

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing - Courtroom 2
7 Monday, 11 September 2017
8 (The hearing starts in open session at 9.30 a.m.)
9 THE COURT USHER: [9:30:35] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:30:57] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:31:11] 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: [9:31:26] Thank you, court officer.
19 Appearances, please, now.
20 MS SAMSON: [9:31:29] Good morning, Mr President. Good morning,
21 your Honours. For the Prosecution today are Ms Kristy Sim, Ms Selam Yirgou and
22 myself, Nicole Samson.
23 PRESIDING JUDGE FREMR: [9:31:38] Thank you, Ms Samson.
24 Defence, please.
25 MR BOURGON: [9:31:41] (Interpretation) Good morning, your Honour.

1 Representing Bosco Ntaganda, who is present in the courtroom, Marie Mescam,
2 Benjamin Nodet, David Wagen-Magnon, Jean Baptiste Gasominari and myself,
3 Stéphane Bourgon.

4 Your Honour, with the leave of the Chamber, Counsel Martineau will join us in the
5 middle of the session. She is attending a medical appointment.

6 PRESIDING JUDGE FREMR: [9:32:15] Thank you, and your request is granted.
7 Now Legal Representatives of Victims, please.

8 MS PELLET: [9:32:21] (Interpretation) Thank you, your Honour. The former
9 child soldiers are represented by myself, Sarah Pellet, counsel with the Office of
10 Public Counsel for Victims.

11 MR SUPRUN: [9:32:34] (Interpretation) Good morning, your Honour,
12 your Honours. For the victims of the attacks today, Anne Grabowski, associate
13 counsel, and myself, Dmytro Suprun, Office of Public Counsel for Victims.

14 PRESIDING JUDGE FREMR: [9:32:48] Thank you, Ms Pellet. Thank you,
15 Mr Suprun.

16 Before we continue with our agenda, I appreciated that all of you came on time,
17 which mean 9.15. It was in fact full up to the wish of the Registry to facilitate
18 technically those three simultaneous hearing. Unfortunately, there were some
19 technical issues so we are in fact starting also 9.30. But anyway, we will have to keep
20 the original schedule because of some technical consequences, so we will have to
21 finish this session quarter to 11.

22 Now we will continue with redirect conducted by Defence, by its main counsel,
23 Mr Bourgon, and I am just repeating that we granted Defence for this task eight
24 hours.

25 Mr Bourgon, you have the floor.

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1 MR BOURGON: [9:33:55] Thank you, Mr President.

2 WITNESS: DRC-D18-D-0300 (On former oath)

3 (The witness speaks Swahili)

4 QUESTIONED BY MR BOURGON:

5 Q. [9:34:07] Good morning, Mr Ntaganda.

6 A. [9:34:09] Good morning.

7 Q. [9:34:10] Mr Ntaganda, we are about to embark on what's called
8 re-examination. You've seen that conducted on a number of occasions. I will take
9 you to issues that were raised in cross-examination and ask you for either clarification
10 or additional information.

11 As you can see, Mr Ntaganda -- well, I'm not sure if you are able to make the
12 difference, but I am now speaking in English because I believe that this will make it
13 easier for everyone in the courtroom to follow and keep all the references to the
14 transcript in English, and that will, hopefully, avoid some moving back and forth
15 between the French and the English transcript when I will make such references.

16 Mr Ntaganda, the first topic I would like to raise with you has to do with the
17 departure of the Chui mobile force from Bunia to go and undergo some training in
18 Uganda.

19 In transcript 231, page 24, line 23, to page 25, line 2, this is the question that was put to
20 you and your answer:

21 Question: "The Chui mobile force and yourself returned to Bunia on 24 August 2000,
22 correct?"

23 Your answer was as follows: "I no longer remember the date, the exact date. I
24 remember that we went to Uganda at the end of October. Yes, I don't remember the
25 exact date which we went to Bunia."

1 This was the question and your answer. Now, my question, Mr Ntaganda, is the
2 following: What is your basis to state or to recall that you left to Uganda at the end
3 of October?

4 A. [9:36:59] The only thing I can base myself on is that when we arrived in
5 Uganda, we had spent some days and there was fighting; there had been fighting
6 concerning Mbusa Nyamwisi and Wamba Dia Wamba, and we recovered some
7 officers from the army who joined us in Jinja and followed training with us. That's
8 the only reference that I can base myself in order to make this assertion.

9 Q. [9:37:38] Do you recall the names of any officers who would have been
10 involved in the fighting between Mbusa Nyamwisi and Wamba Dia Wamba who
11 followed the training with you in Uganda?

12 A. [9:38:01] Yes. I remember certain names.

13 Q. [9:38:10] Can you share some of these names with us?

14 A. [9:38:26] Yes. There was Commander Salumu, the second was
15 Commander Kitenge, and the third was called Sangote. There was also another
16 called Moïse. Those are the names that I remember today. But if I remember
17 another, I will also be able to give you that.

18 Q. [9:39:02] Just to be clear, Mr Ntaganda, are these the names of persons who
19 were involved in the fighting between Mbusa Nyamwisi and Wamba Dia Wamba?

20 A. [9:39:23] Yes. These officers that I just mentioned, they were in the battalion
21 called Usalama, and it was this battalion which attacked Wamba Dia Wamba, and
22 afterwards these officers were brought and they followed training with us in Jinja.

23 Q. [9:39:51] Two documents were shown to you, Mr Ntaganda, in relation to this
24 date of 24 August, and I would like to cover one of the two with you. That is the
25 document number 1304 on the list of Prosecution exhibits, and the number is

1 DRC-OTP-0100-0164. It's a public document. Mr Ntaganda, I will ask you to take a
2 look at the first page of this document.

3 PRESIDING JUDGE FREMR: [9:40:40] Mr Bourgon, I'm very sorry that I have to
4 interrupt you. I forgot one important thing, and it's the delivery of our oral ruling,
5 which in fact I intended to make at the beginning of this session. Sorry for that. I
6 will have to interrupt for five minutes, which will allow me to make it.

7 So the Chamber shall now deliver its oral ruling on the Defence request relating to
8 certain documents subject to disclosure restrictions pursuant to Article 54(3)(e) of the
9 Statute.

10 For the record, I briefly recall that during the hearing of 4 September 2017 that this
11 transcript number 235, the Chamber heard submissions on 34 documents obtained by
12 the Prosecution from the United Nations during a seizure operation. These 34
13 documents, which I will refer to as documents, are considered by the Prosecution to
14 be disclosable to the Defence but are subject to a confidentiality agreement pursuant
15 to Article 54(3)(e) of the Statute.

16 The Defence noted that the document appeared to include official UPC documents
17 and appeared to directly relate to the testimony of Mr Ntaganda. According to the
18 Defence, the pending United Nations' authorisation to lift the protection of the
19 documents should be treated as a refusal to do so, and therefore in line with the
20 practice of the Court in the Lubanga case. It therefore requests that the Prosecution
21 be ordered to disclose substitute documents and/or summaries prior to the start of the
22 Defence re-examination of Mr Ntaganda. The Prosecution considered this approach
23 to be premature, noting that it would liaise with the United Nations in relation to the
24 lifting of the restrictions and committed to verifying whether the relevant information
25 is also contained in other documents.

1 During the hearing of 7 September 2017, that is, transcript number 239, the
2 Prosecution informed the Chamber that the request to lift the restrictions on the
3 documents has been communicated to and is being examined by the United Nations
4 but that it's unlikely that the response will be received by 8 September.

5 The Prosecution further informed the Chamber that it has identified analogous
6 evidence for two of the documents which would be communicated to the Defence
7 that day. The Defence reiterated the importance of the documents for the
8 commencement of its re-examination and indicated that upon disclosure of the
9 documents it might ask for additional time for examination-in-chief of Mr Ntaganda
10 with respect to the documents.

11 On 7 September 2017, the Prosecution transmitted the documents as well as the
12 analogous evidence to the Chamber in line with the Chamber's direction. Noting the
13 Prosecution's determination that the documents are disclosable to the Defence and
14 having conducted a preliminary review of the documents, the Chamber orders the
15 Prosecution to continue its consultations with the United Nations and in the
16 meantime to identify and disclose to the Defence any documents which contain
17 information similar to the content in the documents.

18 In addition, where necessary, the Prosecution shall further start preparing summaries
19 of the documents in consultation with the United Nations, if required.

20 Noting further that this ruling is without prejudice to any future request by the
21 Defence to recall Mr Ntaganda, if necessary, to examine him further in relation to
22 these documents if appropriate, the Chamber considers that there is no prejudice to
23 the Defence to commence its re-examination of Mr Ntaganda pending disclosure of
24 the documents or the information contained therein.

25 This concludes the Chamber's ruling.

1 So before I return the floor to Mr Bourgon, is there any request for the floor in
2 connection with this ruling? I don't see any request, so please, Mr Bourgon, you may
3 proceed.

4 MR BOURGON: [9:46:03] Thank you, Mr President.

5 Q. [9:46:10] Mr Ntaganda, I mentioned that I would go to this document and I
6 read the number of the document. If I can have the first page of the document on the
7 screen, please.

8 So, Mr Ntaganda, this document you've seen during cross-examination. It is a
9 document dated March 2001, and the title of the document is "Uganda in Eastern DRC:
10 Fueling Political and Ethnic Strife." I would like to bring you to the paragraph which
11 was read to you. This was done in transcript 231, page 21, at lines 2 to 12. And
12 I would like to have on the screen, please, page of this document 0175.

13 The document should be before you, Mr Ntaganda. Can you see the document?

14 A. [9:48:10] Yes, Counsel.

15 Q. [9:48:16] I would like to go to move -- go down on the same page to the
16 paragraph that bears the title "Léopard Mobile", and if we can focus on these two
17 paragraphs, starting at Léopard Mobile and the following paragraph. Yes. Thank
18 you.

19 Mr Ntaganda, I'd like to explore this document with you so that you can give us your
20 feedback as to whether the information contained in this document is, according to
21 your knowledge, accurate.

22 The first sentence reads as follows. It is in English and it says:

23 "In July, some RCD-ML military elements, mostly Hema and including some
24 Congolese Tutsi known as the Banyamulenge, left the RCD-ML to join local Hema
25 militiamen in the bush."

1 I stop here. My first question, Mr Ntaganda, is: What is or who are the
2 Banyamulenge?

3 A. [9:49:45] Generally speaking, you see, in the Congo, this happened when
4 Mobutu was driven out of power, a group of Tutsis emerged, Congolese Tutsi, and
5 they were called the Banyamulenge. That happened in 1996. That is when the term
6 Banyamulenge began to be used to designate or speak of the Congolese Tutsis.

7 Q. [9:50:40] My question, Mr Ntaganda, is whether there were any
8 Banyamulenge in the troops that joined the Chui mobile force in the bush?

9 A. [9:51:01] Usually the Banyamulenge were Congolese Tutsi, but from the south
10 Kivus in the area of Mulenge, and perhaps some of them, Mahinga and Mugabo, but
11 in actual fact there were no Banyamulenge who would have joined that group
12 initially.

13 Q. [9:51:40] I move to the second sentence of this paragraph where -- which reads
14 as follows:

15 "The defectors declared they would come to Bunia to oust Wamba, who blamed
16 Tibasima publicly for this new coup attempt."

17 I stop here at the end of this sentence, but I do note that if we follow down the text,
18 the reference in support of this paragraph in this report appears to be a Human Rights
19 Watch telephone interview with Wamba Dia Wamba on 4 August 2000. Is this
20 information, Mr Ntaganda, in this sentence correct?

21 A. [9:52:51] When we left, I wasn't aware of that because we had no dealings,
22 no -- we were not in contact with Tibasima.

23 Q. [9:53:09] Maybe my question was not clear. The defectors, the Chui mobile
24 force, did the Chui mobile force declare that they would come to Bunia to oust
25 Wamba?

1 A. [9:53:35] We did not have any radios on which we could have made such a
2 statement.

3 Q. [9:53:40] Was the intention of the Chui mobile force to oust Wamba?

4 A. [9:53:55] When we left and went into the bush, it was because of his bad
5 policies. He was attacking us and discriminated against us. I learned from a
6 commander -- we agreed that we were not in agreement with this discriminatory
7 policy. But our intent was to show that we were being targeted and we were not in
8 agreement with that discrimination. But as for driving out Wamba Dia Wamba, we
9 were a very small group and we did not have enough members to drive him out.
10 We couldn't have done that.

11 Q. [9:54:59] I move to the third sentence:

12 "On July 22, the Hema defectors attacked the village of Nyankunde, some twenty-two
13 kilometres southwest of Bunia, killing four RCD-ML soldiers and wounding a
14 civilian."

15 Is this information in this third sentence correct?

16 A. [9:55:39] No. The description here is not correct.

17 Q. [9:55:50] So what did happen, Mr Ntaganda?

18 A. [9:56:08] When I launched an attack upon the men of Wamba who were in
19 Nyankunde, we captured all those men as well as a commander and -- a
20 second-in-command who was slightly injured, an injury to the shoulder, and then I
21 took him to the hospital. After that, I left Moyi (phon), go back, and there were no
22 human losses, be it on our side or on the RCD-K/ML side. The description that we
23 see here in this document is not accurate. It does not match what truly happened in
24 the field.

25 Q. [9:56:53] I move to the fourth sentence of this paragraph. This will be the last

1 in this paragraph, and it reads as follows.

2 "During the attack, they reportedly looted the local hospital and confiscated the
3 communications equipment of an international humanitarian organisation operating
4 there."

5 Is this information correct, Mr Ntaganda?

6 A. [9:57:30] Not at all. Not at all. That does not reflect what happened that
7 morning. When we got to Nyankunde and we seized -- or, rather, once we were able
8 to take control of the assault lines of the forces in that area.

9 Q. [9:58:03] I'd like to move to the next page of this document. If I can have on
10 the screen, please, 0100-0176, and I'd like to focus on the second and third paragraph
11 at the top.

12 Mr Ntaganda, this report describes what would have happened regarding the offer to
13 train the members of Chui in Uganda. I'd like to read you a few sentences of this
14 report to see if you can recall or confirm this information. The first sentence reads as
15 follows:

16 "The offer transformed an imminent disaster into a reward for the perpetrators of the
17 coup attempt. By the time the defectors returned to Bunia from the bush on
18 August 24, their number, estimated initially to be 300, had grown to 700 as militiamen
19 hurried from far villages to join the core group expecting to benefit from the Ugandan
20 offer of training. In Ituri district new recruits were reportedly enrolled to augment
21 the number of beneficiaries of the offer."

22 I stop here. Does that match, Mr Ntaganda, your recollection of events?

23 A. [10:00:26] No. We were a small group, less than -- well, less than 300. We
24 did not reach the figure of 300 that is mentioned in this report.

25 Q. [10:00:42] Was there a coup attempt by the Chui mobile force?

1 A. [10:00:59] We did not have that intention at all. We went into the bush
2 because we wanted to protect ourselves and we want our demands to be heard
3 regarding the discrimination we had been subjected to. It was not our intent to drive
4 out Wamba. We didn't even have the force to do that, the strength.

5 Q. [10:01:28] It also says in this paragraph that the group, initially estimated to
6 be 300, had grown to 700. Did the Chui mobile force grow to reach the number 700,
7 in your knowledge?

8 A. [10:02:03] No. The men that I was with in the bush were the same, the same
9 as the ones I had gone to Uganda with. The number did not increase.

10 Q. [10:02:21] If I go on with this paragraph where I left at -- starting at "local
11 people", it reads as follows:

12 "Local people had expected the UPDF to disarm the defectors when they arrived in
13 town, but they did not. Their arrival caused another serious crisis because the
14 defectors attacked a local prison on August 28, to free one of their leaders who was in
15 detention for his suspected role in organizing the mutiny. A Ugandan and a
16 Congolese soldier, as well as two of the attackers, were killed in the attempt."

17 My first question regarding this paragraph is: When you -- when Chui mobile force
18 returned to Bunia with their weapons, did Chui mobile force represent any kind of
19 threat to the population?

20 A. [10:03:52] Not at all. We were not a threat. The Ugandans had taken us to
21 that place, and once we got there there was no threat.

22 Q. [10:04:08] It says in this paragraph that the defectors attacked a local prison.
23 Is that what Chui did, Mr Ntaganda, in your knowledge?

24 A. [10:04:28] That allegedly we invaded a local prison? Which one?

25 Q. [10:04:39] That is exactly my question, Mr Ntaganda. What did Chui do in

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1 order to free Chief Kahwa? You testified to that effect.

2 A. [10:05:03] Chief Kahwa had been arrested by the military authorities and we
3 went to free him, and once I got to that place, they also arrested me. And then my
4 men intervened, and there was firing; gunfire was exchanged to free me, and that is
5 when --

6 THE INTERPRETER: [10:05:39] Inaudible.

7 THE WITNESS: [10:05:43]) (Interpretation) -- died, and another person died as well.
8 But I don't know whether it was at the auditorium.

9 MR BOURGON: [10:05:55]

10 Q. [10:05:56] In your knowledge, Mr. Ntaganda, did any --

11 THE INTERPRETER: [10:05:58] Message from the Swahili interpreters.

12 MR BOURGON: [10:06:14] Did I hear something from the interpreters?

13 THE INTERPRETER: [10:06:17] Message from the English booth: The Swahili
14 booth has asked the witness to repeat his reply.

15 PRESIDING JUDGE FREMR: [10:06:26] Mr Ntaganda, could you kindly repeat
16 your last reply, which hasn't been captured by the interpreters.

17 THE WITNESS: [10:06:40]) (Interpretation) I said this: When we went to free
18 Kahwa, there was a place and it was called the auditorat militaire. It was a military
19 prison of sorts, and we decided that we would go and liberate him, and I, too, was
20 arrested. And when the APC members took me with them, my men exchanged
21 gunfire with members of the APC so as to free me. And that is when Ongwen died.
22 And on our side, Rwemira (phon) also died, Commander Rwemira. That is what
23 happened at the military prison, to the best of my recollection.

24 MR BOURGON: [10:07:33]

25 Q. [10:07:34] In this paragraph, Mr Ntaganda, is says that this operation to free

1 Chief Kahwa -- Chief Kahwa is not mentioned here, but now we know based on your
2 evidence that he was. But it says that this event took place on August 28. Looking
3 back at the events, is this possible that this took place on August 28?

4 A. [10:08:19] I no longer remember exactly, so I can't state that it was on
5 28 August.

6 Q. [10:08:29] I move to the next paragraph, starting with the UPDF, which reads
7 as follows: "The UPDF organised an air bridge to transport all of the 700 defectors
8 from Bunia to Kampala between August 29 and 31." I stop here.

9 Is this information, to the best of your knowledge, correct, Mr Ntaganda?

10 A. [10:09:18] Well, I had said this earlier. I couldn't have provided specific
11 information about the date because at that time with what was happening, you see,
12 they were trying to eliminate me. So I really can't be specific about the date on
13 which these disturbances occurred.

14 Q. [10:09:55] I refer to the information in this paragraph where it says that all of
15 the 700 defectors from Bunia were taken to Kampala. My question is, Mr Ntaganda,
16 other than the members of Chui mobile force, were the other persons transported to
17 Kampala defectors from RCD-K/ML?

18 A. [10:10:40] Well, the ones that I knew is the ones that I went to Kampala with.
19 I went with the first group to Kampala and the ones from Chui mobile force. Only
20 the ones that I had been in the bush with, they are the only ones I know. All the ones
21 who came to join that group later, I do not know those others. And as for the ones I
22 knew, I don't think that they reached the group as is described here. There were
23 about one and a half or two companies of us at the very most.

24 Q. [10:11:24] I move to the next sentence in this document which reads as follows:
25 "According to observers, many of the defectors were under 15 years of age."

1 My question is the following: The members of Chui mobile force, were there in this
2 group anyone under the age of 15, if you can tell?

3 A. [10:12:01] No. They were people who already had some army experience.
4 They were adults. No one was under 15 years of age.

5 Q. [10:12:24] I move to a different topic. And this topic has to do with your
6 knowledge and/or membership in the -- some group called FRP, Front pour la
7 Réconciliation et la Paix, in 2002. This topic was raised very briefly in my
8 examination and my questions and this was at page -- transcript 213, page 55, line 18
9 to page 56, line 6. And I also showed you a document which was then used in
10 cross-examination and this document bears the number 094 -- 0194-0328.
11 If I can have this document on the screen, please.

12 Considering that many additional questions were put to you on this document during
13 the cross-examination, I'd like to ask you a few questions about this document also.
14 It was number 678 on the list of Prosecution exhibits.

15 If you look at the screen before you, the document will appear. Now, when I asked
16 you a question just about the document itself, the reference mentioned earlier, you
17 mentioned that this was "the first time I see it," and a little later on, on page 56 of the
18 same transcript, that's 213, lines 9 to 11, I asked you if you were aware of the existence
19 of FRP in April 2002, and your response was "no."

20 Now, what I'd like to address is the questions that were put to you by the Prosecution,
21 and that's in transcript 231, page 91, lines 6 to 21. The Prosecution showed you the
22 same document but asked you different questions.

23 Now, I refer to the question that was asked of you, which is basically similar to mine,
24 and that was the lead to additional questions. This was at line 6 on page 91, and the
25 question was the following. Now, that's a question from the Prosecution,

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1 Mr Ntaganda:

2 Question: "Now, I'd like to put a document to you that you were shown during
3 examination-in-chief. It's DRC-OTP-0194-0328. It's a public document. I'll read
4 the title of the document for the record and for your benefit, and we'll look at the date
5 and the signatories. It's entitled in French (Interpretation) 'Memorandum of Ituri for
6 the Intention of His Excellency, Mr the President of the Democratic Republic of Congo
7 in Kinshasa Gombe.' (Speaks English) And we turn to page 0330."

8 Do you recall answering questions during cross-examination on this document,
9 Mr Ntaganda?

10 A. [10:17:26] Yes, I remember.

11 Q. [10:17:29] Now, the question that was put to you was the following, and that
12 was at line 13:

13 "We can see that this memorandum was signed at Bunia on 16 May 2002 and there are
14 a list of 13 signatories. There's Adubango Biri, John Tinanzabo Zeremani, Avochi,
15 Thomas Lubanga, Ndukute Mangigi, Lety Awuma, Richard Lonema, Bayau, Djalum,
16 Nembe, Bandeché, Lonu Lali, and Mbuna."

17 And the question was the following:

18 "You are aware, are you not, that most if not all of these individuals held positions
19 within the UPC when the UPC formed a government in September 2002?"

20 And your answer was the following:

21 "I know some of them" -- sorry, "I know some of them among them. But at the time
22 the FPLC that I was a member of hadn't been created yet. I therefore don't recognise
23 this document."

24 Do you recall giving this answer, Mr Ntaganda?

25 A. [10:19:31] (No interpretation)

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1 Q. [10:19:31] Now, what I'd like to do now is to look at a -- in support --

2 A. [10:19:31] Yes.

3 Q. [10:19:34] I apologise, I was too quick.

4 In support of its questions, Mr Ntaganda, the Prosecution showed you a statement,
5 and it's a statement of Prosecution Witness P-0041, and I'd like to address this
6 statement with you. So, I guess, Mr President we will have to move into private
7 session.

8 PRESIDING JUDGE FREMR: [10:20:12] All right. Court officer, let's move into
9 private session.

10 How much time you estimate we will spend in private?

11 MR BOURGON: [10:20:23] I would estimate 15 minutes at the most.

12 PRESIDING JUDGE FREMR: [10:20:28] Noted.

13 (Private session at 10.20 a.m.)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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- 22 (Open session at 10.35 a.m.)
- 23 THE COURT OFFICER: [10:35:18] We are in open session.
- 24 PRESIDING JUDGE FREMR: [10:35:27] Thank you, court officer.
- 25 Mr Bourgon, please proceed.

1 MR BOURGON: [10:35:30] Thank you, Mr President.

2 Q. [10:35:34] Mr Ntaganda, on the same topic, during cross-examination you
3 were shown a photograph, and I'd like to have this photograph on the screen, please.
4 This is DRC-OTP-0127-0115 and that was item 270 on the Prosecution's list of exhibits.
5 This exhibit, Mr Ntaganda, was discussed with you at transcript 232 on page 24 at
6 lines 9 to 15.

7 While the picture is placed on the screen, in the lines that I just mentioned, it was
8 suggested to you and you agreed that this was the delegation which attended the
9 Kasese meeting. Do you recall this answer that you provided, Mr Ntaganda?

10 A. [10:37:10] That's correct. We were with these people in Kasese.

11 Q. [10:37:17] And on page 26, lines 8 to 10, and then again at lines 17 to 23, it was
12 suggested to you that this delegation participated to the meeting in Kasese as the FRP.
13 Do you recall what your answer was to that question?

14 A. [10:38:00] I remember that I stated that I didn't know this party, because when
15 they arrived some of them were brought by the Ugandans on a plane and we
16 participated together in the same meeting, but I didn't know the parties that they
17 represented. Now, where it concerns our group of soldiers, we were the mutineers
18 because we had been attacked by Molondo, but I didn't know which group they
19 were in, which group the others who participated in the meeting belonged to. That
20 was the response or the answer that I gave.

21 Q. [10:38:51] And to your knowledge, Mr Ntaganda, was FRP used to identify
22 this delegation during the meeting in Kasese?

23 A. [10:39:13] I didn't know the FRP. Even when I was in Ituri, I didn't know this
24 group. And I have declared here that I found out about this name when
25 I was -- once I came here. During this meeting people therefore did not speak about

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1 the FRP.

2 MR BOURGON: [10:39:42] Mr President, if we can move back into private session
3 for one reference to the previous exhibit.

4 PRESIDING JUDGE FREMR: [10:39:50] Certainly.
5 Court officer, let's move into private session.

6 (Private session at 10.39 a.m.)

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13 (Open session at 10.46 a.m.)
14 THE COURT OFFICER: [10:46:47] We are back in open session, Mr President.
15 PRESIDING JUDGE FREMR: [10:46:50] Mr Bourgon, you still wanted to add
16 anything? No, no, okay.
17 So we are taking our break for 30 minutes. And I have to highlight that we will have
18 to keep this time difference between our sessions and sessions in other two cases for
19 the rest of the week. And we will resume at quarter past 11.
20 THE COURT USHER: [10:47:13] All rise.
21 (Recess taken at 10.47 a.m.)
22 (Upon resuming in open session at 11.21 a.m.)
23 THE COURT USHER: [11:21:42] All rise.
24 Please be seated.
25 PRESIDING JUDGE FREMR: [11:22:08] So we are going to continue with the next

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1 part of redirect conducted by Defence, but I see Ms Samson.

2 Ms Samson, please.

3 MS SAMSON: [11:22:20] Thank you. I would just like to note that

4 Ms Claudine Umurungi has joined the Prosecution team.

5 PRESIDING JUDGE FREMR: [11:22:27] Thank you, Ms Samson. Noted.

6 And now I'll give the floor to Mr Bourgon, please.

7 MR BOURGON: [11:22:36] Thank you, Mr President. In response to the issue

8 that was raised by my colleague just before the break. As mentioned, this was raised

9 in, of course, during the examination-in-chief. As far as the cross-examination goes,

10 it was raised in the answer provided by Mr Ntaganda concerning the moment he was

11 sent to Mandro. And I refer to the transcript T-225, and it was on page 15, and that

12 was lines 21 to 24. Yes, 21 to 25, I guess. Sorry, I apologise. It starts on page 15,

13 lines 25 up until page 16, line 5.

14 Q. [11:23:45] Mr Ntaganda, let's return --

15 MS SAMSON: [11:23:48] Excuse me.

16 PRESIDING JUDGE FREMR: [11:23:49] Ms Samson.

17 MS SAMSON: [11:23:50] Thank you, Mr President. I would just like to note that

18 T-225, page 15, refers to a meeting in 2000 and then in -- and then attending -- going

19 to Mandro in 2002. But the question that counsel has asked prior to the break related

20 to a specific meeting following, or at some point adjacent to attendance at, the

21 meeting in Kasese. And Prosecution did not ask any questions about that meeting in

22 cross-examination.

23 And I also note that at T-213, pages 51 to 52, which is the examination-in-chief, that is

24 where this topic was addressed, and at the time counsel canvassed with the accused,

25 who was present at the meeting. And a comprehensive list of persons present was

1 already provided in-chief.

2 So the point I wish to make is that the follow-up question prior to the break did not
3 relate to cross-examination.

4 And I would add in that vein that although the Prosecution did ask questions about
5 the Kasese meeting at some length, the same questions that were addressed now were
6 addressed in examination-in-chief. T-213, pages 47 to 49, counsel asked

7 Mr Ntaganda how he went to Kasese, with whom he went, whether the group had a
8 name, the purpose of the meeting, the counterpart on the other side, and the outcome
9 of the meeting. It's just to note that in the interests of time, repeating the

10 examination-in-chief may not be necessary, is not necessary.

11 PRESIDING JUDGE FREMR: [11:25:55] Mr Bourgon, your position on submission
12 made by Ms Samson?

13 MR BOURGON: [11:26:02] Thank you, Mr President. The idea is that it's seeking
14 clarification. So there are issues which were raised in examination-in-chief and then
15 they are taken up in cross-examination. Two things can happen, is in some respect,
16 additional questions were raised in cross-examination which raised new issues.

17 That's one possibility which I did raise this morning. The second possibility is, an
18 issue is raised in cross-examination which is the same issue but requires clarification.

19 In our view, the only thing that is not permitted in re-examination is if I try to
20 compare the two answers and say which one is the right one. That's not permitted,
21 for sure.

22 But if I can give a reference to the Trial Chamber: On transcript T-63 on page 45,
23 lines 12 to 22, this issue arose as to whether it was permitted to seek clarification in
24 re-examination. At the time, we opposed the Prosecution's seeking clarification, and
25 our objection was overruled by the Chamber, saying that they agreed with the

1 Prosecution a clarification was okay.

2 PRESIDING JUDGE FREMR: [11:27:26] All right. So generally I think we are all

3 on the same page. Now it will probably always depend whether the concrete case

4 really meet the conditions you rightly mentioned. So, please, have it in mind.

5 And Ms Samson rightly said, your question shouldn't be repetitive to questions

6 already put and also should at least have some connection to issues dealt with during

7 the cross.

8 Now, please proceed.

9 MR BOURGON: [11:28:00] Thank you, Mr President. Now with respect to the

10 specific question I'd like to address with Mr Ntaganda, my basis from the

11 cross-examination is the picture and the persons present in Kasese. Because that was

12 not addressed in examination-in-chief. And whether these persons are members of

13 the FRP. That's the topic I'm on right now. That's what I'm trying to establish with

14 Mr Ntaganda. That's my basis, and I'm trying to give as much information in the

15 transcript as possible to establish that, so I can ask a valid question to Mr Ntaganda.

16 PRESIDING JUDGE FREMR: [11:28:36] Ms Samson.

17 MS SAMSON: [11:28:37] Yes, thank you. If the purpose of questioning to come is

18 to determine whose a member of the FRP or not, it appears from the witness's

19 answers that he is entirely unable to assist with that, because he has simply no idea

20 what the FRP is, and his testimony is that he heard of it for the first time when he was

21 here in The Hague. Thank you.

22 PRESIDING JUDGE FREMR: [11:29:02] Ms Samson, I guess I made the same

23 comment on similar objections from Mr Bourgon to the way how you questioned.

24 Whether there is a chance that this question will be positively answered or not, it's up

25 to the question putting -- up to the person putting this question. I don't think that it

1 should be a source of objection.

2 So Mr Bourgon, please proceed.

3 MR BOURGON: [11:29:32] Thank you, Mr President.

4 Q. [11:29:34] Mr Ntaganda, I'd like to address the people who are in the picture,
5 and so we'll return to that picture. And the number of the picture is

6 DRC-OTP-0127-0115. If I can have the photograph on the screen, please. I guess

7 the picture is here, Mr Ntaganda. You've identified, I believe, everyone in this

8 picture, and my question to you is, you identified at some point Tchaligonza. And

9 my question is, Tchaligonza was -- how did Tchaligonza end up in that meeting in

10 Kasese?

11 A. [11:31:23] After the attack launched by Claude, all the officers there, including

12 Tchaligonza and myself, we were all brought to Kasese and the UPDF members took

13 us to that place. So our officers were at the residence of Tom and he himself was

14 part of that group of officers. So he too was there in Kasese.

15 Q. [11:32:01] Now, in this picture, Mr Ntaganda, you identified some soldiers or

16 military personnel, and you identified Tchaligonza, Kisembo and Didier. And what

17 I'd like to know is, to your knowledge, were any of these RCD-K/ML mutineers in the

18 FRP?

19 A. [11:32:45] No. When we were attacked, we didn't even know about the

20 existence of the FRP, and even that we were never part of the FRP. We were not

21 aware of that party or that group.

22 Q. [11:33:05] In the same picture, you identified Chief Kahwa. Now,

23 Chief Kahwa is not a soldier but some kind of politician. To your knowledge, did

24 Chief Kahwa have any involvement in the FRP?

25 A. [11:33:50] Ever since the period of time when I remained with Chief Kahwa in

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1 his house, I never heard any mention made of the FRP. He was the traditional chief
2 and I believe that he was involved in politics as of September 2002. And that, of
3 course, was based on personal knowledge, my own personal knowledge of
4 Chief Kahwa.

5 Q. [11:34:22] I'd like to move to a different document which was shown to you in
6 cross-examination regarding the topic of FRP. And that document is number
7 DRC-0113-0133, and this document was not shown to you during your
8 examination-in-chief. If I can have this document on the screen, please. It is
9 number 675 on the list of Prosecution exhibits.

10 So this document will appear on the screen, Mr Ntaganda, and as it does, I will just
11 recall what you said during cross-examination. This was transcript 232 on page 86 at
12 lines 16 to 22.

13 THE COURT OFFICER: [11:35:51] Sorry, Defence counsel, if you could please
14 confirm the level of confidentiality of this document.

15 MR BOURGON: [11:35:57] To the best of my recollection, it is a public document.
16 And it was on the Prosecution's list of exhibit, and I think that's the way it was
17 presented.

18 Q. [11:36:16] Do you see the document, Mr Ntaganda?

19 A. [11:36:27] Yes, Counsel.

20 Q. [11:36:30] Now, the question put to you was the following, line 16, question:
21 "Whether or not you were aware of this statement, you are either suggesting that
22 Thomas Lubanga lied to the international community in a signed written declaration,
23 or -- well, let's start with that. Is that what you're suggesting?"

24 And your response was the following, lines 19 to 22:

25 "Since I was not aware of this statement, how should I -- or what should I rely on to

1 make any comments about what is in the statement? He was in Kinshasa while
2 I was in Bunia, and I had no means of communication by which to communicate
3 with him."

4 So that's what happened in cross-examination. And then a number of questions
5 were put to you on this document, and I refer in particular to transcript 232, page 83,
6 lines 1 to 11. That's the reference for my colleague.

7 Now, Mr Ntaganda, maybe I will read that part of your testimony before I ask you a
8 question, page 83, lines 1 to 11. Line 1, question:

9 "Well you've testified, sir, that Mr Lubanga was still the minister of defence in
10 August 2002 and here we have a document signed by Thomas Lubanga saying he was
11 not the minister of defence in August 2002. Do you have any reason to dispute
12 Thomas Lubanga's own acknowledgment of his role in August 2002? What's your
13 position?"

14 Your response is at line 6 and following:

15 "When I make a comment, when I made a comment I did not say what was on
16 this -- what is in this statement. I said he left Bunia for Kampala and that when he
17 went there he was the minister of defence and that he had no other title. That's why
18 I said when he went to Kinshasa he was the minister of defence. Now when he
19 arrived there, I had no contact with him. I had no telephone. I was in Bunia. And
20 I was not aware of the statement that he is said to have made."

21 My question is the following, Mr Ntaganda: Do you know when Thomas Lubanga
22 stopped referring to himself as minister of defence?

23 A. [11:40:19] Personally I would say it was when he set up a political/military
24 movement in September 2002. After that time, that date, I did not know of any other
25 duties he -- or functions that he had.

1 Q. [11:40:50] If we can scroll down the document so we have the top of the page
2 and the first paragraph. The other way, thank you.

3 Mr Ntaganda, this is the document on which you were asked a number of questions,
4 and especially the first bullet, the title -- the document reads, in French:
5 (Interpretation) "We, the Front for Reconciliation and Peace, whose acronym is the
6 FRP, would like to bring the following to the attention of the international
7 community."

8 And then the first paragraph follows.

9 A. [11:41:49] Yes, Counsel.

10 Q. [11:41:52] (Speaks English) Now, before I address the content of this first
11 paragraph, I'd like to go through and ask you a series of questions related to the first
12 paragraph. In August 2002, Mr Ntaganda, were you and the people in your group in
13 Mandro, did you consider yourself to be RCD-ML dissident mutineers?

14 A. [11:42:26] It was clear, we were RCD-K/ML mutineers because we had refused
15 integration and we stayed within our own group and before organising a number of
16 activities intending -- intended to protect ourselves.

17 Q. [11:42:54] Next question, Mr Ntaganda: Although Mr Lubanga had been in
18 Kinshasa for some time, in August 2002 did you and your group consider yourself to
19 be aligned behind Thomas Lubanga?

20 A. [11:43:20] Yes. We thought that he was a member of our group and the
21 person in charge of us, and when we were attacked, we were together. And even
22 when it came to the problem he had in Kinshasa, I would say that that was the
23 consequence of the fact that we were in a mutiny.

24 Q. [11:43:47] Mr Ntaganda, on 9 August 2002 in the morning, now, if I exclude
25 the UPDF, who were really running the show, which group, political and military,

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1 was in control of Bunia?

2 A. [11:44:18] The RCD-K/ML through the APC.

3 PRESIDING JUDGE FREMR: [11:44:35] Ms Samson.

4 MS SAMSON: [11:44:36] Thank you, Mr President. I rise to object to the form of
5 the question, which is evidence being given by counsel, and I quote page 39, line 25:
6 "... if I exclude the UPDF, who were really running the show ..." It's evidence by
7 counsel rather than from the witness. Thank you.

8 PRESIDING JUDGE FREMR: [11:45:01] Point taken. Mr Bourgon, I believe that,
9 you know, Ms Samson is right. I don't think that it was in bad faith, but please avoid
10 that.

11 MR BOURGON: [11:45:11] Thank you, Mr President. I think it -- that issue was
12 raised many times, but I agree with my colleagues that "who were running the
13 show" -- is -- should -- I don't mind if it can be taken out of the transcript. I have no
14 problems with that. But I want, however, to exclude from the answer the UPDF.
15 That's part of the question.

16 PRESIDING JUDGE FREMR: [11:45:29] No, no, no, we should keep it in transcript
17 because it could have some influence on the answer. So we have to keep it. But
18 rather to avoid it in future, please.

19 MR BOURGON: [11:45:40] Thank you, Mr President.

20 Q. [11:45:47] Mr Ntaganda, on 10 August 2002, if I exclude the UPDF, which
21 group military controlled Bunia, to your recollection?

22 A. [11:46:17] The UPDF had driven the RCD-K/ML on 9 August 2002. That
23 meant that Kisembo was at the staff HQ of the APC. So I would say that we, the
24 mutineers, we were in Bunia.

25 Q. [11:46:46] Now, I'd like to turn, Mr Ntaganda, to the first paragraph and I'd

1 like to read that with you. It is in French and it will be translated for you:

2 (Interpretation) "We, the Front for Reconciliation and Peace, FRP initials, bring to
3 the awareness of the international community:

4 - that our armed troops who are dissident from the RCD/ML aligned behind the
5 former minister of defence of the RCD/ML, Mr Thomas Lubanga, have taken the
6 effective control of Bunia and its surrounding areas following the clashes of
7 9 August 2002 which saw the defection and the routing of the RCD/ML troops and
8 their allies."

9 My question, Mr Ntaganda, is the following: Which are the clashes that led to the
10 withdrawal or to the departure of RCD/ML and their allies?

11 A. [11:48:49] It was the UPDF troops who drove them out. They left. And they
12 were with Molondo.

13 Q. [11:49:05] On the basis of your last answer, do you agree with the contents of
14 that first paragraph, that following the clashes between the UPDF who chased out
15 Lompondo, the mutineers took control of Bunia?

16 A. [11:49:31] Yes.

17 Q. [11:49:36] I move to a different topic which was raised during
18 cross-examination at transcript 226, page 78, line 1 to page 84, line 19.

19 A number of questions were asked about this topic which refers to weapons received
20 in Mandro which would have been placed in some type of field reserve. Just to
21 remind you of what happened in the questioning, I'd like to move straight to
22 transcript 226, page 84, and to begin by reading, lines 7 to 14.

23 Before I do so, Mr Ntaganda, do you recall that this topic was addressed in
24 cross-examination both by counsel for the Prosecution and the Trial Chamber?

25 A. [11:51:15] Yes, I remember very well.

1 Q. [11:51:22] So I'm reading. This is the end of the debate, and we'll
2 take -- debate, wrong word -- the end of the questioning on this issue, and then we'll
3 go to how the issue was first brought about, in order to clarify the matter.
4 At line 7, the Presiding Judge asked you the following: "Mr Ntaganda, just to make
5 it short, there are two, in fact, versions of your testimony on the same issue, one given
6 to your counsel, now another one which is in some details different, given to
7 Ms Samson. You even -- she asked you about the explanation. You gave some
8 explanation. So do you insist on your explanation, or the previous testimony was
9 the correct one? There is still some difference, so it is up to you to explain to the
10 Chamber -- not explain, to say either the original testimony was correct one or today's
11 testimony, including my explanation, is the correct one. It's easy."
12 You responded the following, Mr Ntaganda, at lines 15: "What I do know, I know
13 that I told you, what I told you is similar to what I said to my lawyer."
14 And the Presiding Judge ended the questioning by saying, at lines 17 and 18: "Even
15 that we can take an as explanation. Then it's up to the Chamber to evaluate that."
16 Do you recall this exchange, Mr Ntaganda?

17 A. [11:53:45] Yes, I remember.

18 Q. [11:53:48] So let's look then at what you actually said to the Trial Chamber so
19 that we know exactly what you meant by this last answer. And I'd like to first start
20 by looking at page 81, lines 9 to 11. Line 9, Presiding Judge: "Sorry to interrupt,
21 Ms Samson, but in my understanding those weapons which had been damaged
22 couldn't serve as reserve weapons. Weapons at least should be probably fixed or
23 repaired?"

24 This is what you responded, Mr Ntaganda, at lines 12 to 16: "Your Honour, we
25 thought that those weapons were going to work and that is why we gave them to

1 those, to a young person, a former government soldier and he tried to repair them,
2 but he was not able to because the weapons could work from time to time. They
3 were -- well, they were always breaking, so they were discarded."

4 On page 82 at lines 5 to 12, this issue was -- you took the same issue, again upon being
5 questioned by the Presiding Judge. And this is your answer, Mr Ntaganda, at line 5:
6 (Interpretation) "What I said is this, your Honour, is that when the weapons arrived,
7 all the recruits had just finished their training and they received weapons. The ones
8 that had been damaged were stored in a storage area, and if some of the weapons had
9 been damaged, all those weapons were given to a soldier who had come to us. He
10 used to be APC. He was the one who tried to repair these damaged weapons, but he
11 was not able to. The weapons work but sometimes they would break. And I make
12 reference to damage weapons, and I'm talking about the weapons that had been air
13 dropped."

14 Now, reacting to your answer, this is what you were told by the Presiding Judge at
15 lines 13 to 17:

16 Presiding Judge: "And last clarifying question from my part, because my
17 understanding of term 'reserve' would be that, in fact, by this drop of weapons from
18 the aircraft, in fact, you received more weapons than you were used -- than you were
19 able to use at that moment. So am I wrong in this interpretation of your words?"
20 Mr Ntaganda, pay attention carefully. This was your response on page 82, lines 18
21 to 25:

22 Witness: "Yes, what I said was this: The weapons that came and were in good
23 working order were given to the recruits who had just finished their training, but
24 amongst these weapons, there were some that had been damaged; some had not been
25 completely damaged. The ones that were not completely damaged were kept in a

1 storage area and there weren't a lot of those weapons, maybe 50. There were 50.

2 We stored them with the weapons who were -- that were in good working order.

3 Our idea was to have them repaired and use them later. That is what I said, your

4 Honour."

5 Do you recall this answer and questions put to you by the Presiding Judge?

6 A. [11:59:44] Yes, I remember that.

7 Q. [11:59:47] Now, in transcript 226 at lines 19 to 24, the Prosecution taking over
8 from the Trial Chamber put you the following question:

9 Question: "I can, in fairness to you, since you've asked me to read it again, I will.

10 You said at page 84, transcript 214 -- pardon me, page 44, line 3, 'Now some other
11 weapons had been damaged; others had been put in reserve, and my suggestion to
12 you is that the weapons put in reserve you've already stated were not damaged.'"

13 And your answer was: "That's what I explained to the honourable Bench."

14 My question, Mr Ntaganda, is, tell us about the weapons damaged, the weapons not
15 damaged; where were they?

16 A. [12:01:24] I would say the following: When the recruits finished their
17 training, there were sufficient weapons that we received, and we gave the recruits
18 weapons. Now, some were still undergoing training, and to those recruits, for those
19 recruits, there was a stock of weapons which was damaged. Now, in a stock you
20 have weapons that are damaged and others that are not damaged. We used these
21 weapons to give to those who were still undergoing training. And it was at that
22 moment that I was speaking about weapons reserves.

23 Now, in this reserve, there are approximately 150 when Mandro was closed. That
24 was later. There were sufficient weapons, and there were weapons that we had put
25 into reserve. I think that when I'm explaining that, I'm speaking to people who

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1 understand the context well. But that is what happened, and that's what I've just
2 explained or shed light on.

3 Q. [12:02:42] Mr Ntaganda, after this initial air drop of weapons in Mandro, did
4 you receive any more weapons in Mandro?

5 A. [12:03:00] No. Apart from the weapons that we received through the
6 dropping of weapons, there were no other weapons that we received after that.

7 Q. [12:03:20] Looking back at the moment the weapons were received until the
8 weapons were issued, over what period of time did you distribute the weapons that
9 you received?

10 PRESIDING JUDGE FREMR: [12:03:37] Hold on, Mr Witness.
11 Ms Samson.

12 MS SAMSON: [12:03:39] Thank you, Mr President. Are these last two questions
13 related to any particular line of cross-examination?

14 PRESIDING JUDGE FREMR: [12:03:50] Mr Bourgon.

15 MR BOURGON: [12:03:52] Well, indeed, Mr President. The issue is the issue of
16 reserve that was raised by the Prosecution, so if there was a reserve, over what period
17 of time was that reserve used?

18 PRESIDING JUDGE FREMR: [12:04:06] Fine with me. Please proceed.

19 MR BOURGON: [12:04:10]

20 Q. [12:04:11] Would you like me to say the question over again, Mr Ntaganda, or
21 are you able to answer?

22 A. [12:04:19] Please could you repeat your question so that I can better
23 understand it?

24 Q. [12:04:28] Thank you. Following the weapons you received in Mandro which
25 were air dropped, these weapons were issued to recruits over what period of time to

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1 your recollection?

2 A. [12:04:48] What I know is that the last distribution took place in the month of
3 August, and what we saw on the video was the last group to receive the weapons in
4 Mandro.

5 Q. [12:05:22] And you mentioned a little earlier in your answer that at some point
6 Mandro was closed. Were there still weapons in reserve in Mandro when it was
7 closed?

8 A. [12:05:45] It was these weapons that I was just talking about, there
9 were -- there remained approximately 150 weapons.

10 Q. [12:05:58] I move to a completely different topic --

11 PRESIDING JUDGE FREMR: [12:06:02] Sorry, Mr Bourgon. Just one additional
12 question from my part which is somewhat connected with your question.

13 And to have full picture, Mr Ntaganda, weapons distributed to soldiers, did the
14 soldiers in fact sleep with those weapons or they used to put them overnight with
15 some storage?

16 THE WITNESS: [12:06:37]) (Interpretation) Your Honour, sometimes we would
17 distribute weapons to the troops and sometime later we would deploy them. If
18 these troops spent the night in the field, they spent the night with their weapons in
19 their homes.

20 PRESIDING JUDGE FREMR: [12:06:58] Thank you, Mr Ntaganda. It was just my
21 point. Thank you.

22 Mr Bourgon, please proceed.

23 MR BOURGON: [12:07:04] Thank you, Mr President.

24 Q. [12:07:06] Mr Ntaganda, just to follow up on the question just put to you, are
25 you familiar with the expression sometimes used with soldiers, "Your weapon is your

1 wife, your weapon is your family, your weapon is you"? Does that ring a bell to
2 you?

3 A. [12:07:41] When I entered into the army I was told that the weapon was my
4 life, the weapon protects you everywhere where you go. As a soldier the weapon is
5 considered as your life.

6 Q. [12:08:12] I'll move on to my next topic. A topic I'd like to raise at this time,
7 Mr Ntaganda, has to do with marriage arrangements between members of FPLC.
8 And this issue was raised during cross-examination and that was on transcript 239,
9 page 47, line 8 until page 50, line 25. I'd like to read you the question which was put
10 to you, just as a matter of background, so you know where I'm trying to get with my
11 next question.

12 So the question is at page 49, line 13 to line 21. This is a second question in the
13 middle of more questions put to you by the Presiding Judge, and it reads as follows
14 starting from line 13:

15 "So I'm just, at the moment, I am speaking about the marriage, if one guy wants to get
16 married girl, she doesn't know, she doesn't want, but simply he was pushing her. So
17 could you exclude that this kind of cases occurred within soldiers under your
18 command?"

19 And this was your response:

20 "That could happen without me being aware of such a situation, but when the girl
21 refused the boy and I'm informed of that, what would I do as an authority? I could
22 not force the partner to live together. The girl has the right to refuse the boy. And
23 if the boy ever tries to force the girl, then he has to be sanctioned."

24 Do you recall this questioning, Mr Ntaganda?

25 A. [12:10:39] Yes, I remember it.

1 Q. [12:10:40] Now, my question is as follows: When you or other commanders
2 were presented with a request for two members of the FPLC to marry, either from the
3 man or from the woman, how did you proceed or how did you handle this request?

4 A. [12:11:22] It was necessary to call them in order to ask them if they wanted to
5 make a family and live together. And if they were in agreement, there was no
6 problem.

7 Q. [12:11:36] And how did you verify their consent?

8 A. [12:11:54] If they themselves said it, you were reassured that they loved each
9 other. You had to call them quite simply and ask them if they wanted to live
10 together. And afterwards, after they had expressed their consent, you were
11 reassured that they had accepted to live together.

12 PRESIDING JUDGE FREMR: [12:12:25] And Mr Ntaganda - sorry,
13 Mr Bourgon - without such a request, they couldn't live together?

14 THE WITNESS: [12:12:35]) (Interpretation) They could do so if there were no
15 complaints with regard to it, they could live together. However, as the person in
16 charge, you had to ask the troops "Are you married?" Whether that person is male
17 or female, you have to know the civil status of the people under your responsibility,
18 I'm talking about soldiers. If you see that there are troops who are in love, you have
19 to ask them, you have to ask them that question.

20 PRESIDING JUDGE FREMR: [12:13:27] Thank you, Mr Ntaganda.
21 Mr Bourgon, please proceed.

22 MR BOURGON: [12:13:31] Thank you, Mr President.

23 Q. [12:13:33] I move to a different topic. This topic, Mr Ntaganda, has to do with
24 a document which was shown to you. This is document 0134-0062 and this was item
25 1164 on the Prosecution's list of exhibits. If I can have the exhibit on the screen at

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1 page 0068.

2 THE COURT OFFICER: [12:14:20] If I could ask Defence counsel to confirm the
3 level of confidentiality of the said document.

4 MR BOURGON: [12:14:27] Public. Sorry, I should have said it from the -- public
5 document.

6 Q. [12:14:54] Mr Ntaganda, you see before you the first page of the document,
7 which was 0062, and you see that this is a newspaper called La Colombe Plus. I will
8 now move to the page that was discussed with you during cross-examination, which
9 is page 0068. If I can have that page on the screen, please, 0068.

10 If we can scroll up so that the part where it says "L'Upc capture la cité minière", if we
11 can move that part up, please. The other way, sorry. The one, the part on -- a bit
12 more. Yes, that's correct.

13 Mr Ntaganda, this newspaper article or clip was shown to you and you provided a
14 response on this in relation to this -- to the content of this clip. I'd like to move to
15 address a number of issues in this article. And your response, for reference purposes,
16 was at transcript 235, page 36, line 22 until page 39, line 16.

17 Now, Mr Ntaganda, I will read you first the part that was read to you. And I will
18 start -- if you look on the last column, maybe you can't read it, but I will read it for
19 you and it will be translated. So I'm looking at the far right column and I will start
20 reading from the words "Abordé à Aru". Is it possible to have -- to focus on this item
21 or if it cannot be enlarged? And if we can -- yes, perfect. And a bit further up
22 please. No, the other way around. Yes.

23 So, Mr Ntaganda, I'm not sure you can read this document, but let me read it for you.

24 This is what it says:

25 (Interpretation) "When approached in Aru in relation to this controversy, on

1 23 November last, a Saturday, Commander Jérôme, from the north-east operational
2 sector of the UPC/RP, told our editorial staff that Mongbwalu had indeed been taken
3 by his men. They had taken control of the town as by 22 November 2002, a Friday.
4 'After the first attempt which ultimately ended in a strategic withdrawal a few days
5 earlier.'"

6 This is the quote from Commander Jérôme. And to this end, Commander Jérôme
7 specified the following, and I quote:

8 "Two brigades were sent to the location, including the 401st brigade of Commander
9 Manu and the 409th brigade of Commander Salumu. Both brigades were
10 coordinated by Commander C.I. Ondri Onzi from our sector."

11 I'm speaking of Commander Jérôme's quote.

12 (Speaks English) Do you understand the passage I just read to you, Mr Ntaganda?

13 A. [12:20:00] Yes, Counsel.

14 Q. [12:20:02] So my question in respect to this, what is in this newspaper article, is
15 the following: When it was decided that a brigade from the sector of Aru would be
16 used to participate in the liberation of Mongbwalu, who, according to your
17 information, was supposed to command this brigade?

18 A. [12:20:46] When I left Aru, the person who was supposed to be in the brigade
19 that we had left in Kandoyi was supposed to be the commander, but we -- I asked
20 Commander Jérôme to assign Commander Manu to a brigade that was in Kandoyi,
21 and at the time that brigade did not have a name.

22 Q. [12:21:22] My next question in relation to the same part, Mr Ntaganda: Who,
23 according to your knowledge and information, commanded the brigade coming from
24 Aru during the liberation of Mongbwalu?

25 A. [12:21:41] I think that on some opportunities -- correction, at some occasions

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1 the interpretation is not good. It was Commander Seyi, but it was supposed to be
2 led by Commander Manu, who unfortunately did not get there with that brigade.

3 Q. [12:22:21] Mr Ntaganda, when did you become aware that Seyi was with the
4 brigade coming from Aru and not Manu, as you expected?

5 A. [12:22:43] Well, first of all, I received a message, and once I had left the place,
6 the message -- well, came from the person who was in charge of that force because he
7 was the one who was talking about the problems that the force had had. Before
8 going to Mongbwalu, I also asked where Manu was, and I did that over the phone,
9 speaking to Jérôme, and I made that telephone call when I was on my way to
10 Mongbwalu. I was in Barrière at that time.

11 Q. [12:23:39] Now, Mr Ntaganda, this is exactly what I'd like to address with you.
12 And just to facilitate and make it clear for everyone, if I can ask the court usher to give
13 Mr Ntaganda the logbooks that he's been using since the beginning.

14 PRESIDING JUDGE FREMR: [12:24:02] Court usher, please assist.

15 MR BOURGON: [12:24:21]

16 Q. [12:24:22] So, Mr Ntaganda, just so that you understand, I will ask you to
17 identify, because you just mentioned that you were -- that you received a message.
18 What I am interested in is, when did you realise that Seyi was with the brigade from
19 Aru and not Manu? If you can identify that in your small logbook.
20 While you look at the logbook, I will just give the references for the record. The
21 small logbook, the original in the possession of the witness presently, is the one that
22 was in the order arranged by the Defence, and the number is DRC-D18-0001-5748,
23 and the translation is DRC-D18-0001-5778.

24 Do you have the small logbook, Mr Ntaganda?

25 PRESIDING JUDGE FREMR: [12:25:37] Hold on Mr, Ntaganda. Ms Samson.

1 MS SAMSON: [12:25:41] Thank you, Mr President. Although the Prosecution
2 dealt with this in cross-examination, the point of the logbook message we're about to
3 look at now and the timing of Mr Ntaganda's current testimony, without delving into
4 what that was, was covered extensively in examination-in-chief, this particular point.

5 PRESIDING JUDGE FREMR: [12:26:06] So you object to return back to that?

6 MS SAMSON: [12:26:10] If the point is solely to emphasise what was said in
7 examination-in-chief, I object to that, yes.

8 PRESIDING JUDGE FREMR: [12:26:18] Mr Bourgon.

9 MR BOURGON: [12:26:19] Well, Mr President, it is not to emphasise. It is to
10 address what was said in cross-examination because it was suggested in
11 cross-examination that the person leading this brigade was Commander Manu, and
12 I'm asking when. Mr Ntaganda just said that he expected Commander Manu but
13 someone else showed up, and I'm asking him when did he realise that Commander
14 Manu was not with the brigade but that Commander Seyi was there. And he put an
15 answer, "I was informed by message." I just want him to identify that message.

16 PRESIDING JUDGE FREMR: [12:26:59] I see even slight progress, so, yes,
17 objection is overruled. Please proceed.

18 MR BOURGON: [12:27:07]

19 Q. [12:27:08] Mr Ntaganda, do you have your small logbook before you?

20 A. [12:27:13] Yes, Counsel. I do have the logbook and I have turned to the page
21 you've mentioned.

22 Q. [12:27:35] Well, actually, Mr Ntaganda, I'd like you to identify the page, and I
23 don't want to direct you on any page, but you mentioned that you learned that
24 Commander Manu was not with the brigade or that Seyi was with the brigade.
25 Where do we find this, according to the last answer you gave, in the logbook?

1 A. [12:27:56] Well, to my mind, as a commander, this is clear in the message.
2 Nineteenth of -- you can see Commander Salumu, Sierra Alpha, and then later on you
3 see Commander Seyi, and his call sign was Mike Kilo. So that means that they were
4 the ones who were leading the troops, and Manu is not mentioned anywhere. And
5 that was shortly after I had left Aru. In the message Seyi was in communication
6 with Salumu, and that was when they were changing ammunitions so that they could
7 move forward towards the target. The message is clear.

8 Q. [12:29:00] And on what page of the logbook are you -- do you see these
9 information you are just referring to? Maybe what date rather than the page,
10 because it's difficult to ...

11 A. [12:29:25] It was on the 19th, 19 November. November is not shown on this
12 particular page, but it was the 19th at 7.30. Correction -- yes, but because of
13 operations, the Mongbwalu operations were in November, so this message must also
14 be in November.

15 Q. [12:30:10] Thank you. And you mentioned in your previous response that
16 you made a phone call to Jérôme, I think. I'd like to know if we can find, when did
17 you get a response as to where Manu was?

18 A. [12:30:38] I received an answer on the 21st when I was in Barrière in the
19 evening before I went to bed. That is when I learned that Manu had not yet set off.
20 I had left Bunia in the evening, and when we took some rest in Barrière, that is when I
21 received that information. So I already was travelling at the time.

22 Q. [12:31:15] And on which page of your logbook do you see this information?

23 A. [12:31:42] That information, you wanted the date or the reference number at
24 the bottom of the page, Counsel? I think that it would be better for me to give you
25 the reference number at the bottom of the page. The reference number ends in

1 5755 -- or, rather, 5754 and you can see an indication that refers you to the next page
2 and that brings us to the page whose number ends in 5755, and that is when you see
3 that Commander Manu had not yet left here. Page 5756.

4 Q. [12:32:55] For the record, I note that the pages referred to by the witness, the
5 translation is found at pages 5784 and 5786.

6 Mr Ntaganda, how do you establish the date of this information?

7 A. [12:33:24] On this page ending in 5754, if you look at the top of the page where
8 the radio operator wrote 211938, if you read the messages on the page, you will see
9 that it was Mike Kilo who already was engaged in fighting and he already had some
10 injured men. He was part of the Mongbwalu operation. If you go to page 5756,
11 you'll see a message that says that Manu is still here. So that means that Manu was
12 still in Aru, whereas his colleague was already fighting in Mongbwalu. It's clear
13 when you read these messages.

14 Q. [12:34:25] Time permitting, Mr Ntaganda, we will address the manner in
15 which you re-ordered these pages during re-examination. But for now, I'd like to
16 move back to the article or to the newspaper article we were looking at. And again,
17 this is the article that bears a number 0134-0062, and I would like to have the
18 page 0068. If we can have this page on the screen, please.

19 Now, Mr Ntaganda, while this page is being put on the screen, what I will address is
20 the part of the information immediately following the one that I read earlier. So if
21 I can have -- if you can focus -- or at least zoom in to the last column.

22 So, Mr Ntaganda, the part I read earlier ended with, (Interpretation) "The two
23 brigades were coordinated by Commander CI Ondri Onzi from our sector".

24 (Speaks English) The part I'd like to address now is the following part, which reads as
25 follows, and it goes over in two pages. So first it begins on this page, and it reads as

1 follows. Please listen carefully:

2 (Interpretation) "This information was also confirmed by Commander Kisémbó
3 from the general headquarters of the patriotic forces for the liberation of the Congo."

4 (Speaks English) And now we need to go to the following page, which is page 8, and
5 on the record it's page 0069, at the top left, where it says -- a bit down, where the
6 article continues, if we can scroll down so we go down to the following. Yes, the
7 follow-up to this article, where it says "L'Upc capture ..."

8 So reading from the last page, "It was confirmed by Commander Kisémbó ..." and
9 then here you see at the top, Mr Ntaganda, where it says, (Interpretation) "From
10 page 7." (Speaks English) And it says, (Interpretation) "Monday, 25 November 2002
11 in Aru when -- where he was on mission."

12 (Speaks English) My question, Mr Ntaganda, is: The fact that Kisémbó would have
13 spoken to a journalist in Aru on 25 November 2002, does that match your recollection
14 of events as to where he was at the time?

15 A. [12:38:35] I don't know whether he spoke to the journalists, but I do know that
16 he went to the funeral of the governor. And the report that we see here in this
17 newspaper does not correspond to the way that our army was operating. It's very
18 different to that.

19 Q. [12:39:03] Let us go back to the previous page, which is page 000 -- 0068, sorry,
20 and back to the beginning of this article, dealing with "L'Upc capture la cité minière
21 de Mongbwalu".

22 There are two questions I would like to ask you in respect to this. I'm not sure if I'll
23 have time to do both. Let's take up the first one. If we can just go up a bit, where it
24 says, "L'Upc capture ..." I'd like to start with "La population", a bit -- no, further,
25 further up, please, the other way around. Just right there.

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1 Mr Ntaganda, I will read to you the first part, the beginning of this article, where it
2 says the following, in French:

3 (Interpretation) "In Beni like in Bunia, where the respective general headquarters of
4 the RCD-KIS/ML and the UPC/RP, public opinion really didn't know what to make of
5 matters, particularly when it came to the mining town of Mongbwalu. The people
6 on each side had the impression that they had been dragged into a media war by the
7 two warring sides and they were in this war speaking through radio broadcasting
8 stations."

9 Do you understand?

10 A. [12:41:28] I'm listening to what you have just read out to me, Counsel.

11 Q. [12:41:36] And my question is the following: Based on your own experience
12 and knowledge at the time, did it happen frequently or how frequent did it happen
13 that belligerents or parties involved in fighting used the media to their advantage?

14 A. [12:42:17] I'm not in a position to know that.

15 MR BOURGON: [12:42:23] Mr President, what -- we need to stop at quarter to?

16 PRESIDING JUDGE FREMR: [12:42:27] (Microphone not activated)

17 MR BOURGON: [12:42:30] I think better to stop here, Mr President, because
18 reading the next part will go necessarily over quarter to 1.

19 PRESIDING JUDGE FREMR: [12:42:38] Reasonably we still have three minutes,
20 which is probably not enough for your exercise.

21 All right. So we break now for lunch break and we will reconvene at quarter past 2.

22 THE COURT USHER: [12:42:53] All rise.

23 (Recess taken at 12.42 p.m.)

24 (Upon resuming in open session at 2.16 p.m.)

25 THE COURT USHER: [14:16:37] All rise.

1 Please be seated.

2 PRESIDING JUDGE FREMR: [14:17:12] Good afternoon, everybody.

3 Let's directly continue with re-direct of Mr Ntaganda conducted by the Defence.

4 Mr Bourgon, you have the floor.

5 MR BOURGON: [14:17:27] Thank you, Mr President.

6 Q. [14:17:40] Good afternoon, Mr Ntaganda.

7 A. [14:17:42] Good afternoon.

8 Q. [14:17:43] Just before the break or the lunch period, we were discussing a press
9 article in le journal La Colombe Plus.

10 I would like to have this article on the screen. It is DRC-OTP-0134-0062. And I
11 would like to have the page on the screen 0068.

12 Now, my last question before the break, Mr Ntaganda, was the following, at page 60,
13 line 15. And I just want to make sure that you understood the question correctly, so I
14 will repeat that question:

15 "Based on your own experience and knowledge at the time, did it happen frequently
16 or how frequent did it happen that belligerents or parties involved in fighting used
17 the media to their advantage?"

18 Your response was: "I'm not in a position to know that."

19 Let me take that question again. Are you aware that belligerents did use the media
20 in communicating messages to the population or the other parties, based on your own
21 experience?

22 A. [14:19:59] According to my experience, I will give you an example. When
23 President Thomas sent a message for the population, intended for the population, he
24 would meet the population and he would address them. He would present his
25 regrets for all the difficulties the population was going through. That's the case that

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1 I can give you with regards to your question.

2 Q. [14:20:46] Thank you. Maybe my question is not clear enough or precise
3 enough.

4 In cross-examination a question was put to you regarding the contents of your
5 interview that you gave to a journalist called Mike Arerang. Do you recall being
6 asked such questions in cross-examination?

7 A. [14:21:19] Yes.

8 PRESIDING JUDGE FREMR: [14:21:19] Hold on, Mr Witness.

9 Ms Samson, please.

10 MS SAMSON: [14:21:22] Yes, Mr President. Although the witness appears to
11 recall the specific event, may we have more information as to when this interview
12 might have been conducted and where? Perhaps a transcript reference could assist,
13 but otherwise something to anchor the testimony.

14 PRESIDING JUDGE FREMR: [14:21:43] Mr Bourgon, can you assist?

15 MR BOURGON: [14:21:45] Of course, Mr President. This interview was given
16 my Mr Ntaganda. He was questioned on this interview when some people arrived
17 by plane in Mongbwalu. He gave an interview, he was asked questions as to why he
18 had given some certain information. And I will provide now Mr Ntaganda's
19 response to this question as well as the question, which is what I want to address.
20 But maybe I'll come back to this later because I cannot find the exact reference for the
21 question.

22 PRESIDING JUDGE FREMR: [14:22:27] All right then.

23 MR BOURGON: [14:22:35]

24 Q. [14:22:35] In the meantime, Mr Ntaganda, let me move to the next part of this
25 press article which I would like to address with you.

1 And if we can raise the exhibit on the screen please so that -- no, sorry, where it was.

2 I did not see that. Where it says "UPC capture" and I would like to have the part --

3 THE INTERPRETER: "UPC captures" in English.

4 MR BOURGON: -- which begins with -- yes, we are at the right place. If I can just
5 put the article a bit further up, I'd like to start with the part where it says -- the other
6 way. Yes, like this.

7 Q. [14:23:48] So, Mr Ntaganda, there are four columns on the screen before you
8 and I'm referring now to the third column with the word that begins with "Revenu"
9 and I will read what it says in this article which of course deals with the alleged
10 capture of Mongbwalu by the UPC.

11 So on this page we see that -- we can read the following, please listen carefully:

12 (Interpretation) "Having come back very recently from the front in the morning of
13 Monday 11 November the chief of general staff Kisembo Bahemuka of the FPLC
14 announced on Radio Candip the taking without combat of the town of Mongbwalu
15 five days ago. He also" -- (Overlapping speakers)

16 (Speaks English) -- to go this you have to go to the next column, if we can just lower
17 the page a bit. No, the other way around. Yes, like this.

18 (Interpretation) At the top of the page:

19 "He was pleased with the absence of civilians and bladed weapons from the front,
20 proof that the population does not want to get involved in military questions any
21 longer and aspires to peace, but it was taken by hostage he added."

22 (Speaks English) (Overlapping speakers) Did you get the content of this extract from
23 this newspaper article?

24 A. [14:25:58] No. What you've just read to me was completely different to the
25 facts, the facts of what happened at that time.

1 Q. [14:26:12] Well, before I put a question, maybe it's better if you tell us exactly
2 what -- what were the facts according to your recollection and your knowledge.

3 A. [14:26:35] You see, they speak about the 11th, 11 November, speaking about
4 Kisembo who is pleased. I don't know if it was the 11th that we took that locality. I
5 know that Mongbwalu was liberated. That was the 24th, having liberated Sayo. I
6 arrived on the 23rd, and in the morning I liberated Sayo. So you can take that date
7 as a reference to say that was the liberation of Mongbwalu generally. And at that
8 time there was a civilian population that was in Mongbwalu and in Sayo, and there
9 were combatants. And on the 24th, I was there when Sayo was liberated. That's to
10 say, that what is written here is completely different to the facts as they -- the opposite
11 of what happened when I was there. Even the period is different.

12 Q. [14:27:55] Well, the period is exactly what I am interested in. From this
13 extract, we see that Kisembo is addressing the media on 11 November, and he
14 basically says that five days prior to this, Mongbwalu was taken by FPLC. So with
15 these two dates in mind, does that remind you of any event that you might have been
16 informed of in Mongbwalu five days prior to 11 November?

17 A. [14:28:51] Can you see that there's a difference? If you look at our message
18 book, you will see the chronology of matters and you will see that the date which is
19 mentioned here is not correct. They say that he met the journalist on 11 November
20 and that Mongbwalu fell five days previously. That would be 6 November 2002.
21 No, that's not true. That is not true at all.

22 Q. [14:29:31] To your knowledge at the time, did FPLC conduct an operation in
23 Mongbwalu in or around that date?

24 A. [14:29:58] When I was in Aru there was an operation which failed. So
25 Salumu carried out an operation that failed and that's why I was called upon; the

1 president called me in order to liberate Mongbwalu. That was after the defeat. I no
2 longer remember the date, but he was beaten, he was defeated. And when I left that
3 place, I found that Salumu had liberated Mongbwalu and Seyi. It was around
4 the 22nd or 23rd. But here they speak about 11 November or 6 November. No.
5 These are -- these facts as stated here are not correct.

6 Q. [14:31:06] And when the FPLC launched the failed attack, as you mention in
7 your last response, did they succeed in taking Mongbwalu, even if it is only for a few
8 hours, to your knowledge again?

9 A. [14:31:40] Not at all. Salumu tried, but * he was soundly defeated. He
10 turned around in order to return to Mabanga, Dala. No, he wasn't able to liberate
11 Mongbwalu. This locality was liberated later by Seyi and Salumu, but before that,
12 no.

13 Q. [14:32:19] When Kisembo refers in that short extract to the fact that there were
14 the absence of civilians and (Interpretation) "bladed weapons on the front" (Speaks
15 English) and -- that this is a sign that the civilians do not want to mix up again in
16 military affairs and all they want is peace; is that a comment you can refer to based on
17 your own experience in Mongbwalu?

18 PRESIDING JUDGE FREMR: [14:33:04] Ms Samson.

19 MS SAMSON: [14:33:05] Thank you, Mr President. If I understood, the question
20 is aimed at taking an extract of what Floribert Kisembo may have said about an
21 earlier attack, but I'm unclear what exactly the witness is being asked to do --

22 PRESIDING JUDGE FREMR: [14:33:25] Mr Bourgon.

23 MS SAMSON: [14:33:27] -- about that.

24 MR BOURGON: I can certainly rephrase the question, but the question is simply
25 asking Mr Ntaganda, because here we have Kisembo talking about one operation

1 during which there were no civilians and no armes blanches and he takes this as a
2 sign, and I'm asking Mr Ntaganda whether he can draw a parallel between this and
3 what he experienced later on.

4 PRESIDING JUDGE FREMR: [14:33:53] All right.

5 MR BOURGON: [14:34:01]

6 Q. [14:34:01] Mr Ntaganda, are you able to answer the question?

7 A. [14:34:07] This is what I know. I wasn't aware of this information from the
8 radio. I also hadn't read this press release. But everywhere, where the army
9 arrived in one place, the population would flee. That was even the case in
10 Mongbwalu. When we were fighting, all the troops who were involved on the
11 battlefield were armed. That's what I know.

12 Q. [14:34:40] I move to another part of this press article, and this one is attributed
13 to Jérôme, and this one is on the next page of the article, and this one is on page 0069.
14 If I can have this page on the screen, please. We are on the next page, Mr Ntaganda.
15 If we can bring the -- move the page up so that we can see down the article,
16 (Interpretation) "UPC captures ..." (Speaks English) and the -- exactly where we are
17 now. That's good.

18 Mr Ntaganda, this is "L'Upc capture ..." and it says, (Interpretation) "Following from
19 page 7." (Speaks English) I'd like to read you the next paragraph after the one we
20 just looked at, where it says the following, in French:

21 (Interpretation) "For Commander Jérôme, the APC benefited from important
22 logistical support from Kinshasa. He took advantage of the situation to question the
23 Congolese government on that subject. 'I asked President Joseph Kabila to no longer
24 support RCD/ML Mbusa because he is the president of all the Congolese persons'."
25 (Speaks English) Did you understand what I just read from this press clip?

1 A. [14:37:25] Yes, I understood.

2 Q. [14:37:26] My question is: Is it correct, based -- according to this clipping that
3 the APC benefited from an important logistical support from Kinshasa in the context
4 of the capture of Mongbwalu?

5 A. [14:37:57] Yes, it received help from the Kinshasa government. I'm talking
6 about the APC. They received not only aid in terms of men, but also military
7 materials.

8 Q. [14:38:15] And in the second part of this paragraph, where it says that
9 Joseph Kabila or at least Commander Jérôme takes the view that President
10 Joseph Kabila is the president of all Congolese, did you and members of the FPLC
11 consider Joseph Kabila to be the president of all Congolese at the time?

12 A. [14:38:53] We considered him as president of all the Congolese, but we were
13 astonished to see that he sent weapons, which were used to decimate the civilian
14 population.

15 Q. [14:39:15] My last question concerning this press article, the reference that my
16 colleague was looking for, is transcript 235, page 86. The question is at line 2 to 5,
17 and the response of the witness was at line 6 to 15. So the question goes as follows:

18 "Now, sir, my question again was: What you have said to Mike Arereng in the
19 Mongbwalu video is very different than what you are saying today, because you told
20 him that you captured a lot of people in their ranks and a lot of them were killed."
21 Your response was the following:

22 "That's not exactly right. I said when I was interviewed in the evening, the news was
23 going to be given in Swahili, it was going to be broadcast in Swahili at that time.

24 When you capture somebody who you free, that person will tell the others, he's going
25 to give a message to the others, and when I announced that we captured a lot of

1 people and that a lot of others had died, this was another tactic, another military
2 tactic. But in reality it was to intimidate the enemy.

3 I had the opportunity to speak to a journalist. And in the army that does exist,
4 intimidation of the enemy exists. It's a tactic. It's a military tactic which I used. I
5 spoke about APC people who had been captured. And as I said on the radio, those
6 who died were also from the APC."

7 Now, you responded to that question. But my question today is the following: Are
8 you aware of other commanders using the media in the way you did on that
9 occasion?

10 A. [14:41:52] Yes, even the APC troops used these means in order to intimidate
11 the FPLC troops. And in the army these tactics are used by some and others,
12 whether it's on one side or the other side. It's normal.

13 Q. [14:42:16] Thank you. I move to a different topic. This topic has to do with
14 the, according to your testimony, the punishment you inflicted, or you issued to a
15 Commander Manu. This was done in cross-examination in transcript 235, page 44,
16 lines 10 to 12. The question was the following, line 10:

17 "And I'm going to show you a short excerpt of the video. It's DRC-OTP-2058-0251,
18 item 282 on our list.

19 And I'll show you an excerpt at minute 02.39 to 03.20."

20 PRESIDING JUDGE FREMR: [14:43:23] Is it public, Mr Bourgon?

21 MR BOURGON: [14:43:26] Yes, Mr President.

22 Q. Now, that was the question that was put to you. And after looking at this
23 video, then the Prosecution counsel put the following question to you, at lines 13:

24 "And Commander Manu is not punished in this video. He is -- looks to be in
25 everyone's good graces, does he not?"

1 And you provide the following answer, at lines 15 to 20:

2 "Perhaps you should have asked me how the officers at the brigade commander level
3 are punished. You don't punish them just any old way. It also depends on the
4 punishment that I place upon him. I told him not to take on command of the force
5 and to wait for the order which was to follow. Even here, he may already be serving
6 his sentence or doing his punishment, but I didn't need to tell journalists about it."

7 My first question, Mr Ntaganda, in -- as a follow-up to your response, is the
8 following, at lines 17 and 18, we're on page 45, you say: "I told him not to take on
9 command of the force and to wait for the order which was to follow."

10 Can you explain what command you're talking about in this response

11 A. [14:45:30] I was just talking about Commander Manu since he was the one
12 who did not come with his forces to command them, so it was just in relation to
13 Commander Manu.

14 Q. [14:45:50] What I'm interested in is when you told him not to take on
15 command of the force, what force are you referring to?

16 A. [14:46:08] I'm talking about the FPLC.

17 Q. [14:46:17] And which part of the FPLC that you did not want him to take
18 command of?

19 A. [14:46:35] I didn't want him to be included in that force in Mongbwalu because
20 Seyi had just freed Mongbwalu and Manu had got there later after the liberation of
21 Mongbwalu. So I didn't want him to go and join that force that had come from Aru.
22 I wanted him to stay on the sidelines, and that was a punishment, a kind of
23 punishment.

24 Q. [14:47:10] Thank you. What I'd like to do now, Mr Ntaganda, is to show you
25 also a part of the same video and then I will ask you a question on the same topic.

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1 Mr President with the Chamber's leave I would like to show an excerpt of the same
2 video. The number of the video is DRC-OTP-2058-0251. It is item 282 on the
3 Prosecution's list of exhibit. And I would like to show from 46.18 to 48.20. No
4 sound is required, so I will not give any references to transcript or translation.
5 With your leave, if we can have the -- we're not able, or the computer here is not
6 working, so we have to rely on the court officer to play this video.

7 Mr Ntaganda, please watch. It's a little more than two minutes.

8 PRESIDING JUDGE FREMR: [14:48:31] Ms Samson, any objection?

9 MS SAMSON: [14:48:33] No, Mr President.

10 PRESIDING JUDGE FREMR: [14:48:36] All right.

11 THE COURT OFFICER: [14:48:56] Defence counsel, if you could please confirm
12 whether the video is public, it can be shown? Yes, it is.

13 MR BOURGON: [14:49:03] Yes, it is. I mentioned it earlier, but I should have
14 mentioned it again, sorry.

15 Mr President, once we've viewed this video and I put the question, I would like to
16 have a technician because this computer now is completely out.

17 PRESIDING JUDGE FREMR: [14:50:19] All right. So after playing this video we
18 will have to break. In the meantime, we can call a technician to come.

19 MR BOURGON: [14:50:42] So as mentioned, I do not need sound. I'm looking at
20 minutes 46.18 to 48.20.

21 (Viewing of the video excerpt)

22 MR BOURGON: [14:53:07] I see that the video was stopped at 48.20.

23 Q. [14:53:19] Mr Ntaganda, do you recognise the events depicted on this video?

24 A. [14:53:38] Yes.

25 Q. [14:53:42] Are you able to identify some of the main characters that we saw on

1 this video in terms of any senior officers present?

2 A. [14:54:04] Yes. There was Kisémbó, myself, Commander Salumu,
3 Commander Kasangaki, Rafiki. And it was when -- well, when Salumu
4 and -- explained how they took control of the town of Mongbwalu.

5 Q. [14:54:38] The events we see on this video, do they take place after or before
6 visiting the old mine factory in Mongbwalu with Kisémbó?

7 A. [14:55:16] We came from the plant, and Salumu and Kasangaki arrived to say
8 hello to the delegation. It was a few minutes after arrival, that is when -- well, our
9 vehicle -- the vehicles got there and Kasangaki and Salumu arrived there directly.

10 Q. [14:55:48] Just to be sure, Mr Ntaganda, in your last response did you say
11 vehicle singular or vehicles plural?

12 A. [14:56:12] We had a vehicle that we came in from the plant and we got to the
13 place where we spent the night, the Appartements, and that is when Kasangaki and
14 Salumu arrived. We had just gotten out of the vehicle.

15 Q. [14:56:35] Now, Commander Manu, was he present when you visited the mine,
16 the usine, along with Kisémbó?

17 A. [14:56:56] Yes, he was also there at the plant.

18 Q. [14:57:00] And in the scene that we have just looked at, did you see
19 Commander Manu there?

20 A. [14:57:17] No. When we left the plant, once we had gone down and we had
21 gotten to the centre, I explained to him that he had to go to camp Goli and wait for the
22 order which was to come later because he was to be punished. He said goodbye and
23 he left. That is when Kisémbó saw that Manu had been punished.

24 Manu went to camp Goli in accordance with the order I had given him and he waited
25 for me to give a new order to him. So he wasn't there with us.

1 Q. [14:58:14] By that time, had you informed Kisembo of your actions that you
2 had taken in respect of Commander Manu?

3 A. [14:58:41] No, not yet. That day in the evening that is when I went to give
4 him a report about the situation, but in town when he saw me explaining to Manu
5 that he had to go back to camp Goli, Kisembo saw that I had taken measures against
6 Manu and I explained to Kisembo what had happened.

7 But after that we met each other once again and I did receive this report on the
8 prevailing situation and then we handed over power.

9 Q. [14:59:28] Thank you.

10 MR BOURGON: Mr President, if we can have a technician, please. In the
11 meantime maybe with the log, I'm not sure if the logbooks were taken away from
12 Mr Ntaganda before lunch time, but maybe we can give him the logbooks because my
13 next segment has to do with the logbooks?

14 PRESIDING JUDGE FREMR: [14:59:50] All right. Let's provide Mr Ntaganda
15 with the logbooks.

16 So I was told that a technician is on his way. So if I understood well, so we are not
17 able to, according to your statement, to continue without Ms Martineau's PC being
18 fixed up, or ...

19 MR BOURGON: [15:00:23] Well, indeed, Mr President. I would like because I get
20 a lot of references from my colleague and right now the computer is completely dead.
21 So if we could take a short break just to get the --

22 PRESIDING JUDGE FREMR: [15:00:35] You know, if a the break is short, that
23 would be fine with the Chamber, but we can spend too much time on waiting for -- so
24 maybe think about some alternative solution, for example, to change the seat of
25 Ms Martineau. Would it be feasible? And we also have a technician here,

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1 so -- please.

2 So we will break for five minutes and hopefully after our return back everything will
3 be okay. And if not, we have to take this alternative solution.

4 MR BOURGON: [15:01:15] Much appreciated, Mr President. I apologise.

5 THE COURT USHER: [15:01:19] All rise.

6 (Recess taken at 3.01 p.m.)

7 (Upon resuming in open session at 3.12 p.m.)

8 THE COURT USHER: [15:12:47] All rise.

9 Please be seated.

10 PRESIDING JUDGE FREMR: [15:13:15] Well, the problem with the computer
11 seems to be resolved, so I thank the technician.

12 And, Mr Bourgon, you may proceed.

13 MR BOURGON: [15:13:26] Thank you, Mr President.

14 Q. [15:13:28] Mr Ntaganda, if you can take the small log that you were given
15 shortly before we took a short pause to fix the computer, and I'd like you to look at
16 the small log and the first page of the small log. So for you the page will be 5748.
17 And with respect to the translation, it will be 5778.

18 A. [15:14:15] I'm there, Counsel.

19 Q. [15:14:18] Thank you. My first question, before we go any further, is when
20 during your cross-examination you testified about the change of call sign of
21 Commander Seyi at some point during the operation in Mongbwalu, what I'd like to
22 know from you is, do you find any references in your small log with respect to the
23 call sign used by Seyi at that time?

24 A. [15:14:59] Yes. It's clear in this document. If you look at 190730,
25 Commander Salumu gives the call sign Sierra Alpha and below that you have

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1 Commander Seyi, whose call sign is Mike Kilo. And when you go a bit further
2 down the document finishing with 57 --

3 Q. [15:15:47] Before you go any further, just tell us the page number on which
4 you find the information you have just been given about Mike Kilo. Which page is
5 this?

6 A. [15:16:07] Page ending in 5748. And on that page you will see that it is
7 mentioned Commander Seyi with his call sign. And you also have the call sign of
8 Commander Salumu.

9 Q. [15:16:35] Thank you. For the translation, the page number is 5778. Do you
10 find other references to the call sign Mike Kilo in the short -- in the small log?

11 A. [15:17:04] Yes. If you -- well, there's another message which shows who Mike
12 Kilo is. If you want to see that, go to page 5754, and at the top of the page you will
13 see that it speaks about Mike Kilo, in brackets, Commander Seyi.

14 Q. [15:17:44] Thank you. For the translation, this would be page 5784.
15 Did you find any other references to Mike Kilo in the small log?

16 A. [15:18:15] If you would wait so I may see if I can find a reference and then I'll
17 be able to tell you.

18 Yes. If you go to page 5754, Mike Kilo is mentioned there. Location Pluto. And
19 that's a message of the 21st. And his call sign is mentioned in the message in order to
20 identify the place where he was and what he was doing.

21 Q. [15:19:21] Thank you. Now, for the translation this would be page 5784.
22 Now, I'd like to know, Mr Ntaganda, this last message, I don't read the name Seyi in
23 this message anywhere. How can you tell that this information comes from
24 Commander Seyi?

25 A. [15:19:57] The call sign of a person is used as his name; for example, Tango

1 Romeo, you call me that, and you will see that here they speak about
2 Commander Seyi who is in Pluto seven kilometres away. And Commander Seyi had
3 wounded persons and he lost three men. You will see that there is also Sierra Alpha
4 and that was nobody else other than Commander Salumu. So when you say Mike
5 Kilo, above in brackets you put Commander Seyi. I'm already there. You can see
6 that his call sign is Mike Kilo and his name is Commander Seyi. Now, where it
7 concerns Kisembo, his call sign was Zulu Mike.

8 Q. [15:21:02] Now, Mr Ntaganda, the content of that message, can you establish a
9 relationship between the content of the message and Commander Seyi?

10 A. [15:21:24] This message shows that he's the person who was in Pluto which is
11 a locality in Mongbwalu. He was the person in operation in that place. And where
12 it says "Mike Kilo" and it puts in bracket Commander Seyi, even for somebody who
13 doesn't know the communications within the army, will see that that is
14 Commander Seyi.

15 Q. [15:22:09] Thank you. Before I move on to other pages of the small log, I'd
16 like to turn to an issue also involving Commander Seyi which was raised in
17 cross-examination, and this has to do with the promotions which Commander Seyi
18 would have received.

19 And I'd like to turn to the message which is found in your big log, and that is the log
20 which is the out-section of the log. If you have your log with you, I will ask you to
21 turn to the page on 11 January, and the exact page number is 0017-0198. So I think
22 just number 198 is sufficient for you to get to the right page. For the translation, the
23 corresponding number is 2102-4020.

24 A. [15:24:04] I'm there, Counsel.

25 Q. [15:24:09] Now, a number of questions were asked to you about the promotion

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1 received by Seyi and you already provided answers, so I'm not going to go back to
2 this answer. However, you can confirm, of course, first that the message, the
3 promotion message we see -- I think we're not yet here on the ...

4 PRESIDING JUDGE FREMR: [15:24:36] Ms Samson, please.

5 MS SAMSON: [15:24:38] Thank you, Mr President. May we please have a
6 transcript reference for the passages being cited and the questions and answers in
7 cross-examination?

8 PRESIDING JUDGE FREMR: [15:24:50] Mr Bourgon.

9 MR BOURGON: [15:24:51] Indeed, Mr President. Transcript 228, and it's page 72,
10 line 24 to page 73 at the beginning.

11 PRESIDING JUDGE FREMR: [15:25:03] Thank you.

12 MR BOURGON: [15:25:11] I'm not sure if we can get the log, the translation, on the
13 screen?

14 PRESIDING JUDGE FREMR: [15:25:20] Ms Samson.

15 MS SAMSON: [15:25:21] Yes, I wonder whether the questions and answers will be
16 read out to the witness from the cross-examination.

17 PRESIDING JUDGE FREMR: [15:25:28] If you insist. I think it should be done.
18 Please, Mr Bourgon.

19 MR BOURGON: [15:25:34] I will --

20 THE COURT OFFICER: [15:25:36] Sorry, Defence counsel, if I may. We need the
21 ERN number of the translation.

22 MR BOURGON: [15:25:40] Yes.

23 THE COURT OFFICER: [15:25:41] The first page, please.

24 MR BOURGON: [15:25:43] Sorry. The first page of the translation is 2102-3854.
25 The page I am looking for is 2102-4020. And I will read the questions and answers.

1 Q. [15:26:12] Mr Ntaganda, please listen carefully to the question, line 24, page 72.

2 Question:

3 "Now, my question was actually having to do with your message from January 2003.

4 I wasn't asking you in relation to December. In your message of -- we'll go on to

5 page 73, line 1, January 2003, you've indicated that people are promoted and

6 Commander Seyi is 2IC of the 401 brigade. So is that the promotion you were giving

7 him on 11 January 2003?"

8 Your response was as follows:

9 "At that time, he was not the 2IC, that is the time when he was appointed 2IC. But

10 before then, he had acted in an interim capacity. When that brigade didn't have a

11 commander, he was appointed to serve as interim commander of the brigade, but

12 here he is appointed as a deputy brigade commander."

13 Do you recall this question and answer, Mr Ntaganda?

14 A. [15:27:50] Yes.

15 Q. [15:27:52] Now --

16 A. [15:27:55] Ndiyo, ndiyo.

17 Q. [15:27:57] Now, my question doesn't relate to this answer, it relates to another

18 message which I would like to know if that message is connected to

19 Commander Seyi's promotion. And I would like to have on the screen the following

20 page, which is the translation -- for you, Mr Ntaganda, it would be number 197 at the

21 top. For the translation it's page 4019. If I can get this message which I will read for

22 you, Mr Ntaganda.

23 19 January at 0919 bravo January 2002 from yourself to commander sector operations

24 north-east, information Tiger One. Message reads as follows in French:

25 (Interpretation) "You are informed that. Stop. You must immediately send

1 Commander Seyi here to general staff. Stop. You will be informed of the follow-up.

2 Full stop."

3 (Speaks English) My question, Mr Ntaganda, is is there any link between this

4 message, to your recollection, and the promotion message to 2IC of 11 January?

5 A. [15:30:13] Yes. I remember that when he received this promotion he wasn't

6 satisfied and he showed indiscipline. I wanted to put him in detention. The two

7 messages, well, there's a relationship between the two messages therefore.

8 Q. [15:30:39] Thank you.

9 If I can move to another message and see if there is a relationship also. I would like

10 to move for you, Mr Ntaganda, to page 184.

11 And for the translation, to have page 4006.

12 I'd like to go to the bottom of the page, Mr Ntaganda, and to address the message that

13 is 121332 Bravo. Do you see this message in your original on page 184?

14 Now if I look --

15 A. [15:31:54] I'm there, Counsel.

16 Q. [15:31:57] If I look at this message, which was referred to both in-chief

17 examination and cross-examination and which bears the title (Interpretation) "New

18 structure" (Speaks English) you see that for (Interpretation) north-east operations

19 sector (Speaks English) you see that the état-major is in Aru, that the sector

20 commander is Jérôme Kakwavu, that the 2IC of the sector is Emmanuel, and then we

21 see that for 401 brigade the brigade commander is Seyi. Can you explain how you

22 went from a promotion of Seyi to 2IC to your intention to put him in detention for

23 indiscipline to now appointing him as brigade commander of the 401?

24 A. [15:33:44] Well, that's what I was explaining, I was saying to you there's a

25 factor relating to the seriousness of the offence and the rank of the person. When he

1 complained, it was because Commander Manu hadn't commanded the force and he
2 had done so for a certain time, but he should not have been indisciplined even if in
3 some way he was right.

4 Now, for the indiscipline that he showed, he was put in detention for some time.

5 And in the restructuring, in the general restructuring we wanted to set up an army
6 and in order to do that, there had to be promotions of lower ranking officers to get to
7 higher ranks. That's how he was promoted to the post of the commander of the
8 brigade that he had commanded. As an interim commander I would therefore say
9 that what was done with his punishment depended on the seriousness of the offence
10 that had been committed.

11 Q. [15:35:13] Thank you.

12 I move to a different topic which has to do with the -- your small logbook. And I
13 would like you to turn to the small logbook. I will give you the number,
14 Mr Ntaganda. The exact page number for you in the small logbook -- actually,
15 there's no -- it's a transcript reference, I apologise. In the transcript number 237, and
16 that is on page 11, and that was on lines 10 and 11.

17 Now, before that, counsel for the Prosecution asked you a number of questions
18 regarding your time occupation or your activities from the time you received the
19 order to go to Mongbwalu until the time you say you came back.

20 Now, the proposition was put to you at lines 10 as follows:

21 "Now, sir, I put to you that you left Mongbwalu on 29 November 2002, or sometime
22 after, but not on the 28th."

23 Your response was as follows, lines 12 to 14:

24 "I have told you that the reasons for which I have given you the details of my
25 timetable is that -- I already explained this to the Court and what I remember is that I

1 left on the 28th."

2 Now, my question, Mr Ntaganda, is you have both logbooks before you, but even
3 with or without reference to the logbooks, how do you remember that you came back
4 from Mongbwalu to Bunia on 28 November?

5 A. [15:38:08] I can give several references, but perhaps I'm just going to give one.

6 I remember that after Sayo was liberated, the next day, in the morning, I drafted a
7 message with my own hand and I signed it, that I would have done on the 25th.

8 The plane arrived and I spoke to Commander Kisémbó, who announced that he was
9 going to arrive the next day. And that's what he did. He, therefore, arrived on the
10 26th.

11 And I also remember that I spent two nights, just two nights, on that basis, so I can
12 reconstruct that chronology which takes me to the 28th because I remember what I
13 did every day. First of all, I wrote a message by hand, then there was the plane that
14 came for the wounded, and then there was the arrival of Kisémbó, and I remained
15 two nights before leaving. And I also put Abelanga in prison before taking Sayo.

16 And Manu arrived after we had already taken Sayo.

17 So all those points are a reference for me in order to rebuild the chronology. Those
18 are the facts that make it possible for me to remember the dates and to rebuild the
19 chronology of events. Those are the elements that I used in order to put the events
20 into their chronological order.

21 Q. [15:40:16] Now, in your last response, you referred to a message drafted with
22 your own hand the day -- I think you say the day following Sayo. Can you point out
23 this message? Can you tell us which message this is, Mr Ntaganda?

24 A. [15:40:49] Yes. If you go to the document number 5766 and you will see at
25 the top of the page that this is a message that I drafted on the 25th, 9.15, at 9.15.

1 That's my signature. And I drafted it myself with my own hand.

2 Q. [15:41:29] At this point in time I would like to have on the screen the original
3 version of the logbook where we have this message. I will give you the exact page
4 reference, which is DRC-D18-0001-5748. This is the first page of the document, and I
5 would like to have the page 5766. Now, this is in Swahili. It's the original version
6 of that message.

7 Mr Ntaganda, the page which you have in your hands appears in front of you on the
8 screen. I'd like to know if you can identify physically where that message is, where
9 is it -- where does it start and which part you say you wrote with your own hand?

10 A. [15:43:12] It starts at the place where -- from "Chef MG Adjoint", responsible
11 for operations and organisation, in the following line, to sector Commander Jérôme.
12 That is my writing, from the chief of general staff responsible for operations and
13 organisation.

14 Q. [15:43:37] If we can move the page up so we see below. Thank you.
15 Mr Ntaganda, the part just above the letters Foxtrot Mike, we see some kind of a little
16 sign and a date and group. Is that also your writing?

17 A. [15:44:14] No. When I asked the operator to encode the message, he was the
18 person who added that information with regard to the date and the time, the 25th at
19 9.15. That was when I asked him to encode the message. It was at that time that
20 the radio operator added that information.

21 Q. [15:44:44] If we can move the page further up so we see the remainder -- the
22 remaining paragraphs of this message.

23 Mr Ntaganda, do you recognise -- at the bottom of this page, do you recognise the
24 name and the signature?

25 A. [15:45:11] Yes, that's my writing. That's my name and signature. I, therefore,

1 signed that message with my -- by my own hand. Furthermore, I drafted all the
2 message. What the radio operator did was only to encode it.

3 Q. [15:45:36] Thank you.

4 Now, if I can ask the court officer to move back to the translation of this same page,
5 which is found at page number 5786 -- no, sorry 5796.

6 Now, Mr Ntaganda, we have here on the screen a message, the same message which
7 is in English (sic). Can you explain this message and why is it that you -- if there are
8 any reasons why you remember sending this message at a particular occasion or on a
9 particular day?

10 If we can scroll up the page or down so that -- yes.

11 A. [15:47:08] I don't know if you've finished your question or not. You're asking
12 me to explain?

13 Q. [15:47:18] Well, I would just like to know if there's anything special in this
14 message which allows you to -- which makes it that you reminded that you recall this
15 message and when you sent it?

16 A. [15:47:38] Yes. You can see the last numbers and you will realise that I said
17 that that -- at that time I was in Mongbwalu, military operations. That was before
18 liberating Sayo the following day. That is something that I wrote and I can't forget.
19 I was informing the sector -- I was informing sector Commander Jérôme.

20 Q. [15:48:19] And with respect to paragraph a. of this message, which reads as
21 follows in French: (Interpretation)

22 "Ask you to inform Commander Kisembo, head of general staff, when he is still
23 there", (Speaks English) what is the purpose of that paragraph, Mr Ntaganda?

24 A. [15:49:05] I think that at one point I had arrived in Mongbwalu at night, well,
25 in the evening on the 23rd. And in the morning I received a message saying that

1 they needed weapons. And I said that the sector commanders could tell the chief of
2 general staff what they needed since they were still there -- correction, he was still
3 there. So I was saying, "Since he was still there with you, you must tell him about all
4 the needs so that he can find some solutions to your problems."

5 Q. [15:49:58] Thank you.

6 Mr Ntaganda, we -- the issue that I'm interested in establishing with you is the events
7 in Mongbwalu. You mention, I guess, the sequence of events, you mention your log
8 and you mention precise events. Is there anything else that allows you to recall dates
9 as to where you were 15 years after the fact?

10 A. [15:50:50] Some events helped me remember that, that can help me remember
11 where I was, although it doesn't create confusion about the events, namely, the date
12 on which I was there. And what is more, the logbook was helpful in remembering
13 where I was and what I was doing.

14 Q. [15:51:33] Mr Ntaganda, before I move on to the next part, the beginning of the
15 Mongbwalu operation, as you described it in your testimony, was also challenged by
16 the Prosecution regarding as to what date you would have departed Bunia. Before
17 we look at any material, is there any event that helped you recall after all these years
18 what happened before you set out to Mongbwalu?

19 A. [15:52:19] Yes, I remember when my lawyers spoke to me, they said to
20 me -- that is, when I got here at the Court, the first task was, according to my lawyer,
21 was to remember all the places I had been, the times and the people that I had been
22 with, and above all Mongbwalu, without looking at the logbook. I remember that.
23 I had sent Commander Salumu and Seyi a message telling them to move towards the
24 target. That is something that I remembered quite well. I knew quite well, full well,
25 that it was in November 2002. I tried to remember the date. And when I saw the

1 logbook, I remembered, I remembered the date on which I had sent that message. So
2 these are events that I cannot forget.

3 Q. [15:53:29] Well, let's take a look together at this message you are talking about.
4 Where would I find this message, Mr Ntaganda?

5 A. [15:53:46] Well, you can find it in my logbook, in the first messages that I had
6 sent, on 19 November, the first -- the very first messages that I had sent out. Perhaps
7 the very -- the first ones. I'm talking about 19 November.

8 Q. [15:54:11] Well, can you assist us in finding the right message you're talking
9 about yourself?

10 A. [15:54:23] Yes. In the documents I have here, it's DRC-00017.213. That's the
11 reference number for the original.

12 Q. [15:54:58] We will put this message, the translation of this message on the
13 screen. And the number of the translation, the first page of the document is
14 2102-3854. And I would like to have the page on the screen 4035.

15 Looking at this message, Mr Ntaganda, I will read the message for you. It comes
16 from Operation Commander Bosco Ntaganda to Commander Salumu and
17 Commander Seyi. And the message reads as follows, in French:

18 (Interpretation) "Do everything that you can and all of you move forward to the
19 target. Stop. Myself at any time they are in the process of repairing my vehicle.
20 Stop. I bring you Salumu the cartridges that you gave to Seyi. Stop. This must be
21 done on an emergency basis. Full stop."

22 Mr Ntaganda, the first part of this message, what does it mean in military language?

23 A. [15:57:20] "From", that means coming from me. "To", and then -- well, sent to
24 the following people, Salumu and Seyi. That's what "from" and "to" mean for us
25 within the army.

1 Q. [15:57:46] I was actually referring to the core of the message, the first part.

2 Does this have a specific military meaning?

3 PRESIDING JUDGE FREMR: [15:57:57] Hold on, Mr Ntaganda.

4 Ms Samson.

5 MS SAMSON: [15:57:59] Thank you, Mr President. Although I did touch upon
6 the witness's arrival and departure in Mongbwalu, I note that these same questions
7 were asked in examination-in-chief, T-216 page 76. Now we're starting from lines 8
8 the question was:

9 "I'm looking at the second message on this page. What can you tell us about this
10 subject?"

11 And then there's a lengthy response about the orders given to Salumu and Seyi
12 at 1310 on the 19th.

13 Then there's another question: "Mr Ntaganda, in military jargon when you give an
14 order and you state "advance towards the objective" what does that mean?"

15 There's an answer given there as well.

16 And then we continue with more questions about what the message means.

17 Throughout the next page, page 91, questions about whether this message has a link
18 to an earlier message.

19 We continue on page 90, 91, and then that's it.

20 So we have several -- a page and a half at least on what this message means, who it's
21 to, why it was sent. Thank you.

22 PRESIDING JUDGE FREMR: [15:59:19] Mr Bourgon, is any there difference?

23 MR BOURGON: [15:59:24] I agree with my colleague, but there is a reason,

24 Mr President, why I am returning to this message because in cross-examination, and

25 I'm referring to transcript 226, page 71, lines 12 to 18, as well as transcript 234, page 68,

1 line 18 to page 69, line 1, and then there's another reference, but there is a specific part
2 of this message that was challenged in cross-examination. That's why I need to
3 return to it. But I will move quicker in order to use less time because my colleague is
4 right that many questions were asked. But the issue here is about the third sentence
5 of this message, and that's what I'm trying to get at, but I'm trying to move with all
6 the references so that we know exactly where we are. But I will try to move quicker.

7 PRESIDING JUDGE FREMR: [16:00:20] I got the point. Please proceed.

8 Ms Samson.

9 MS SAMSON: [16:00:24] Yes, it was just for the record, I made an error, it's
10 pages 75 to 77 of transcript T-213.

11 PRESIDING JUDGE FREMR: [16:00:33] Noted. Thank you, Ms Samson.

12 MR BOURGON: [16:00:47]

13 Q. I'm just looking, Mr Ntaganda, to see if your response was complete before we
14 stopped. No, it was not. But let me go straight to what I'm referring to, which is
15 not covered in examination-in-chief. But if we look at this message, my question is:
16 Did Commander Salumu and Commander Seyi require any further order on your
17 part before launching the attack?

18 A. [16:01:46] Yes, necessarily. They had troops and I had been given a mission
19 to liberate Mongbwalu. I had been asked to lead the forces, Jérôme's forces, and
20 when I saw the message I knew that it was Seyi who was there and that is why I sent
21 a message to all of the ones who were commanding troops to liberate Mongbwalu.
22 That is why I sent that message to Commander Seyi and Commander Salumu, saying
23 that at any time I might get there because I had received a mission to liberate
24 Mongbwalu.

25 Q. [16:02:32] Maybe my question was not clear enough.

1 After this message, could they launch the attack without further orders or did they
2 need an additional order on your part before launching the attack after this message?

3 A. [16:03:00] Everything was ready. When I gave them the order they carried it
4 out.

5 Q. [16:03:08] Now, I refer to the third part of the message where it says the
6 following in French:

7 (Interpretation) "I will bring you the cartridges that you gave to Seyi. Salumu, I'll
8 bring you the cartridges that you gave to Seyi."

9 Now, Mr Ntaganda, this aspect of the order was challenged in cross-examination.

10 This was on transcript 226, page 71, at lines 12 to 18. So I will read you what was
11 mentioned then. Well, the first reference I just gave, 226, page 71, lines 12 to 18, deals
12 with the order that we have just seen.

13 I move to transcript 234, page 68, line 18. So here's what the question was on line 18:

14 "Salumu needed ammunition to attack the objective, which was Mongbwalu; that's
15 right, isn't it?"

16 And your response was the following, starting at line 20:

17 "Here in this message Salumu had already left Bunia and had received ammunition
18 because he had already tried to take Mongbwalu. He had failed because there wasn't
19 ammunition. And after he had failed, when I was in Aru, he returned to Bunia, to
20 Kisémbu's residence, where he got ammunition as well as weapons. He left and he
21 arrived and it was at that time that there was this contact. When he contacted
22 Seyi -- Salumu says he sent troops to Damas. He therefore also" - and we continue
23 line 1 on the next page - "gave ammunition because in Damas they were short of
24 ammunition."

25 So that was your response, Mr Ntaganda.

1 And then on page 75, lines 17, the Prosecution put this proposition to you, and it
2 reads as follows, it starts at line 17. Actually, to be on the safe side I will start at line
3 14.

4 Question: "And when you met Salumu you provided him the ammunition he
5 requested?"

6 Response, line 16: "Yes. He took these munitions which I gave him."

7 Line 17, question: "Now from a military perspective it would not make much sense,
8 would it, for Commander Salumu to ask for ammunition before the start of an
9 operation only to receive it after his part of the operation was completed?"
10 And your response was, starting at line 20: "Yes, because he had asked for the
11 munition he had given to Commander Seyi to be replaced. He needed some
12 ammunition in reserve. When you're fighting you need to have something in reserve
13 in case there's another stop -- another attack, you need to have something in reserve.
14 That's quite normal."

15 So that was your response, Mr Ntaganda.

16 My question is, and in order to put that question, I'd like to have the page of the -- of
17 the message coming from Salumu and I would like to have on the screen, please, page
18 number 57 -- now we move to the small log, so the first page is DRC-D18-0001-5748,
19 and I would like to have the translation of this page on the screen, which is 5778.

20 And my question, Mr Ntaganda, has to do with the content of Salumu's message, the
21 first message on top of the page. And according to this message he sent 10 for SMG
22 to Seyi and he is asking you to bring 20. Do you see this in the message,
23 Mr Ntaganda?

24 A. [16:09:47] Yes, I can see the message.

25 Q. [16:09:50] Now, further to your last answer, I would like to know when we see

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1 the 10 that were given to Seyi for SMG, what percentage or part of the total
2 ammunition Salumu required for the attack does this represent, if you know?

3 A. [16:10:27] Salumu had enough ammunition. When he left Bunia he had
4 enough ammunition. He didn't want to have another failure like Mongbwalu
5 beforehand. That's the first thing. Secondly, he couldn't give Seyi the cartridges
6 because he didn't have enough. So that was just a small amount in comparison to
7 what he had.

8 Q. [16:11:03] Thank you.

9 MR BOURGON: If I can have just one short minute, Mr President.

10 PRESIDING JUDGE FREMR: [16:11:20] All right.

11 (Counsel confers)

12 MR BOURGON: [16:11:31] Mr President, with your leave I'd like to stop here.

13 The next topic calls upon showing some exhibits and I would not get through in the
14 time remaining.

15 PRESIDING JUDGE FREMR: [16:11:43] It's fine with the Chamber because it again
16 sounds reasonable.

17 At this occasion, at this occasion, according my information you are very close to half
18 of the time you have been allotted. How do you envisage tomorrow? Do you think
19 that you will be able to complete your -- because to me it seems that you covered a lot?
20 So I would like to get, make an inquiry on your perspective.

21 MR BOURGON: [16:12:10] After spending the weekend, the Chamber will be glad
22 to hear that I believe that I will be able to finish tomorrow with the four full hours, of
23 course, pending any -- any issue that arise. But as it stands, I believe that I will have
24 enough of tomorrow's four hours.

25 I do have one issue to raise though that is just brought to me on a different matter,

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1 with the Chamber's leave, regarding the witness's coming up. So far we have not
2 received any decision on the protective measure request for Defence witnesses
3 coming up. And I'm saying this without a net or (Speaks French).

4 PRESIDING JUDGE FREMR: [16:12:56] Thank you for reminder.

5 So that is -- any request for the floor from Defence or Legal Representatives? Not.

6 So we can adjourn now and we will reconvene tomorrow 9.15.

7 THE COURT USHER: [16:13:14] All rise.

8 (The hearing ends in open session at 4.13 p.m.)

9 CORRECTION REPORT

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)