank you, Ms Solano.
24 Defence, please.
25 MR BOURGON: [9:34:05] (Interpretation) Good morning, your Honour. Good

1 morning, your Honours and everybody else present in the courtroom. Representing
2 Bosco Ntaganda, who is absent this morning, with the leave of the Chamber, Jules
3 Guillaumé, Mademoiselle Margaux Portier, and myself, Stéphane Bourgon. Thank
4 you, your Honour.

5 PRESIDING JUDGE FREMR: [9:34:29] Thank you, Mr Bourgon.

6 And Legal Representatives, please.

7 MR ABDOU: [9:34:31] Good morning, Mr President. Good morning, your
8 Honours. Mohamed Abdou for the former child soldiers.

9 MR SUPRUN: [9:34:40] (Interpretation) Good morning, your Honour, your
10 Honours. The victims of the attacks are represented by the Office of Public Counsel
11 for Victims, Anne Grabowski, associate lawyer and, myself, Dmytro Suprun, counsel.

12 PRESIDING JUDGE FREMR: [9:34:51] Thank you, Mr Abdou. Thank you,
13 Mr Suprun.

14 Before we invite witness into the courtroom I will deliver an oral ruling.

15 This oral ruling is on the Prosecution's request in filing number 1488 seeking the
16 admission of Witness P-30's prior recorded testimony under Rule 68(3). The Defence
17 responded in filing number 1503 opposing certain aspects of the request.

18 Having considered the materials and submissions received, the Chamber is of the
19 view that use of Rule 68(3) is, in principle, appropriate for this witness. As per its
20 practice, a formal decision on admission will be rendered when the witness appears
21 before the Chamber and if the requirements of Rule 68(3) are satisfied.

22 Already at that stage, the Chamber deems it appropriate to address the points of
23 disagreement between the parties concerning whether and how certain material is to
24 be tendered into evidence. And I shall go into private session for this part of the
25 ruling.

1 So, court officer, let's move into private session now.

2 (Private session at 9.36 a.m.)

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- 25 (Open session at 9.41 a.m.)

1 THE COURT OFFICER: [9:41:45] We're in open session, Mr President.

2 PRESIDING JUDGE FREMR: [9:42:04] Thank you, court officer.

3 Thirdly, the Chamber notes that the Prosecution seeks admission under Rule 68(3) of
4 22 paragraphs of the witness's 2006 statement, including portions of annexes II and III
5 thereto as well as admission of three photographs and two video excerpts as
6 associated exhibits. The Chamber considers that, consistent with its ruling with
7 Witness P-14, and subject to the fulfilment of the requirements of Rule 68(3), the
8 Chamber may consider the admission of these paragraphs of the witness statement
9 and of the two annexes thereto as prior recorded testimony for admission under
10 Rule 68(3), together with the three photographs and two video excerpts discussed
11 therein.

12 Finally, in terms of timing, the Chamber authorises the Prosecution to conduct a
13 supplementary examination of a maximum of two hours with this witness as
14 requested. In terms of the appropriate scope of such examination, the Chamber
15 observes that there is nothing in its Conduct of Proceedings decision that would limit
16 the scope of supplementary examination in the manner proposed by the Defence, as
17 long as the witness preparation protocol and attendant disclosure obligations are
18 adhered to.

19 As for the Defence's cross-examination, and having considered the scope and nature
20 of the evidence presented by the Prosecution through this witness, and the fact that,
21 although the material related to this witness is relatively voluminous, there is a
22 degree of overlap in content and the Defence will have had the opportunity to
23 prepare its cross-examination on the basis of the Rule 68(3) materials, the Chamber
24 has decided to authorise eight hours for the Defence cross-examination, which can be
25 extended if required for the purposes of playing audiovisual material.

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1 As usual, the parties are further directed to file public redacted versions of filings
2 1488 and 1503 by 14 October 2016.

3 This concludes the Chamber's ruling.

4 And now, court usher, please bring Mr Witness into the courtroom.

5 And in the meantime Ms Solano, according my information, so far you have used
6 1 hour 38 minutes, which means that you still have at your disposal 1 hour
7 22 minutes.

8 MS SOLANO: [9:45:27] Thank you, your Honour. And for my first questions if
9 I can ask them in public session.

10 PRESIDING JUDGE FREMR: [9:45:34] Very well.

11 (The witness enters the courtroom)

12 PRESIDING JUDGE FREMR: [9:45:57] Good morning, Mr Witness. Welcome
13 back. Are you feeling okay today?

14 WITNESS: DRC-OTP-P-0245 (On former oath)

15 (The witness speaks French)

16 THE WITNESS: [9:46:07] (Interpretation) Good morning, your Honour. I feel
17 well, very well.

18 PRESIDING JUDGE FREMR: [9:46:12] I'm glad to hear it. So we will today
19 continue with your examination and there is still turn for Prosecution.

20 So Ms Solano, you have the floor.

21 And Mr Witness, it's my regular legal duty to remind you that you are still under oath,
22 which means that you have to speak the truth and nothing but the truth which I guess
23 is fully clear to you.

24 THE WITNESS: [9:46:37] (Interpretation) Very well, your Honour.

25 PRESIDING JUDGE FREMR: [9:46:38] Fine.

1 Ms Solano, you have the floor.

2 MS SOLANO: [9:46:41] Thank you, your Honour.

3 QUESTIONED BY MS SOLANO: (Continuing) [9:46:43]

4 Q. [9:46:45] Good morning, sir. Can you hear me?

5 A. [9:46:48] I can hear you well. Good morning.

6 Q. [9:46:51] Sir, yesterday we were talking about the attack on Bunia in
7 August 2002 by a UPC/UPDF coalition and I'd like to ask you some more questions
8 about that. Do you recall, sir, whether after this attack the UPC was present in
9 Bunia?

10 A. [9:47:17] Yes, I remember that the UPC was present in Bunia because,
11 according to the information that I got, the UPC had attacked with the UPDF forces.

12 Q. [9:47:37] Did the UPC remain in Bunia after the attack was completed?

13 A. [9:47:43] Yes. The UPC had an HQ in Bunia so they stayed in Bunia after the
14 attack.

15 Q. [9:47:53] And where in Bunia were the UPC's HQ?

16 A. [9:48:07] The UPC was based or it had an HQ in a garage called DAG. Now
17 there's a commercial building there called Galerie Leguma at the place where the HQ
18 was.

19 Q. [9:48:31] What part of town, if possible, what street was this garage on?

20 A. [9:48:39] The garage is on the main road of the town of Bunia, Boulevard de
21 libération. When you go towards the grand marché, the central market.

22 Q. [9:48:58] Can you explain, if you know, why the UPC was operating out of a
23 garage?

24 A. [9:49:18] I don't have an answer to that question.

25 Q. [9:49:21] And do you know whom from among the UPC's members was

1 actually -- actually had their seat in this place?

2 A. [9:49:42] Well, I also don't have an answer because I didn't know the members
3 of the UPC. I didn't have a lot of contact with them.

4 Q. [9:49:52] In your -- can you explain, sir, what was the situation of the Lendu
5 community in Bunia after the UPC -- the UPC's attack?

6 A. [9:50:15] The members of the community --

7 PRESIDING JUDGE FREMR: [9:50:20] Mr Bourgon.

8 MR BOURGON: [9:50:21] Thank you, Mr President. The question of course is
9 talking about the UPC attack when from the beginning we have been talking this
10 morning about an attack committed by both UPDF and UPC, so I think the question
11 should be clear for the record that we're not talking about a UPC attack, we're talking
12 about what Prosecution is telling the witness and the witness apparently confirming
13 that it was an attack committed by both UPDF and UPC together because this is a
14 topic that I will of course cover in cross-examination. Thank you.

15 PRESIDING JUDGE FREMR: [9:51:02] Ms Solano.

16 MS SOLANO: [9:51:04] Your Honour, I can rephrase my question.

17 Q. [9:51:07] Sir, can you explain what was the situation of the Lendu community
18 in Bunia after the UPC/UPDF attack?

19 A. [9:51:18] Members of the Lendu community preferred to leave the town of
20 Bunia. It also has to be said that the town was almost cut in two. The northern part,
21 northeast was occupied by the UPC and the members of the Hema community,
22 whereas the members of the Lendu community went towards the south of the town
23 and preferred to leave the town to go to other villages in the mountains, towards the
24 south to the villages of Zumbe and la chefferie of Gety, so the chefferie of Gety of
25 Walendu-Bindi.

1 Q. [9:52:42] Why did the Lendu community prefer to leave Bunia? Why could
2 they -- why did they not stay?

3 A. [9:52:57] They didn't stay in the town of Bunia because they felt insecure there.
4 They saw that when the UPDF soldiers, who were claiming that they were guarding
5 the town and making it safe for the population, whatever their origin, in fact, these
6 soldiers were allowing UPC troops to infiltrate through certain neighbourhoods,
7 certain streets. Members of the Lendu community did not feel safe, not only
8 members of the community -- Lendu community but also other persons from other
9 communities, from North Kivu and those from Kisangani or Buta. All those people,
10 for the most part, preferred to leave the town of Bunia for the villages whose names I
11 mentioned. Others left further, to Beni. They either went on foot or they went by
12 plane.

13 Q. [9:54:29] Sir, why did the people from North Kivu or from Kisangani or Buta
14 not feel secure in Bunia at this time?

15 A. [9:54:53] I don't have a precise answer that I can give you to that question.
16 But what I can say is I heard that people from the UPC and the Hema community said
17 that those who came from elsewhere didn't make their contribution, they weren't
18 associated with them and, as such, they were considered enemies, as being close to
19 the Lendu community. They weren't welcome by the UPC and the community.

20 Q. [9:55:43] Was there a term used at this time to refer to people who were from
21 these parts, from North Kivu, for example?

22 A. [9:56:05] There's a term that was used. It's not -- it wasn't just used at that
23 time. The term or the concept "jajambu". That's a concept used in the region and
24 has been for a lot of time. When I grew up I heard it lots of times. When somebody
25 wasn't from the place, if they were from elsewhere that was used, they were called

1 jajambu to say that they weren't from that place. And with these events, the conflict
2 in the region or in town, those who came from elsewhere were quickly identified as
3 non-originaires, jajambu, as such they weren't welcome in the region at that time.

4 Q. [9:57:14] You say that the jajambu were not from the place from (Speaks
5 French). What do you mean exactly, what place do you mean?

6 A. [9:57:39] The people called jajambu, according to this concept, were not the
7 people from Ituri, in general. And the term is used essentially around the town of
8 Bunia, in the Hema community, the Lendu community, Nyali and so on. And those
9 who come from Ituri, who are in the territory a bit further to the north, and of course
10 they also live, or some of them live in the town of Bunia, they also adopted this term
11 of jajambu to say that those are the people who are non-originaires of the district or
12 province of Ituri.

13 Q. [9:58:37] You said, sir, that the UPDF were allowing UPC troops to infiltrate
14 certain parts of Bunia. How, if you know, how did the UPC behave in those parts of
15 town that it infiltrated, as you say?

16 A. [9:59:17] I remember, for example, when we were at the special interim
17 administration and we were -- they were guarding where we lived on the site, almost
18 on the site, or at the HQ of MONUC, MONUSCO today. Some troops of the UPC
19 could come right into the neighbourhood just to that place or the HQ where there was
20 also a small market that was organised for displaced persons, so certain UPC troops
21 could get right to that market and even beyond that, while it was understood or at
22 least we thought that these people could not go beyond their limits, so I said that the
23 town of Bunia was practically cut off in two. The northern part, the northeast was
24 occupied by the UPC and the southern part, southeast was occupied by the FNI and
25 other communities who could still stay there.

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1 Q. [10:00:55] Just for the record, sir, when you refer to Bunia being divided, are
2 you referring to the period following the UPC/UPDF attack of August 2002 or to a
3 different period?

4 A. [10:01:29] No, I'm referring to a different period. When our residence -- when
5 my residence, the place where I used to live, was attacked, that was in 2002, in the
6 month of August. Then I went to (Redacted) Then I went back with the other
7 (Redacted) in the month of March, and toward the end of March, (Redacted)
8 (Redacted)

9 Q. [10:02:29] Sir, allow me to interrupt you, just because we're in open session.
10 For the moment what you have said is sufficient. I will return to this later period
11 later on, but for now I'd like to remain focussed on the facts of August 2002. So right
12 after -- what I want to know is what happened right after the UPC/UPDF attack of
13 August 2002, what was the situation of the Lendu community in Bunia?

14 A. [10:03:12] Well, as I've just stated, the members of the Lendu community had
15 left Bunia for the most part and they went to the peripheral villages and even beyond.
16 Some of them went as far as Beni. Others, however, withdrew into the
17 neighbourhood called Bakoko to the west of the town, and apparently there was a
18 certain level of security, and that's where some members of the Lendu community
19 sought refuge.

20 Q. [10:04:19] Are you aware of anyone losing their lives after the UPC/UPDF
21 coalition attack had been completed in Bunia?

22 A. [10:04:39] Well, no, I don't have any information about that.

23 MS SOLANO: [10:04:55] Your Honour, may we go into private session, please.

24 PRESIDING JUDGE FREMR: [10:04:59] Certainly.

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- 1 Court officer, let's move into private session.
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- 20 (Upon resuming in open session 11.52 a.m.)
- 21 THE COURT USHER: [11:52:42] All rise.
- 22 Please be seated.
- 23 PRESIDING JUDGE FREMR: [11:53:03] Before we continue, just update on timing.
- 24 Mr Bourgon, do you envisage you will need all that time allotted to you?
- 25 MR BOURGON: [11:53:18] I believe that I will be shorter than the time allotted to

1 me, Mr President, however I'm not in a position to confirm at this time exactly how
2 much time I will need.

3 PRESIDING JUDGE FREMR: [11:53:29] Fully understandable. Just for -- maybe it
4 to be secure, I would like to sit -- slightly cut lunch break by 10 minutes, so we will
5 conduct this session till 1.10 because I think -- I don't find reasonable to adjourn this
6 testimony for last 10, 15 minutes, so we would like to conclude this testimony today,
7 so, as I said, we will finish this session 1.10.

8 Now, Mr Bourgon, the floor is yours. Do you want to proceed in open or private?

9 MR BOURGON: [11:54:02] I would like to begin in public session, Mr President.

10 PRESIDING JUDGE FREMR: [11:54:05] Very well, then.

11 QUESTIONED BY MR BOURGON: (Interpretation)

12 Q. [11:54:25] Good morning, Witness.

13 A. [11:54:27] Good morning.

14 Q. [11:54:28] Before starting, I'd just like to start by reminding to say -- because
15 we're speaking the same language, it's important to have a break between questions
16 and answers, that's as valid for me as it is for you. Is that okay?

17 A. [11:54:51] Not very well. I don't understand what you mean by having a
18 break. Could you put that in another way, Counsel?

19 Q. [11:55:04] Certainly. When I ask you a question, before starting to answer,
20 please pause, sometimes they say three seconds, just a normal pause, in order that my
21 question can be noted in the transcript and that the beginning of your answer can also
22 be noted. For my part, I'll be doing the same thing, okay.

23 A. [11:55:31] Okay.

24 PRESIDING JUDGE FREMR: [11:55:32] Sorry to interrupt you, Mr Bourgon.

25 Court officer, at this moment I have no English transcript. I guess it's common

1 problem.

2 So could we, at least for the moment, continue just with French version of the
3 transcript. I think it would be fine with Mr Bourgon I guess.

4 Ms Solano? Perfect. So please proceed.

5 MR BOURGON: [11:56:05] (Interpretation) Thank you, your Honour.

6 Q. [11:56:10] Witness, I didn't have the -- I wasn't able to see you when you came
7 to The Hague because I had other commitments but please allow me to present
8 myself. My name is Stéphane Bourgon and, with my colleagues here, we represent
9 in this case, Bosco Ntaganda. Do you understand that?

10 A. [11:56:34] I've understood that well.

11 Q. [11:56:37] So I have some questions to put to you. I'm going to try and stay in
12 open session, but at any time if you think that one of your answers will make it
13 possible for anyone to identify you, please don't hesitate to raise your hand such that
14 we can immediately go into private session, do you understand that?

15 A. [11:57:03] I understand.

16 Q. [11:57:06] I will start, Witness, by talking about the preparation session that
17 you had with the Prosecution with a view to your testimony. My first question is do
18 you remember having met representatives of the Office of the Prosecutor between 20
19 and 23 September last week? Is that the case?

20 A. [11:57:50] 20, 23rd last week? Yes.

21 Q. [11:57:54] So you met the representatives of the Prosecution for approximately
22 four days; is that correct?

23 A. [11:58:05] Well I don't think it's four days.

24 Q. [11:58:12] At the end of your preparatory session with the Prosecution you
25 received a document -- we received a document, it explains the time you spent with

1 the Prosecution and it gives a report on the answers that you give on that occasion.

2 Did you know that, Witness?

3 A. [11:58:40] I gave some answers to questions that were put to me.

4 Q. [11:58:49] I'll make my question more precise. Do you know that the answers
5 you gave during these days are provided to the Defence?

6 A. [11:59:01] I don't remember exactly.

7 Q. [11:59:08] According to the document I have before me, for the transcript,
8 DRC -- your Honour, there's no number yet concerning this document. It's a
9 document we received on 26 September.

10 And in this document it is stated that you met the Prosecution on 20, 21, 22 and 23 of
11 September. Do you confirm that?

12 A. [11:59:53] I don't know all that, but I know I arrived on the 19th, and on the
13 20th perhaps there was a welcome session, greeting session, but afterwards, of course,
14 we worked on the preparation of the hearing.

15 Q. During this preparatory session, and here I'm referring to the first day, if I
16 understand the notes that I received, you were provided with a folder with lots of
17 different documents inside it?

18 A. Yes.

19 Q. Among the documents in the folder, it was explained to you that there were lots
20 of documents in which your name appeared and they could be shown to you during
21 your testimony; is that correct?

22 A. That's correct.

23 Q. And on these documents, if there was flag, if I can use, or a sticker which was
24 put on there where your name appeared; is that correct?

25 A. Yes, that's correct.

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1 Q. I'm going to read a sentence in this document. This is a sentence, it's in English.
2 It's going to be translated for you. This is on page 1 of the document, the second last
3 paragraph, it stated the following: (Speaks English) "The witness is told that he is
4 not obliged to read them in full, but that he does have the time to do so if he chooses
5 to."

6 (Interpretation) Do you remember being told that in the session?

7 A. I was told that, yes.

8 MR BOURGON: [12:02:28]

9 Q. [12:02:29] Is it correct, Witness, among the documents in the folder, there are
10 several that you had never seen previously?

11 A. Yes, some documents that I had never seen previously, a lot of other documents
12 I had seen previously.

13 Q. Is it correct also that during the time allocated to reviewing the documents,
14 when you were left alone with the documents, you took notes on these documents
15 with Post-its, these stickers; is that correct?

16 A. Yes, that's correct.

17 Q. I would like to show you one of these documents.

18 MR BOURGON: [12:03:50] (Interpretation) And the number, there isn't a
19 document number, however, it is a document which is on our list of evidence which
20 could be used in the cross-examination and it appears at 35.

21 That's my error, the document that I'm going to show to the witness does have a
22 number, DRC-OTP-0021-0634. If the witness could be shown the first page of the
23 document, if you would be so kind.

24 Q. This document, Witness, will appear on screen before you. Is it correct,
25 Witness, that this document is something you had never seen prior to coming to The

1 Hague?

2 A. I'd never seen this document before coming here.

3 Q. Do you remember having taken notes concerning the content of this document?

4 A. I noted on a piece of paper the main thrust of this document in order to
5 understand what was said in the document, given that it was the -- it was the first
6 time that I saw it.

7 Q. For the -- for the transcript, I'll read the title, "The massacres of the Hema in Ituri,
8 Democratic Republic of Congo (1999 to 2002). Decryption of messages which were
9 used in justification in these massacres, the genocide of the Hema, is it a plot with an
10 international dimension?"

11 Mr Witness, it's not so much the content of the document that's of interest to me at the
12 moment, but when you're asked questions, when you were put questions, can you
13 confirm that you said the following. And this is still in the preparation session I'm
14 talking about here, and here I'm going to quote the second page of the document, the
15 preparatory document. I'm going to quote it in English, it's going to be translated to
16 you -- translated for you into French.

17 "Witness explains that for other documents" --

18 PRESIDING JUDGE FREMR: Excuse me, I have to interrupt you. Ms Solano.

19 MS SOLANO: Your Honour, I'm sorry to interrupt. I just want to remind my
20 counterpart that we're still in open session. I don't know where exactly he's going.

21 MR BOURGON: I believe we can remain in public session, Mr President.

22 PRESIDING JUDGE FREMR: All right. But please be very vigilant.

23 MR BOURGON: (Interpretation)

24 Q. [12:07:55] Witness, I'm going to read the information communicated to me by
25 the OTP during the preparation session so unless you see something there that could

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1 identify you, I would ask you to listen to the paragraph that I'm going to read to you.

2 Do you agree?

3 A. [12:08:16] Yes.

4 Q. [12:08:22] "Witness explains that for other documents which he provided to
5 the Prosecution, he thought they were interesting but if asked questions about them,
6 there may be many answers to them. The witness gives as an example documents
7 that were provided by him but which are not signed by him. He states that he does
8 not know the circumstances, only that they were written by people who were
9 interested in the situation and the crisis. The witness finishes by saying that, with
10 time, he will have some direction on how to react to these documents." Witness, do
11 you recognize having stated these words to the Prosecution?

12 A. Yes.

13 Q. So, in order to sum up, if I'm not mistaken, you were shown documents that
14 you had never seen before on which you took notes of the main thrust of the
15 documents, in order to be able to understand them, and you knew that these
16 documents had been drafted by persons who had an interest in the situation and,
17 with time, you could react to the documents. Is that a good summary of the
18 situation?

19 MS SOLANO: Your Honour.

20 PRESIDING JUDGE FREMR: [12:10:45] Ms Solano.

21 MS SOLANO: [12:20:51] Your Honour, I apologise if it's me who is failing to
22 follow, but the portion of the witness preparation note that my colleague has just
23 quoted, he's making reference, he's quoting or paraphrasing the witness when he
24 refers to documents that he provided to the Prosecution. Whereas I believe my -- the
25 Defence had started this questioning line by referring to documents that the witness

1 had never seen before. So I think there is clearly a difference between documents
2 that the witness saw for the first time in the preparation session and documents that
3 the witness provided to the Prosecution which by definition are documents which he
4 had seen before. So I seek clarity, please, from Defence counsel so that the witness
5 may not be confused.

6 PRESIDING JUDGE FREMR: [12:11:36] Mr Bourgon.

7 MR BOURGON: Mr President, in the paragraph that I read in English, the witness
8 says that it is mentioned there that "The witness gives as an example documents that
9 were provided by him which are not signed by him."

10 My question is very simple and I can rephrase the question. I'm referring to
11 documents he had never seen before and that's the summary I just suggested to him.
12 And I can rephrase my question, Mr President.

13 PRESIDING JUDGE FREMR: Please. Please do.

14 MR BOURGON: [12:12:16] (Interpretation)

15 Q. So, Witness, I'm trying to cut things in terms of the time but we're going to go
16 on a step-by-step basis. You were shown a document that you had never seen before,
17 is that correct?

18 A. Yes.

19 Q. One of these documents is the one that I showed you a moment ago which
20 speaks about the massacre of the Hema in Ituri; is that correct?

21 A. That's correct.

22 Q. You took notes, having read this document, when you were alone with the
23 document, did you not?

24 A. Yes.

25 Q. And you stated to the Prosecutor that the documents could have different

1 answers to them; is that correct?

2 A. I don't understand very well. I don't remember exactly. For example, the
3 document, well, perhaps I didn't have authorisation, but when it comes to the
4 documents present here, the document is a document that I was shown, that the
5 Prosecution showed to me. I'd never seen it before. I read it in order to understand
6 it and I found in the document there was information that I had never heard
7 previously. And that's the reason why I said that this information or these facts that
8 I hadn't seen before, I hadn't heard about before, that they could give rise to other
9 reactions. I think that's it.

10 MS SOLANO: Your Honour.

11 PRESIDING JUDGE FREMR: Ms Solano.

12 MS SOLANO: [12:14:19] Your Honour, I really must refer to the witness
13 preparation note and I ask that the record reflect that where the witness said in
14 witness preparation that he thought the documents were interesting, but if asked
15 questions about them, there may be many answers to them, the witness was referring
16 to other documents which he provided to the Prosecution. Thank you, your
17 Honour.

18 PRESIDING JUDGE FREMR: Thank you.

19 MR BOURGON: [12:14:50] But in this case, Mr President, we're referring to a very
20 specific document.

21 PRESIDING JUDGE FREMR: [12:14:53] I think I would prefer that because, you
22 know, to make any general conclusions about Mr Witness's approach either to old or
23 new documents, it doesn't have any probative value. But I would be interested just
24 if you could focus on concrete documents, if they were influenced by the way, how
25 the preparation session was conducted.

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1 MR BOURGON: Thank you, Mr President. I was -- only wanted to refer to one
2 document where the witness acknowledged having made some notes and that he had
3 read the document, and that's all I wanted to establish at this point in time.

4 PRESIDING JUDGE FREMR: All right.

5 MR BOURGON: [12:15:34] (Interpretation)

6 Q. Witness, we're now going on to a different subject, a photograph that you were
7 shown earlier in your testimony this morning, and here I would like to have on the
8 screen DRC-OTP-0137-0709.

9 That photograph will soon be displayed to you, if you don't have it already.

10 A. No, I don't have it yet.

11 Q. Witness, you remember that when you made your statement to the Prosecution
12 in 2015, you were shown that picture? Do you remember that?

13 A. Yes.

14 Q. In answer to the investigators' questions on that matter, you said the following.
15 I'm quoting line 4 from the bottom, "The person in the military attire looks very much
16 like Bosco, but I am not able to say with certainty that it is indeed Bosco. I have no
17 recollection of this location, of the time and the circumstances in which the
18 photograph was taken. That is why I earlier stated in my statement" --

19 PRESIDING JUDGE FREMR: Ms Solano.

20 MS SOLANO: I'm sorry, your Honour, the last words in this paragraph are likely to
21 be identifying and I don't think they should be read out in open session, please.

22 PRESIDING JUDGE FREMR: All right.

23 MR BOURGON: I disagree, Mr President. Maybe we can go in private session and
24 then back in public session after, but I disagree that the words in this statement do
25 identify the witness.

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1 PRESIDING JUDGE FREMR: Ms Solano.

2 MS SOLANO: Your Honour, I --

3 PRESIDING JUDGE FREMR: [12:18:25] Anyway, if you are in doubt, it's better to
4 move in private, and then we can clarify.

5 Court officer, let's move into private.

6 (Private session at 12:18 p.m.)

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- 7 (Open session at 1.13 p.m.)
- 8 THE COURT OFFICER: [13:13:51] We're in open session, Mr President.
- 9 PRESIDING JUDGE FREMR: [13:13:53] Thank you, court officer.
- 10 Just update on the time. Mr Bourgon, so far you used 1 hour 17 minutes, so you are
- 11 expected to conclude your cross-examination by the end of the afternoon session.
- 12 Is there any chance that you would finish earlier?
- 13 MR BOURGON: [13:14:12] I will try, Mr President.
- 14 PRESIDING JUDGE FREMR: [13:14:15] Nice promise.
- 15 Okay, now let's break and we will resume at half past 2.
- 16 THE COURT USHER: [13:14:24] All rise.
- 17 (Recess taken at 1.14 p.m.)
- 18 (Upon resuming in open session at 2.32 p.m.)
- 19 THE COURT USHER: [14:32:24] All rise.
- 20 Please be seated.
- 21 PRESIDING JUDGE FREMR: [14:32:44] Good afternoon, everybody.
- 22 Good afternoon, Mr Witness. We will directly continue with your cross-examination
- 23 by the representative of Defence, Mr Bourgon.
- 24 Mr Bourgon, usual question, do you want to proceed in private or in open session?
- 25 MR BOURGON: [14:33:14] Private session, Mr President, please.

1 PRESIDING JUDGE FREMR: [14:33:20] Court officer, let's move into private
2 session.

3 (Private session at 2.33 p.m.)

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- 13 (Open session at 2.51 p.m.)
- 14 THE COURT OFFICER: [14:51:08] We're in open session, Mr President.
- 15 PRESIDING JUDGE FREMR: [14:51:10] Thank you, court officer. And please,
- 16 Mr Bourgon, could you kindly repeat your question.
- 17 MR BOURGON: [14:51:17] Thank you, Mr President. I will.
- 18 Q. [14:51:19] (Interpretation) Witness, I would suggest to you that the UPC as a
- 19 group was in fact born, if you will, as a political group in September of the year 2000.
- 20 Can you confirm that?
- 21 A. [14:51:37] I am not absolutely certain when it was that the UPC was founded
- 22 as an armed group, but I heard that there was a group called UPC under the
- 23 command of Mr Thomas Lubanga.
- 24 Q. [14:52:01] I would put it to you that the UPC never had an armed branch
- 25 before the month of September 2002, that is after the Lompondo events; can you

1 confirm that?

2 A. [14:52:20] I think that the UPC -- well, we were talking about the UPC. We
3 included the armed branch according to the information that I was given.

4 Q. [14:52:34] Where did you get that information?

5 A. [14:52:37] I was -- this is something that everyone was talking about. It's
6 difficult for me to tell you exactly who might have said it to me, which person or
7 which other person.

8 Q. [14:52:51] These various sources of information told you that there
9 were -- there was training undergone for a future armed group that was going to
10 become the UPC?

11 A. [14:53:09] According to the information that I was given, some young people
12 from the Hema community had been recruited and sent for military training in
13 Uganda.

14 Q. [14:53:29] I'm referring now to the summer of 2002. What kind of
15 information did you have regarding the training of the future members of the armed
16 branch of the UPC?

17 A. [14:53:46] When we learned that there was a group of young people who were
18 being trained and that they were mainly Hemas, not solely, but mainly Hemas, we
19 thought that these were individuals who were trained for the UPC. Mr Maruka,
20 who was the spokesperson of the Hema community, told me that they were looking
21 to recruit young people to be trained to become soldiers and that this was in Bunia.
22 And when he told me that, I said "Well, I don't have a lot of contact with those who
23 are further in the inner part of the region. How can I come into contact -- how can I
24 relay this information?" And later on he told me that the recruitment had been
25 completed and that it was no longer possible.

1 These young people who were to be trained, I didn't know who they were going to be
2 trained for, but I had already learned that these young people were sent off for
3 training.

4 Q. [14:55:43] You mentioned your conversation with Mr Maruka. When did that
5 exchange of information take place?

6 PRESIDING JUDGE FREMR: [14:55:52] Excuse me. We would rather move into
7 private session.

8 THE INTERPRETER: [14:55:59] Your Honour, message from the interpretation
9 booth: Would you be so kind as to ask the speakers to keep to the 3-second rule?

10 (Private session at 2.56 p.m.)

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15 (Redacted)

16 (Redacted)

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21 (Open session at 3.07 p.m.)

22 THE COURT OFFICER: [15:07:10] We are in open session, Mr President.

23 PRESIDING JUDGE FREMR: [15:07:13] Thank you, court officer.

24 Mr Bourgon, please proceed.

25 MR BOURGON: [15:07:16] Thank you, Mr President.

1 Q. [15:07:18] (Interpretation) Witness, speaking about the commission de
2 pacification de l'Ituri this morning, my first question, and I'd like to confirm that this
3 commission sat from 4 to 14 April 2003; are you able to confirm that?

4 A. [15:07:42] That's correct.

5 Q. [15:07:44] You also mentioned this morning that if UPC participated, that was
6 nonactive participation; do you confirm that?

7 A. [15:08:00] Yes.

8 Q. [15:08:02] I put it to you that the UPC was very much active within the
9 pacification committee in Ituri. Does that refresh your memory?

10 A. [15:08:16] No.

11 Q. [15:08:19] I would like to show you a document, but before, a question: You
12 know that there was a final report of this commission, was there not?

13 A. [15:08:31] Yes, there was a report from -- a final report from the commission.

14 Q. [15:08:36] I would like to show you a document, DRC-OTP-0107-0223.

15 I would like to have the first page of the document, if you would be so kind.

16 PRESIDING JUDGE FREMR: [15:09:09] I assume, Mr Bourgon, that this document
17 is public?

18 MR BOURGON: [15:09:13] Yes, Mr President.

19 Q. [15:09:37] (Interpretation) Do you recognize this document, Witness?

20 A. [15:09:41] I recognize it.

21 Q. [15:09:45] I would like to have page 0107-0316.

22 Witness, I'm in that very document, the one that you recognized. One of the
23 signatory pages, you can see the title, "UPC-RP." Do you recognize the people who
24 are there as being members of the UPC?

25 A. [15:10:44] Out of these six signatories, I think I saw only the two first ones, but

1 I don't remember having seen the four others, but the first two, Tinanzabo and
2 Mateso Eustache, I think I saw them at the pacification commission.

3 Q. [15:11:17] Mr Tinanzabo, he's Bira, is he not?

4 A. [15:11:22] Yes.

5 Q. [15:11:23] And Mr Mateso, what's he?

6 A. [15:11:27] Mr Mateso is Hema.

7 Q. [15:11:30] And Mr Adubango?

8 A. [15:11:35] Adubango is an Alur name. I don't know what Adubango it is, but
9 it is an Alur name from Mahagi.

10 Q. [15:11:46] Denis Akobi, what ethnic group is he from?

11 A. [15:11:51] Lendu Sud.

12 Q. [15:11:54] The last, at the bottom of the page, I'm not certain that the fifth
13 signed, the last name, do you see it, Ontini Kidikpa, what ethnic group is he?

14 A. [15:12:13] Also an Alur from Mahagi.

15 Q. [15:12:17] The situation I'm interested in at this point, Witness - and I finished
16 with the document - you reported on your return on 29 March on the security
17 situation. You stated it was precarious, did you not?

18 A. [15:12:32] Yes, that's correct.

19 Q. You knew, however, that on 6 March the UPDF, together with the FNI, had
20 driven the UPC and its armed wing out of Bunia, did you not?

21 A. [15:12:53] I was informed of that because on 6 March that year, I think that
22 I was in Kinshasa but I listened to what was on the radio and on the television.

23 Q. [15:13:13] And you know that when this attack took place, the UPDF was
24 allied with the Lendu combatants and with the APC to drive out the UPC?

25 A. [15:13:28] That's information that we were given.

1 Q. [15:13:30] And you also know that when this operation took place there was a
2 call, the UPDF called upon combatants to drive out the UPC, did they not?

3 A. [15:13:59] Here combatants or FNI troops, I don't know exactly, but according
4 to the information I was given, the UPDF troops, they called upon the Lendu. That's
5 the information that was given to me.

6 Q. [15:14:18] Well, I'm going to quote paragraph 45 of your statement, this is page
7 2079-031, and this is the statement of 2015 and you state the following: "When I
8 returned to Bunia towards the end of the month of March 2003, the security situation
9 was precarious. On 6 March the UPC had been dislodged from the town of Bunia as
10 a result of a joint operation between the UPDF and the FNI."
11 Those are your words, are they not?

12 A. [15:15:11] Yes.

13 Q. [15:15:12] The paragraph continues: "The end of the alliance between the
14 UPC and the UPDF was -- or, happened when the UPC went to get support from
15 Rwanda and they organised themselves to attack UPDF positions in the village of
16 Dhele and at Bunia airport." Those are your words, are they not?

17 A. [15:15:51] Yes those are my words.

18 Q. [15:15:53] The paragraph continues: "The UPC placed troops between the
19 general hospital and the airport to prevent UPC troops who were based at the airport
20 to support the troops that were in Dhele." Those are your words, are they not?

21 A. [15:16:16] Yes.

22 Q. [15:16:16] That's where you add, "The UPDF were in difficulty as a result of
23 this attack and they went to ask for support from FNI combatants who were based in
24 Zumbe, in the east of Bunia, and provided them with weapons." is that correct?

25 A. [15:16:42] That's what I said, that's correct.

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1 Q. [15:16:44] Now you, you saw nothing of these events?

2 A. [15:16:48] No.

3 Q. [15:16:48] Because you add at the end, "An FNI combatant called Dunjini who
4 participated in this battle told me about these events." Is that correct?

5 A. [15:17:03] Yes.

6 Q. [15:17:04] Who is this Dunjini --

7 PRESIDING JUDGE FREMR: [15:17:12] Sorry, no let's move into private session
8 because there could be some relationship.

9 (Private session at 3.17 p.m.)

10 (Redacted)

11 (Redacted)

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6 (Open session at 3.32 p.m.)

7 THE COURT OFFICER: [15:32:30] We're in open session, Mr President.

8 PRESIDING JUDGE FREMR: [15:32:32] Thank you, court officer.

9 Mr Bourgon, please proceed.

10 MR BOURGON: [15:32:36] Thank you, Mr President.

11 Q. [15:32:39] (Interpretation) Mr Witness, I put it to you that the UPDF in fact
12 officially left on 6 May and that already in the days preceding the departure of the
13 UPDF, Lendu combatants had invaded the city of Bunia and practically all the
14 inhabitants of the city had fled the city at that time. Does that ring a bell?

15 A. [15:33:09] No.

16 Q. [15:33:13] Mr Witness, I would like to show you a video excerpt of 3 May, a
17 few days before the official retreat of the UPDF, and this might jog your memory.

18 MR BOURGON: [15:33:36] Could Defence have control of the video screening
19 which will be DRC-OTP-0155-0004. Please play from excerpt at timestamp 40.52 to
20 43.02.

21 THE COURT OFFICER: [15:34:00] Mr Bourgon, will you mind to confirm the level
22 of confidentiality of the video, please.

23 MR BOURGON: [15:34:07] (Interpretation) It is a public video and can be
24 published. The translation, since we are going to play it with the sound, can be
25 found at DRC-OTP-1033-0139, line 205 to 249.

1 Q. [15:34:43] Witness, you're going to be able to watch the video, but before we
2 do that, I would like to distribute the transcript to all parties and participants in the
3 courtroom.

4 PRESIDING JUDGE FREMR: [15:35:01] Ms Solano first.

5 MS SOLANO: [15:35:01] Your Honour, I just want to note that, unless I'm
6 mistaken, the Defence did not provide the Prosecution with timestamps of the video
7 that they intend to use with this witness, nor the corresponding portions from
8 transcripts and translations so it may be that we are somewhat hampered in our
9 ability to react immediately to anything that arises in relation to this video. I do not,
10 however, object right now, your Honour.

11 PRESIDING JUDGE FREMR: [15:35:28] All right.

12 MR BOURGON: [15:35:30] Mr President, it's a Prosecution video that was
13 disclosed to the Defence, and the fact that this video would be used was
14 communicated to the Prosecution.

15 PRESIDING JUDGE FREMR: [15:35:45] We noted both submissions. So please
16 proceed.

17 MR BOURGON: [15:35:50] (Interpretation)

18 Q. [15:35:53] Mr Witness, the video can be viewed on your screen.

19 (Viewing of the video excerpt)

20 MR BOURGON: [15:38:17] (Interpretation)

21 Q. [15:38:20] Mr Witness, were you able to watch the video that was played for
22 you?

23 A. [15:38:30] I watched it, but I didn't understand a thing.

24 Q. [15:38:37] Whether you understood a thing or not, are you able to confirm that
25 what you saw was Lendu combatants taking over the city? Can you confirm that?

1 A. [15:38:56] I do not know.

2 Q. [15:39:02] The vehicle you saw at the end of the video, can you confirm that it
3 was a vehicle belonging to the UPDF?

4 A. [15:39:20] To the extent that the Lendu or FNI ethnic combatants did not have
5 any armoured vehicle, it could well have been that this vehicle belonged to the
6 Ugandans.

7 Q. [15:39:36] I'm asking you simply whether you agree with me or not that even
8 prior to the departure of the UPDF on 6 May 2003, Lendu combatants had already
9 invaded the town and had brought in a reign of terror; would you agree with me?

10 A. [15:39:59] No. On that point, no, because I stand by what I just said, namely,
11 that the city of Bunia for a very long time was divided into two, and even after the
12 UPDF had left, we still remained at the headquarters of the MONUC, and we saw
13 many people essentially of the Hema community coming out, women and children
14 who came out to follow the UPDF and go to Uganda with them. Now, where they
15 came from, I do not know. However, the women and children, some of them
16 followed the UPDF because they said that it was for reasons of their own safety.
17 Now, myself and other members of my team were in a good hiding place, namely, the
18 MONUC headquarters, but we did not have much access to what was happening
19 outside because we were prohibited from going out, given that it was too risky, so we
20 remained within the MONUC premises and many of the things that we learnt were
21 subsequently narrated to us.

22 However, at the time the Ugandans were leaving, we were behind the fence and we
23 were able to see people going by.

24 MR BOURGON: [15:41:57] Mr President, I would seek to have the extract of this
25 video as well as the translation admitted in evidence for the purpose of impeachment

1 with the testimony of the witness.

2 PRESIDING JUDGE FREMR: [15:42:10] Ms Solano.

3 MS SOLANO: [15:42:11] Your Honour, we don't understand how this video
4 impeaches the witness. If the Defence could first clarify that, I would then be able to
5 respond.

6 PRESIDING JUDGE FREMR: [15:42:30] Mr Bourgon, just briefly.

7 MR BOURGON: [15:42:33] Mr President, it goes to evaluation of the testimony of
8 the witness. The witness provided an answer which is different than what is on the
9 video, in our submission, and that's why we are seeking the video to be admitted. If
10 it was otherwise, we would seek for -- to be admitted in evidence. We are seeking to
11 have it admitted for the purpose of impeachment, for evaluation of his testimony.

12 PRESIDING JUDGE FREMR: [15:42:58] Ms Solano.

13 MS SOLANO: [15:42:59] Your Honour, in our submission, this video does not
14 impeach the witness. He simply is not able to say, to confirm what the Defence
15 wished that he were in a position to confirm, and he has given a reasonable
16 explanation for why he hasn't been able to do that. So we oppose.

17 PRESIDING JUDGE FREMR: [15:43:25] Yes, I don't see -- further for submission.
18 For the purpose of the impeachment, this video it admitted because I don't want to
19 get into some premature evaluation of credibility or non-credibility of this witness,
20 but I suppose at least that the Defence will come with some arguments that would
21 support this purpose of admission. So this video is admitted for the purpose of
22 impeachment.

23 Now, Mr Bourgon, please proceed.

24 MS SOLANO: [15:43:56] Your Honour.

25 PRESIDING JUDGE FREMR: [15:43:57] Yes.

1 MS SOLANO: Just a clarification, your Honour, please. I assume that your
2 Honours' decision concerns the excerpt that was played to the witness.

3 PRESIDING JUDGE FREMR: [15:44:04] Exactly. I have to correct myself. Yes.

4 MR BOURGON: (Interpretation)

5 Q. [15:44:25] Witness, let me move to the next phase of the events. Were you
6 aware that on 9 May an announcement was made to all parties calling for an attempt
7 to put an end to the situation that was prevailing then at the time in Bunia?

8 A. [15:44:56] Please, could you be specific as to which parties you are referring to.

9 Q. [15:45:00] All the parties, including Front nationaliste et intégrationnaliste, FNI;
10 Forces de Résistance Patriotique in Ituri, FRPI; the Forces de Partie Démocrat
11 Congolais, the FPDC; Parti pour l'unité et la sauvegarde de l'intégrité du Congo,
12 PUSIC; and the Union des Patriotes Congolais, UPC. That release or announcement
13 was made regarding all those who had participated, namely, members of the
14 institutions that were borne of the pacification commission in the Ituri. On 9 May
15 those parties met at the UPC headquarters -- or, rather, the MONUC headquarters, in
16 Bunia to look into this matter. Were you aware of this announcement?

17 A. [15:45:57] No, I was not aware of it. I know there was an armed groups
18 committee which could meet freely and come up with a number of announcements.
19 Maybe this document was filed with the archives of our administration, but otherwise
20 I do not clearly recall that statement or announcement. However, I know that there
21 was a committee of armed groups which was in charge of handling pacification
22 issues.

23 Q. [15:46:32] I would like document DRC-OTP-0089-0032 to be displayed on the
24 screen. It is a public document that can be publicly displayed.

25 THE COURT OFFICER: [15:47:09] Mr Bourgon, the metadata under eCourt states

1 that the document is confidential.

2 MR BOURGON: [15:47:16] That's not what my copies say but I trust you entirely,
3 so let's just keep it not for publication.

4 PRESIDING JUDGE FREMR: [15:47:24] Exactly.

5 MR BOURGON: [15:47:40] (Interpretation)

6 Q. [15:47:45] Mr Witness, you will soon see the document on your screen, and I
7 want to ask you whether you recognize that document and its content.

8 A. [15:48:58] I have read the document, but I'm under the impression that I am
9 seeing this document for the very first time.

10 MR BOURGON: [15:49:08] Mr President, I would seek to this document admitted
11 in evidence, not for the sake of impeachment but for the purpose in evidence. As it's
12 a Prosecution document, the origin of the document is known and it was disclosed by
13 the Prosecution and it is a document that is submitted in support of the theory of the
14 Defence in this case.

15 PRESIDING JUDGE FREMR: [15:49:35] Ms Solano.

16 MS SOLANO: [15:49:41] Your Honour, we object because the Defence have not
17 established a basis to tender this document through this witness.

18 PRESIDING JUDGE FREMR: [15:49:50] Mr Bourgon, Mr Witness said that he sees
19 this document for the first time today, so.

20 MR BOURGON: [15:50:00] Mr President, the witness has testified about the
21 commission de pacification de Ituri (Redacted) He knows who these -- the parties or
22 the -- who are the parties or the member institution to this commission. Although
23 he's not aware of the communiqué itself, it is a communiqué that is signed by the
24 representatives of all of these parties and it is in a time frame that we have been
25 discussing with the witness, where (Redacted)

1 (Redacted) To us, Mr President, it is sufficient for this to be admitted in evidence.

2 If not, we will submit it at a later time.

3 PRESIDING JUDGE FREMR: [15:50:50] To me, it's not sufficient foundation, so
4 objection is sustained.

5 Now please proceed, Mr Bourgon.

6 MR BOURGON: [15:51:01] Thank you, Mr President.

7 Q. [15:51:03] (Interpretation) Mr Witness, let me now move to the second event
8 I mentioned a short while ago when I said, and I put it to you that you had forgotten
9 two main events, the first being the departure of the UPDF and the second being the
10 UPC's regaining control of Bunia. You were a witness of that, weren't you?

11 A. [15:51:40] Counsel, would you please be more specific and maybe rephrase
12 your question detailing the time frames you are referring to when you mention that
13 the UPC recaptured Bunia or took over the management of Bunia again.

14 Q. [15:51:56] On 13 May, I put it to you on that day the UPC took back control of
15 Bunia and drove out Lendu combatants; are you aware of that?

16 A. [15:52:11] I know that there came a time when the UPC took control of Bunia
17 and at that time Bunia practically emptied itself of its inhabitants.

18 Q. [15:52:26] Mr Witness, I would like to show you a video in this connection
19 with a view to jogging your memory, and I'm referring to document
20 DRC-OTP-0151-0665, and I would like to play two small excerpts of that video from
21 timestamp 16.08 to 17.24 and then from timestamp 22.21 to 23.52. The transcript and
22 translation are provided. Starting with the translation, the number is
23 DRC-OTP-1050-0298, and that would apply for the first excerpt from page 0321, line
24 519, to page 0322, line 532. Now, for the second excerpt, page 0327, line 718 to line
25 744. I am going to distribute the transcript so that we may follow, Mr President.

1 THE COURT OFFICER: [15:54:06] Mr Bourgon, again, the metadata in eCourt
2 states that the document is confidential. Would you mind to check, because if this is
3 the case, we need to play the video in private session.

4 MR BOURGON: [15:54:21] I would like to have it in public session despite the
5 metadata, but it's a Prosecution material so I leave it up to the Prosecution to say
6 whether they want it published or not.

7 PRESIDING JUDGE FREMR: [15:54:34] Ms Solano.

8 MS SOLANO: [15:54:35] Your Honour, in principle, I don't have an objection.
9 However, if could have moment to look quickly through the lines that the Defence
10 have just informed us that they plan to use.

11 PRESIDING JUDGE FREMR: [15:54:49] Take your time.

12 MS SOLANO: [15:54:51] Thank you.

13 (Pause in proceedings)

14 MS SOLANO: [15:55:09] No objection, your Honour.

15 PRESIDING JUDGE FREMR: [15:55:12] Very well. So, please, we will proceed as
16 proposed by Mr Bourgon.

17 MR BOURGON: [15:55:19] Thank you, Mr President.

18 Q. [15:55:22] (Interpretation) Now, Mr Witness, two excerpts of a video will be
19 played on your screen.

20 (Viewing of the video excerpt)

21 MR BOURGON: [15:56:56] (Interpretation)

22 Q. [15:56:57] Mr Witness, that's the first excerpt. Do you recognize the images
23 that you have just watched?

24 A. [15:57:05] No, but when the person reporting started to talk about how
25 unfortunate the things that had happened were, given that people had gone to

1 Mudzipela neighbourhood and that there was nobody at the Catholic mission, then it
2 becomes difficult for me to understand that because that itself was actually the
3 headquarters of the UPC, and it is at that location in fact that many Hema people
4 were concentrated. And so when they say they are fighting against looting and theft
5 and so on and so forth, it becomes difficult for me to understand that the same
6 inhabitants who are -- or were living with their own very militia would be fleeing
7 from that very militia. So that's -- those are my thoughts on that excerpt.

8 Q. [15:58:24] Let us now move to the second excerpt and thereafter I'll put
9 another question to you.

10 (Viewing of the video excerpt)

11 MR BOURGON: [15:59:57] (Interpretation)

12 Q. [16:00:02] Witness, do you recognize the scenes that have just been played on
13 the screen?

14 A. [16:00:11] It's difficult to localize things, but when you listen to the person
15 speaking, this must be the grand marché or the major market in Bunia city which is
16 located in the east -- or, rather, more to the north of the town. And as I had said
17 earlier, it is a part of the city that was basically under the control of the UPC and
18 mostly UPC members inhabited that area. So, as you can see, and as it has been said
19 here, the UPC people are driving out the looters and the thieves, according to the
20 report. So the question that comes to my mind is: Who would these be? Who
21 would these people be, given that the other communities in Bunia clearly would not
22 have found themselves in that group or in that area?

23 So that is my point of view. But what I can also say is that I saw a few shops, a few
24 trading places at the market and I saw people picking up a thing or two.

25 Q. [16:01:42] Mr Witness, I put it to you that the two video excerpts that you have

1 seen depict the situation in Bunia on 13 May 2003 when the UPC drove out the FNI
2 from Bunia, and at that time all the Hema had left the town, but now under the UPC
3 life had returned to normal; would you agree with me?

4 A. [16:02:16] Yes, I agree with what you have just said.

5 MR BOURGON: [16:02:19] Mr President, I would like to have these two excerpts
6 admitted in the evidence. The witness recognized the area and also just recognized
7 the events depicted therein.

8 PRESIDING JUDGE FREMR: [16:02:33] Prosecution.

9 MS SOLANO: [16:02:34] No objection, your Honour.

10 PRESIDING JUDGE FREMR: [16:02:35] All right, then those two excerpts are
11 admitted into evidence as further Defence exhibits.

12 MR BOURGON: [16:02:51] If I can be informed, Mr President, how many minutes
13 I have left so I can adjust accordingly.

14 PRESIDING JUDGE FREMR: [16:02:58] Yes, we can consult court officer.

15 So, in fact, so far you used 2 hours 45 minutes, which means that you have 15 minutes
16 to originally allotted 3 hours, but since even Prosecution was given a bit more, so
17 I think just to the end of this session, which means half past 4.

18 MR BOURGON: [16:03:30] Thank you, Mr President.

19 Q. [16:03:37] (Interpretation) Witness, in your responses to the Prosecution this
20 morning, you referred to a telephone conversation with Thomas Lubanga; is that
21 correct?

22 A. [16:03:46] Yes, that's correct.

23 Q. [16:03:49] When did that conversation take place?

24 A. [16:03:56] Well, what do you mean exactly? You used the word at what
25 moment, at what time. Well, I do remember what I was doing. I remember we had

1 an exchange with him on the telephone when (Redacted)

2 (Redacted)

3 Q. [16:04:21] Can you be more precise in terms of the exact date?

4 A. [16:04:25] No.

5 Q. [16:04:28] Do you know that Mr Lubanga, after the March 6 events, left and
6 went to Goma?

7 A. [16:04:36] I'm not aware of that.

8 Q. [16:04:40] Can you tell us where Mr Lubanga was when he called you?

9 A. [16:04:45] No, because he didn't tell me where he was. He just said that he
10 wanted us to meet at his place. I am assuming in his residence.

11 PRESIDING JUDGE FREMR: [16:04:59] Mr Witness, we are getting to some
12 personal details.

13 Let's move into private session.

14 (Private session at 4.05 p.m.)

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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9 (Redacted)

10 (Redacted)

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14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Open session at 4.34 p.m.)

18 THE COURT OFFICER: [16:34:49] We're in open session, Mr President.

19 PRESIDING JUDGE FREMR: [16:34:54] Thank you, court officer.

20 Mr Witness, it means that it's concluded your testimony. So on behalf of this

21 Chamber I would like to thank you very much that you underwent such a long

22 journey and that you patiently responded to so many questions put to you by both

23 parties. So thank you very much and we wish you safe journey home.

24 And now, please, court usher, assist Mr Witness to leave the courtroom.

25 THE WITNESS: [16:35:35] (Interpretation) Thank you, Mr President.

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(Open Session)

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1 (The witness is excused)

2 PRESIDING JUDGE FREMR: [16:35:47] And at the very end, as usually, update on
3 timing. So tomorrow we will start testimony of our expert witness, P-939. It's our
4 goal to complete this testimony by the end of the day, so that is why the Chamber
5 intends to sit in extended hours, means three sessions two hours each and to
6 commence at, to start at 9 o'clock.

7 Can I just get update on timing from Prosecution and the Defence?

8 Ms Samson, you have been allotted two and a half hours. Is there any chance that
9 you would make it shorter?

10 MS SAMSON: [16:36:34] Yes, indeed, your Honour, there is a chance that we can
11 complete the examination in two hours. I am not the examining lawyer, but I was
12 told that efforts are being made to reduce the amount of time needed in chief.

13 PRESIDING JUDGE FREMR: [16:36:44] Thank you very much, Ms Samson.
14 According to Defence, they also indicated that they would like to finish in two and a
15 half hours. Am I right, Mr Bourgon?

16 MR BOURGON: [16:36:57] That is correct, Mr President.

17 PRESIDING JUDGE FREMR: [16:36:59] But still I think we have not 100 percent
18 certain that we can avoid those extended hours, so we will have to start at 9 and we
19 will see. If we will see that we are really making progress, then we can adjust our
20 daily programme to that.

21 So we adjourn now and we will resume tomorrow 9 o'clock.

22 THE COURT USHER: [16:37:24] All rise.

23 (The hearing ends in open session at 4.37 p.m.)