

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 3
8 Monday, 3 October 2016
9 (The trial hearing starts in open session at 9.36 a.m.)
10 THE COURT USHER: [9:36:35] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:37:03] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:37:09] Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 For the record, we are in open session.
19 PRESIDING JUDGE FREMR: [9:37:23] Thank you, court officer.
20 Now appearances, please, in habitual order.
21 MR PACE: [9:37:32] Good morning, Mr President, your Honours. For the
22 Prosecution today are Diane Luping, trial lawyer; Rens van der Werf, assistant trial
23 lawyer; Selam Yirgou, case manager; and I am James Pace, assistant trial lawyer.
24 PRESIDING JUDGE FREMR: [9:37:45] Thank you, Mr Pace.
25 Now Defence, please.

1 MR BOURGON: [9:37:52] (Interpretation) Good morning, Mr President. Good
2 morning, your Honours. Good morning to all those present in the courtroom.
3 Representing Bosco Ntaganda, who is present in the courtroom this morning, we are
4 Jules Guillaumé, Erik Cookson-Montin, Dignité Bwiza and myself, Stéphane Bourgon.
5 Thank you, Mr President.

6 PRESIDING JUDGE FREMR: [9:38:15] Thank you, Mr Bourgon.
7 And Legal Representatives of Victims, please.

8 MS PELLET: [9:38:22] (Interpretation) Thank you, Mr President. Former child
9 soldiers are represented by Mohamed Abdou and myself, Sarah Pellet, counsel at the
10 OPCV.

11 MR SUPRUN: [9:38:35] (Interpretation) Good morning, Mr President. Good
12 morning, your Honours. The victims of the attacks are represented by the OPCV
13 today, Anne Grabowski and myself, Dmytro Suprun, counsel.

14 PRESIDING JUDGE FREMR: [9:38:46] Thank you, Ms Pellet. Thank you,
15 Mr Suprun.

16 First before we proceed with the cross-examination of our witness, two points
17 concerning organisational procedure. The first one, since we are still even if slightly
18 behind our schedule, the Chamber intends to sit in partial extended hours, which for
19 today means to sit from 9.30 to 11 and then to have two, two-hour sessions from 11.30
20 till 1.30 and then from 3 p.m. till 5 p.m.

21 And the second issue, I would like to clarify the status of items admitted through this
22 witness on Friday, because the proceedings was a bit hectic so just to make it fully
23 clear, but we have to move into private session to do so.

24 Court officer, please.

25 (Private session at 9.39 a.m.)

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(Open Session)

ICC-01/04-02/06

1 (Open session at 9.45 a.m.)

2 PRESIDING JUDGE FREMR: [9:45:59] Mr Bourgon.

3 MR BOURGON: [9:46:00] Thank you, Mr President. As the witness enters the
4 courtroom, I would just like to indicate to the Chamber, last Friday, I refer here to
5 transcript 144 on page 5, lines 15 to 22, this is when Mr Ntaganda addressed the Trial
6 Chamber very briefly. Having looked at the transcript over the weekend and
7 verified the matter with Mr Ntaganda, there appears to be significant differences
8 between what appears in the transcript and what Mr Ntaganda said. So we have
9 contacted the translation department. Apparently they are not used to putting on
10 the record words pronounced in Kinyarwanda and that would be the reason why
11 there would be some material differences, so we're just going to put a request through
12 to ensure that we have the proper words that were pronounced in accordance with
13 the audio recording. Thank you.

14 PRESIDING JUDGE FREMR: [9:47:02] Thank you. And keep us posted if there will
15 be a need to -- of any assistance from the Chamber.

16 Now, Mr Witness, good morning. Can you hear me?

17 WITNESS: DRC-OTP-P-0030 (On former oath)

18 (The witness speaks Swahili)

19 THE WITNESS: [9:47:21] (Interpretation) Good morning. I can hear you very
20 clearly.

21 PRESIDING JUDGE FREMR: [9:47:26] (Overlapping speakers) Sorry to start too
22 early.

23 Mr Witness, from your face, I see that you are feeling okay, so I assume that you are
24 ready to testify, or continue in giving your testimony.

25 THE WITNESS: [9:47:45] Yes, I am ready to continue.

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1 PRESIDING JUDGE FREMR: [9:47:49] Very well.

2 So again it's my duty to remind you that you are still under oath, which means that
3 you have to speak just the truth and nothing but the truth.

4 And the second issue, it's also my duty to remind you the practical aspects of your
5 testimony, especially our requirement for you to keep or to observe pauses, at least
6 three seconds, between question put to you by Mr Bourgon and between your start of
7 giving your response. So please don't forget about that.

8 Now, Mr Bourgon, you have the floor. Mr Bourgon, do you want to remain in open
9 session or do you want to change into private session?

10 MR BOURGON: [9:48:37] I believe, Mr President, that we can begin in open session.

11 PRESIDING JUDGE FREMR: [9:48:42] And please, it concerns, just caveat to both
12 parties, please remain vigilant because if you look back there were many redaction
13 orders from Friday so I would like to avoid repetition of this.

14 Please proceed, Mr Bourgon.

15 MR BOURGON: [9:48:59] Thank you, Mr President.

16 QUESTIONED BY MR BOURGON:

17 Q. [9:49:09] Good morning, Mr Witness.

18 A. [9:49:10] Good morning.

19 Q. [9:49:13] We have not had the opportunity of meeting each other before, so
20 allow me to begin by introducing myself. My name is Stéphane Bourgon, and along
21 with my colleagues here, we represent the accused in this case, Mr Bosco Ntaganda.

22 Do you understand this?

23 A. [9:49:44] Yes, I understand.

24 Q. [9:49:48] I have, of course, a number of questions to put to you over the next few
25 hours regarding (Redacted)

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1 (Redacted)

2 PRESIDING JUDGE FREMR: [9:50:12] Mr Bourgon, sorry to interrupt you but, first
3 of all, we have to redact your -- you mentioned profession of our witness, which
4 could be of an identifying nature, so I'm afraid -- and probably it's logical that you
5 will continue in that direction, so if your next -- I can hardly imagine that you will
6 avoid that, that if you have to mention the profession of our witness, we have to move
7 into private session. Anything which is connected with that.

8 MR BOURGON: [9:50:52] Let's move into private session, Mr President, please.

9 PRESIDING JUDGE FREMR: [9:50:55] So let's move into private session. There's
10 nobody in the public gallery, for the record, and we also will have to redact this part
11 of Mr Bourgon's question.

12 (Private session at 9.51 a.m.)

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15 (Redacted)

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17 (Redacted)

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11 (Open session at 11.05 a.m.)
12 THE COURT OFFICER: [11:05:19] We are in open session, Mr President.
13 PRESIDING JUDGE FREMR: [11:05:21] Thank you, court officer. So we take now
14 our regular 30-minute break, which means that we will resume at 11.35.
15 THE COURT USHER: [11:05:33] All rise.
16 (Recess taken at 11.05 a.m.)
17 (Upon resuming in open session at 11.41 a.m.)
18 THE COURT USHER: [11:41:32] All rise.
19 Please be seated.
20 PRESIDING JUDGE FREMR: [11:42:09] We will continue in cross-examination of
21 our witness.
22 Even a rather premature reminder, Mr Bourgon, Defence have been allotted eight
23 hours. So far you used slightly more than one hour, so you still have more than
24 almost, almost seven hours.
25 Mr Bourgon, do you want to -- I guess we will have to proceed in private session.

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1 MR BOURGON: [11:42:36] Indeed, Mr President.

2 PRESIDING JUDGE FREMR: [11:42:37] All right. Court officer, let's move into
3 private session.

4 (Private session at 11.42 a.m.)

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15 (Open session at 1.33 p.m.)

16 THE COURT OFFICER: [13:33:23] We are in open session, Mr President.

17 PRESIDING JUDGE FREMR: [13:33:24] Thank you. And before we break, minor

18 correction on the transcript for my part, English transcript, page 45, line 11, the word

19 "completing" is incorrect and should be substituted by right or correct word "leading".

20 And now we break and we will resume at 3 o'clock and the last session will take until

21 5 o'clock.

22 THE COURT USHER: [13:33:55] All rise.

23 (Recess taken at 1.33 p.m.)

24 (Upon resuming in open session at 3.03 p.m.)

25 THE COURT USHER: [15:03:35] All rise.

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1 Please be seated.

2 PRESIDING JUDGE FREMR: [15:03:55] Good afternoon. I would like to ask you
3 for some update because I see some even minor changes in appearances.
4 Prosecution.

5 MR PACE: [15:04:11] Yes, your Honour, Mr Rens van der Werf has left the
6 courtroom and we have been joined by Ms Nicole Samson, senior trial lawyer.

7 PRESIDING JUDGE FREMR: [15:04:25] Thank you, Mr Pace.

8 As concerns Defence, I see there is no change, am I right, Mr Bourgon?

9 MR BOURGON: [15:04:30] No change, Mr President, thank you.

10 PRESIDING JUDGE FREMR: [15:04:32] Thank you. But I see one change
11 concerning Legal Representatives for Victims.

12 MR ABDOU: [15:04:38] Indeed, Mr President, Ms Sarah Pellet has left the
13 courtroom, for the former child soldiers.

14 PRESIDING JUDGE FREMR: [15:04:48] Thank you. And before we continue with
15 cross-examination of the witness, I will first deliver our ruling on Prosecution
16 requests for protective measures for Witness P-365. The beginning of that will be
17 delivered in open session, but in the middle I will move into private.

18 So, on 18 August 2016, the Prosecution sought in-court protective measures for six
19 witnesses in filing number 1475. In the present ruling, the Chamber shall only
20 address the request for in-court protective measures in the form of face and voice
21 distortion for Witness P-365 during her testimony and the use of a pseudonym for the
22 purposes of the trial.

23 The Defence opposed the request on 2 September 2016, that is filing number 1487.

24 On 30 September 2016, the Chamber received by way of email the VWU's assessment
25 in respect of Witness P-365, which recommends the same protective measures

1 requested by the Prosecution.

2 The Chamber incorporates by reference the applicable law set out in its first decision
3 on in-court protective measures bearing filing number 824.

4 In assessing whether there is an objectively justifiable risk to the witness, the
5 Chamber recalls that there are reported instances where other witnesses were
6 allegedly threatened as a result of their involvement with the Court. In that regard,
7 as the Chamber has previously held, the general security situation in the region may
8 be a relevant consideration in respect of specific witnesses.

9 In this instance it's noted that the witness is not currently in the ICCPP, protection
10 programme, and resides with the witness's family in areas where former UPC/FPLC
11 and supporters of the accused are present or continue to have influence.

12 And now, court officer, let's move into private session for the next part of the ruling.

13 (Private session at 3.07 p.m.)

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5 (Open session at 3.11 p.m.)

6 THE COURT OFFICER: [15:11:42] We are in open session, Mr President.

7 PRESIDING JUDGE FREMR: [15:11:49] Yes, because there is nothing that could
8 identify this witness, we can in the meantime take the witness back to the courtroom.
9 But I think I can continue.

10 So the Chamber has just provided some of its reasoning in private session. In light
11 of what was just mentioned, the Chamber is satisfied that there exists an objectively
12 justifiable risk with respect to the security and well-being of Witness P-365 and the
13 witness's family, warranting the protection of the witness's identity from the public.
14 The Chamber further finds that the in-court protective measures sought do not
15 unduly infringe upon the rights of the accused, noting that the Defence and accused
16 will be able to see the witness give evidence at trial and to hear the witness's voice
17 without distortion.

18 Accordingly, the Chamber grants the measures of use of a pseudonym for the
19 purposes of the trial and voice and face distortion during testimony, pursuant to
20 Rule 87.

21 This concludes the Chamber's ruling.

22 (The witness enters the courtroom)

23 PRESIDING JUDGE FREMR: [15:13:06] And now we can continue with
24 cross-examination of our witness which I suppose will be conducted in private
25 session.

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1 Mr Bourgon, could you confirm?

2 MR BOURGON: [15:13:17] I do confirm, Mr President.

3 PRESIDING JUDGE FREMR: [15:13:19] All right.

4 So now, court officer, again return back into regime of private session.

5 (Private session at 3.13 p.m.)

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- 16 (Redacted)
- 17 (Open session at 4.12 p.m.)
- 18 THE COURT OFFICER: [16:12:18] We're in open session, Mr President.
- 19 PRESIDING JUDGE FREMR: [16:12:25] Thank you, court officer.
- 20 Mr Bourgon, please proceed.
- 21 MR BOURGON: [16:12:28] Thank you, Mr President.
- 22 Q. [16:12:30] Mr Witness, we're now in public session, so if there's any answer or
- 23 information that you provide which in your belief could identify you, please raise
- 24 your hand immediately so that we can return into private session.
- 25 Sir, I suggest to you that during this period, that is until Kisembo returned to free the

1 town, as you testified earlier, that the UPDF did patrol in Bunia but that they were not
2 able to stop the situation created by the Lendu combatants. Is that something you
3 experienced or that you can confirm?

4 A. [16:13:35] There were Lendu commanders like Mathieu Ngudjolo and others
5 from Mongbwalu. Sometimes we would learn that somebody had killed somebody
6 at the mosque and we would receive other information that others were being killed
7 in other places. Mathieu Ngudjolo, who was living in Mongbwalu, went
8 everywhere. The UPDF and its patrols, they did patrol but they didn't stop the
9 Lendu carrying out these crimes or looting. They weren't interested in that.

10 Q. [16:14:39] Sir, in terms of the situation in between the battle of 6 March and the
11 return of Kisembo, my understanding is that you're familiar with the creation and
12 arrival in Bunia of the CPE, commission de pacification de l'Ituri. Do you have
13 recollection of this, sir?

14 A. [16:15:27] Yes.

15 Q. [16:15:33] Sir, if I suggest to you April 2003 as a time frame where the
16 commission de pacification de l'Ituri returned to Bunia, would you agree with me that
17 at some point in time the situation was returning somewhat to normal in Bunia?

18 A. [16:16:08] Yes.

19 Q. [16:16:13] Now, as part of the situation as it was evolving in Bunia, my
20 understanding is you're able to confirm that the withdrawal, the full withdrawal of
21 UPDF, was known to the population. Can you confirm this?

22 A. [16:16:57] The UPDF was located in the vicinity of the airport. That's where it
23 had its base. After an attack they would withdraw, pull back to the airport. They
24 would come into town to patrol and then return to the airport. Ngudjolo and the
25 Lendu continued on with the looting, et cetera. They didn't stay, however, in Bunia.

1 They would return to their village. They returned to the hill by Zumbe. If some of
2 them did stay, they were few in number, stay in Bunia, that is.

3 Q. [16:17:40] Sir, maybe my question was not clear enough. Are you familiar
4 with the fact that on 6 May 2003, the UPDF formally withdrew from the Bunia area,
5 actually from Ituri?

6 A. [16:18:06] Yes, yes, I am aware of that.

7 Q. [16:18:09] And what I would like to know is, are you able to confirm that the
8 fact that the UPDF was about to withdraw from Ituri was well known in whatever
9 was left of the population at the time; is that correct?

10 A. [16:18:39] Yes, that was known. Everyone was aware because they went
11 through town and they were throwing francs, our local currency, and they were
12 showing their shillings, indicating that they were going home. Everybody knew
13 they were leaving. And they were tossing about Congolese francs. So the people
14 who lived in town would pick up the Congolese francs on the ground, and they
15 were -- they're flashing their shillings, saying that they're going home.

16 Q. [16:19:39] And, sir, I would like to know if you are able to confirm that even
17 before the formal withdrawal of the UPDF, the Lendu combatants again started heavy
18 looting in Bunia. Are you able to confirm this situation?

19 A. [16:20:12] The Lendu combatants were looting the whole time. They would
20 come and go, come back. I think that they even came from Medhu and other
21 villages. Even Ngiti came, I think. They would come in, loot, pull out again.
22 Others would come in, loot, and go home. There were large numbers of them.

23 Q. [16:20:49] Sir, now you referred to Kisembo basically freeing Bunia -- I'm not
24 sure what you word you used, "liberating" or "freeing" Bunia. Now I'd like you to, if
25 you can confirm, that the UPC was not -- nowhere to be seen close to Bunia until

1 Kisembo freed the town. Would you agree with that proposition?

2 A. [16:21:37] We were with UPC deserters who had not left. We were with
3 them.

4 Q. [16:21:53] Now, sir, I refer not to the UPC deserters. You mentioned that
5 there were some of those in town. I'm talking about Kisembo's force that took over
6 Bunia in May, I just suggest to you that they were nowhere to be seen close to Bunia
7 until that attack took place. Would you agree with this, sir?

8 A. [16:22:34] Kisembo was in the vicinity of Mamedì. He came in from there
9 with his soldiers to attack Bunia. That's how things unfolded.

10 Q. [16:22:52] And we have this in your information that you provided at other
11 times, that Kisembo came in to liberate Bunia around 12 May. You can confirm this?

12 A. [16:23:25] When it comes to dates, I am not sure at all. I don't know if the
13 dates that are being mentioned here are correct. (Redacted)
14 (Redacted)

15 Q. [16:23:57] Thank you, sir.

16 What I'd like to do, Mr President, if we can move into private session, please.

17 PRESIDING JUDGE FREMR: [16:24:04] For sure.

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

19 (Private session at 4.24 p.m.)

20 (Redacted)

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9 (Open session at 4.28 p.m.)

10 THE COURT OFFICER: [16:28:53] We are in open session, and you have the floor,
11 Mr Bourgon.

12 MR BOURGON: Thank you.

13 THE INTERPRETER: [16:28:56] Mr President, the interpreters are not sure to have
14 the exact documents that are being referred to in the booth.

15 PRESIDING JUDGE FREMR: [16:29:05] So, Mr Bourgon, in spite of your
16 announcement that the interpreters were provided with copies of transcripts and
17 translation, they are now informing the Chamber that they were not.

18 MR BOURGON: [16:29:22] Let me verify, Mr President. I thought that they had
19 the document. I will just verify right now.

20 THE COURT OFFICER: [16:29:35] The Registry could publish the document on the
21 evidence 1 channel, if that helps.

22 MR BOURGON: [16:29:50] If we have to give a paper copy, we have not given a
23 paper copy, so we can do so immediately. If I can have the assistance of the Court
24 usher or I can send someone right around the corner to go up and provide these
25 documents.

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1 THE COURT OFFICER: [16:30:12] The Registry will publish the document on the
2 evidence 1 channel for the ease of the interpreters.

3 PRESIDING JUDGE FREMR: [16:30:20] Yes, it will be much easier.

4 THE INTERPRETER: [16:30:22] Mr President, for the purposes of efficiency, if the
5 document is translated into French, the Swahili booth will read out the document in
6 French and the English booth will relay from the Swahili booth.

7 PRESIDING JUDGE FREMR: [16:30:42] So court officer, have you heard the
8 interpreters' comment? Is it fine with you technically? Okay. Fine.

9 MR BOURGON: [16:30:59] Do I need to say the references again or --

10 PRESIDING JUDGE FREMR: [16:31:09] It seems the documents are almost ready.

11 MR BOURGON: [16:32:05] Mr President, when this exhibit was admitted in
12 evidence, we had not provided at that point in time the translation and the
13 transcription, but we would like to have at this point in time the transcription and the
14 translation admitted.

15 PRESIDING JUDGE FREMR: [16:32:23] Noted.

16 MR BOURGON: [16:32:42] I see that we're ready to go, Mr President. So we will
17 start with -- it starts at minute 40.51 to 43.02.

18 Q. [16:32:57] Mr Witness, please take a look at your screen, and I'll have some
19 questions for you based on what will be depicted in the video.

20 (Viewing of the video excerpt)

21 PRESIDING JUDGE FREMR: [16:33:52] Sorry, we don't have any translation.
22 Please stop it.

23 MR BOURGON: [16:34:07] Mr President, there is nothing to translate at this point
24 in time.

25 PRESIDING JUDGE FREMR: [16:34:13] Okay, that's fine. Then let's continue.

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1 MR BOURGON: [16:34:16] It would be too complicated to try and get every word.

2 PRESIDING JUDGE FREMR: [16:34:22] Understandable. Fine.

3 (Viewing of the video excerpt)

4 MR BOURGON: [16:35:54] I'm not sure I did hear a translation when there was a
5 few sentences, but I can just move right along and ask some questions and then we
6 can provide an English translation.

7 PRESIDING JUDGE FREMR: [16:36:06] It would help, yes.

8 MR BOURGON: [16:36:10]

9 Q. [16:36:10] Mr Witness, the video that was just played on your screen, my first
10 question is: Did you notice that the date on the screen was 3 May 2003? Did you
11 notice this?

12 A. [16:36:34] The date is in May. March 2003. It starts with the month.

13 Q. [16:36:57] We'll just show you the video, the beginning part again so that you
14 can see the date at the bottom. Do you see the date as being May 3, 2003?

15 A. [16:37:21] Yes, that's what I said. I can see the date in the middle. It is with
16 the month -- it starts with the month of May.

17 Q. [16:37:34] Second question, sir --

18 A. [16:37:36] And the year is 2003.

19 Q. [16:37:42] Second question, sir: You are able to -- did you see at the end of
20 the short extract a vehicle?

21 A. [16:38:06] Yes, I saw it.

22 Q. [16:38:10] Are you able to confirm that this is the type of vehicle used by the
23 UPDF to patrol town?

24 A. [16:38:27] That is an armoured vehicle of the UPDF. I do not know what they
25 used it for. I know nothing about UPDF activities. All I know is that this is an

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1 armoured vehicle belonging to the UPDF.

2 Q. [16:38:50] Now, sir, you are able to confirm that 3 May is just days before the
3 withdrawal of the UPDF from Ituri; is that correct?

4 A. [16:39:11] Maybe. That might have been part of their preparations.

5 Q. [16:39:28] Now, sir, I will read for you from the translation of the transcript of
6 this video, just one short paragraph. I am reading from DRC-OTP-0177-0129 and
7 that is on page 0131. And I read from lines 53 to 55. It is in French.

8 (Interpretation) "Bunia town is completely empty. No one in the city. In each
9 area combatants are coming out with machetes ... some with gunshots and holding
10 their rifles ... looking out for enemies, enemies who are fleeing. Now, who then the
11 enemy?"

12 (Speaks English) Then it goes on to line 60 where the answer is provided as "UPC".

13 Sir, does this paragraph correspond to your knowledge of what was happening in the
14 early days of the month of May 2003 in Bunia?

15 A. [16:42:11] Well, they were chasing after the enemy of the UPC. They are of
16 Hema ethnicity, yes they were being chased after. That I know. But please do not
17 ask me questions about things that happened when I was not present and that I know
18 nothing about.

19 Q. [16:42:36] The aim of showing you this video, sir, is to ask you if you are aware
20 of the situation in Bunia (Redacted) on
21 13 May?

22 PRESIDING JUDGE FREMR: [16:42:53] We have to move into private session.

23 (Private session at 4.43 p.m.)

24 (Redacted)

25 (Redacted)

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4 (Open session at 4.47 p.m.)

5 THE COURT OFFICER: [16:47:06] We're in open session, Mr President.

6 PRESIDING JUDGE FREMR: [16:47:15] Mr Bourgon, are you sure that it will not
7 limit Mr Witness in giving answer to your question?

8 MR BOURGON: [16:47:21] Well, Mr President, if it does then I'll go immediately
9 back into private session.

10 PRESIDING JUDGE FREMR: [16:47:26] All right.

11 MR BOURGON: [16:47:27] I'd just like to verify whether a paper copy is required
12 or if it's possible to publish the transcription and translation?

13 THE COURT OFFICER: [16:47:43] Have you provided the interpreters with a
14 paper copy? Okay. Thank you.

15 PRESIDING JUDGE FREMR: [16:47:53] Yes, our court usher will assist.

16 MR BOURGON: [16:48:34]

17 Q. [16:48:36] Mr Witness, we're in public session, and we will play this part
18 which of course will be interpreted in English for everyone in the courtroom.
19 I believe, Mr President, based on the time, that we will watch this extract and then
20 I think that would be it for today and I will keep my questions for tomorrow
21 morning.

22 PRESIDING JUDGE FREMR: [16:49:16] Even if it's not ideal, okay, let's try.

23 THE INTERPRETER: [16:49:30] The microphone was still engaged and we didn't
24 hear what the Presiding Judge said.

25 PRESIDING JUDGE FREMR: [16:49:36] No, no, it was just confirmation that we,

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1 the Chamber, is fine with Mr Bourgon's proposal just to start with video itself and
2 then tomorrow continue with questioning on that excerpt.

3 So are the interpreters ready to translate?

4 THE INTERPRETER: [16:50:03] Mr President, the materials are coming in now.

5 And we're not really complaining but it's generally better to receive this ahead of time
6 so we can prepare and avoid this. We'll send some of the documents to the
7 Kiswahili booth, and to the French booth and then we have a copy in the English
8 booth. That should take about five minutes.

9 PRESIDING JUDGE FREMR: [16:50:24] Mr Bourgon, maybe for tomorrow if you
10 are planning the same exercise, please provide our interpreters in advance.

11 MR BOURGON: [16:50:34] Definitely, Mr President.

12 THE INTERPRETER: [16:51:01] Mr President, we need the assistance of the court
13 usher to meet up with the interpreter downstairs because we don't have crossing
14 rights to the other side of the aisle. So if the court usher would come to the door this
15 way to her right then we would bring the documents for the French booth to her.

16 PRESIDING JUDGE FREMR: I believe court usher --

17 THE INTERPRETER: Thank you, sir.

18 PRESIDING JUDGE FREMR: [16:51:38] -- took your message.

19 Mr Bourgon, what is the duration of this excerpt?

20 MR BOURGON: [16:51:43] Mr President, the duration is from 11 minutes to 23,
21 just over 12 minutes.

22 PRESIDING JUDGE FREMR: [16:51:50] All right. But then we will anyway have
23 to break after those 12 minutes.

24 So I would like to ask interpreters as soon as you are ready, please let us know.

25 THE INTERPRETER: [16:53:03] I think with the return of the court usher, then the

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1 documents would have been taken to the other side. I see she's in the French booth.

2 MR BOURGON: [16:54:09] Mr President, I will verify tonight, but I believe last
3 time when this -- the previous extract that I played had been admitted for the purpose
4 of impeachment, and this time I would like to have the video admitted for the truth of
5 its contents, like the other Prosecution videos.

6 PRESIDING JUDGE FREMR: [16:54:33] And as to the translation and transcript,
7 do you think it's also necessary to admit even if you ask witness about?

8 MR BOURGON: [16:54:43] I will verify, Mr President. If the main paragraph was
9 read and I got the answer, I will not seek to have it admitted. I can confirm
10 tomorrow morning, Mr President.

11 PRESIDING JUDGE FREMR: [16:54:55] So for the moment, Mr Pace, as concerns
12 request made by Mr Bourgon to admit the video excerpt played just few minutes ago
13 into evidence, what is your position?

14 MR PACE: [16:55:07] I would need to move into private session to make my
15 submissions, your Honour.

16 PRESIDING JUDGE FREMR: [16:55:17] All right. Let's move into private session.

17 (Private session at 4.55 p.m.)

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9 (Open session at 4.59 p.m.)

10 THE COURT OFFICER: [16:59:52] We are in open session, Mr President.

11 PRESIDING JUDGE FREMR: [16:59:55] Thank you, court officer.

12 Mr Witness, I would like to thank you for your today's testimony. It was long day
13 for you and I can imagine it was very tiring. Very likely we will conclude your
14 testimony tomorrow and it's my duty to remind you that in the meantime you must
15 not discuss your testimony with anybody else. Do you understand?

16 THE WITNESS: [17:00:29] (Interpretation) Yes.

17 PRESIDING JUDGE FREMR: [17:00:33] Fine.

18 Court usher, please assist Mr Witness to leave the courtroom.

19 (The witness stands down)

20 PRESIDING JUDGE FREMR: [17:00:43] And as concerns timing, according my
21 information and I got just the most recent -- at the moment I don't have exact, exact
22 timing, but at least roughly Mr Bourgon so far has exhausted a little bit more than
23 four hours, so he is slightly after the half of the time allotted to him.

24 Mr Bourgon, do you have for us any estimation for tomorrow in order to allow
25 Prosecution to be prepared for next witness? It seems that you still have something

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1 like 3.40, 3.50. Do you think you will need all that time?

2 MR BOURGON: [17:01:34] I do, Mr President.

3 PRESIDING JUDGE FREMR: [17:01:37] All right. So even that I believe that we
4 can start in the afternoon the testimony of the next witness.

5 Is the Prosecution, I hope so, ready for that?

6 MR PACE: [17:01:45] We are, your Honour.

7 PRESIDING JUDGE FREMR: [17:01:47] Just comment from my part. If I am not
8 wrong, the next one should be 365. You have been allotted three hours. Still I am
9 keeping this limit, but maybe still think about at least partially shortening maybe to
10 two hours and a half because in my view, at least as I can see, maybe I am not aware
11 of all details, at least the topic is topic that already have been dealt with some
12 witnesses, also believe that it will be mainly information based on hearsay got by this
13 witness from other persons. She also will be testifying in French, which also should
14 facilitate a bit the testimony.

15 So as I said, you have three hours, but still I think in very well organisation it could be
16 maybe hopefully made in a bit shorter time. And if you will succeed, then the
17 Defence will be given the same time. Otherwise, anyway because we are still -- even
18 because of some technical problems and other reasons we are still behind our
19 schedule, it means that we will have sit tomorrow in the same regime like today,
20 which means first session 9.30 till 11, then 11.30 till 1.30 and the last session like today
21 from 3 till 5.

22 Now we adjourn and we will reconvene tomorrow 9.30.

23 THE COURT USHER: [17:03:28] All rise.

24 (The hearing ends in open session at 5.03 p.m.)