

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
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 2
8 Thursday, 29 June 2017
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: [9:30:29] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:31:06] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:31:11] Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 We are in open session.
19 PRESIDING JUDGE FREMR: [9:31:27] Thank you, court officer.
20 Now appearances in habitual order.
21 MS SAMSON: [9:31:31] Good morning, Mr President and your Honours.
22 For the Prosecution today are Mr Rens van der Werf, Ms Selam Yirgou,
23 Ms Claudine Umurungi, Mr James Pace and myself, Nicole Samson.
24 PRESIDING JUDGE FREMR: [9:31:45] Thank you, Ms Samson.
25 Defence, please.

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

- 1 MR BOURGON: [9:31:51] (Interpretation) Good morning, your Honour.
2 Representing Bosco Ntaganda, who is present this morning in the courtroom,
3 Isabelle Martineau, Justin Kabika, Dignité Bwiza, David Wagen-Magnon,
4 Josué Iglesias and myself, Stéphane Bourgon. Thank you, your Honour.
5 PRESIDING JUDGE FREMR: [9:32:10] Thank you, Mr Bourgon.
6 And Legal Representatives of Victims, please.
7 MS PELLET: [9:32:17] (Interpretation) Thank you, your Honour.
8 The former child soldiers are represented by Vony Rambolamanana and by myself,
9 Sarah Pellet, counsel with the Office of Public Counsel for Victims.
10 MR SUPRUN: [9:32:29] (Interpretation) Good morning, your Honour. Good
11 morning, your Honours. For the victims of the attacks today, Anne Grabowski,
12 associate legal officer, Cherine Luzaisu, counsel in the field, and myself,
13 Dmytro Suprun, counsel With the Office of Public Counsel for Victims.
14 PRESIDING JUDGE FREMR: [9:32:45] Thank you, Ms Pellet. Thank you,
15 Mr Suprun.
16 Those three sessions today, all should be devoted to the continuation of direct
17 examination of Mr Ntaganda conducted by Defence, namely by Mr Bourgon.
18 Mr Bourgon, you have the floor.
19 MR BOURGON: [9:33:09] (Interpretation) Thank you, your Honour.
20 WITNESS: DRC-D18-D-0300 (On former oath)
21 (The witness speaks Swahili)
22 QUESTIONED BY MR BOURGON: (Continuing)
23 Q. [9:33:20] (Interpretation) Good morning, Mr Ntaganda.
24 A. [9:33:21] Good morning.
25 Q. [9:33:26] How are you this morning?

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 A. [9:33:28] I'm very well. I have no problem.

2 Q. [9:33:30] So we are now going to continue exactly where we left off yesterday.

3 Now, at that time on the screen we had an item that you had annotated and the

4 number of the annotated item was DRC-REG-0001-0063.

5 Do you see this exhibit before you?

6 A. [9:34:06] Yes.

7 MR BOURGON: [9:34:14] (Interpretation) Your Honour, with your leave, I would

8 like Mr Ntaganda to go up to the screen and I am going to show a series of maps to be

9 annotated.

10 PRESIDING JUDGE FREMR: [9:34:22] All right.

11 MR BOURGON: [9:34:40] (Interpretation)

12 Q. [9:34:42] Mr Ntaganda, my first question before changing maps: Number 1,

13 you indicated in blue a place which was left vacant by the APC called Komanda.

14 Now, what's the importance of protecting Komanda as such?

15 A. [9:35:21] The importance of Komanda was that there's a main road that goes

16 from Beni, where the APC staff HQ was, to go to Bunia. So it was important to close

17 that road in order to protect Bunia.

18 Q. [9:35:45] Now, on the same exhibit, Mr Ntaganda, you indicated at number 9,

19 I think it was, a place called Zumbe. Is that correct, number 9 is indeed Zumbe?

20 A. [9:36:14] I think that Zumbe is represented by the figure 1, in accordance with

21 what I can see.

22 Q. [9:36:27] Very well. So when we see Zumbe, we can see at Zumbe -- well,

23 you've indicated that as a position which was still held by the APC. Now, what was

24 the importance of Zumbe at that time?

25 A. [9:36:51] If you go up a bit, you will see there is the locality of Mandro. All the

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 villages surrounding the town of Bunia had been torched, houses were burnt down,
2 and there was only the small centre of Mandro left. Now, Zumbe, that constituted
3 an APC base, and the fighters had destroyed the environ areas of Mandro and Bunia.
4 All people were afraid of Zumbe. There was no more livestock, although it had been
5 inhabited by livestock breeders. This was a very dangerous area, the zone around
6 Bunia and Mandro. There were no more houses there in that place.

7 Q. [9:38:01] Mr Ntaganda, I would like to show you a new map - and this is the
8 military map that we used yesterday - quite simply so that we can see a larger map of
9 the road between Bunia and Komanda. So for the purposes of the record, this is item
10 DRC-D18-0001-5290.

11 Now, the place that I'm going to show you, Mr Ntaganda, is the place where there is
12 a red square. Do you see the area that I'm referring to here?

13 A. [9:38:45] Yes, I can see it.

14 Q. [9:38:47] Now, we are now going to this square which is appearing in front of
15 you. Now, are you able to identify or to circle the town of Bunia?

16 A. [9:39:12] That's already been done.

17 Q. [9:39:16] Please write number "1" on the town of Bunia.

18 Now, can you also write Komanda, if you see it, and draw a circle around Komanda.

19 A. [9:39:44] Komanda isn't well visible, but it must be in the place that I have just
20 shown you.

21 Q. [9:39:53] Can you write the number "2" adjacent to the circle that you have just
22 drawn. I would also like you to change colour and to indicate to us the road that
23 you go on if you go from Bunia in order to go to Komanda.

24 A. [9:40:22] The road is well visible here; it's this one.

25 Q. [9:40:43] Please could you put an arrow on the road pointing towards Komanda.

1 Now, when we take the road between Bunia and Komanda, we come to a town that
2 you already identified on another map called Nyankunde. Could you change colour
3 and circle Nyankunde, please.

4 A. [9:41:23] Nyankunde is there.

5 Q. [9:41:27] Could you change colour, Mr Ntaganda. Could you wipe out the
6 circle that you have just drawn and do it again in a different colour.

7 Mr Ntaganda, when we take the road that goes from Bunia in order to go to Komanda,
8 do you have to go through Nyankunde or via Nyankunde?

9 A. [9:42:03] Nyankunde is slightly off the road. It's not far. But the locality is not
10 on the road itself. I would say it's a couple of kilometres from the road. You can
11 see the centre of Nyankunde is there, while the road is very visible on the map. It's
12 slightly off.

13 Q. [9:42:29] When I look at Nyankunde, I see a symbol on the map that looks like
14 an arrow or a line. Do you know what that is? It's close to Nyankunde.

15 A. [9:42:43] Yes, there was an aerodrome in Nyankunde, a small landing strip, at
16 the time. Before the APC destroyed Nyankunde, this landing strip was used
17 previously.

18 Q. [9:43:07] Can you also draw a circle around the airport of Nyankunde, changing
19 the colour if you would be so kind.

20 Now, when you say "a small aerodrome", what type of plane could land there, if you
21 know, at the time of the events in 2002?

22 A. [9:43:51] I don't know the types of planes well, but generally they were
23 Antonovs which would land. When we watched a video, I showed you the planes
24 that landed. I'm not an expert in that, in the area of planes. They were small
25 Antonovs, 1 metre 80.

1 Q. [9:44:36] Near Nyankunde we see that there is a place that seems to be another
2 town or village. Do you see that place close to Nyankunde?

3 A. [9:44:54] Yes, here. There's a village but I don't remember its name. Now, in
4 this place there, it was a small village, and from there you can see a road or a route
5 that goes towards Sota.

6 Q. [9:45:26] Now, a bit further away on the road it would seem that there's another
7 village or town. Could you indicate that, if you would be so kind.

8 A. [9:45:39] Before arriving in Komanda, you get to the territory of Irumu.

9 Q. [9:45:48] Could you write the number "3" next to Irumu. And just to be clear,
10 where you circled Nyankunde in red, please could you write the number "4".

11 Mr Ntaganda, what distance would you have to travel between Bunia and Komanda?

12 A. [9:46:47] From Komanda to Irumu or from Komanda to Nyankunde, it's about
13 35 kilometres. From Nyankunde to Bunia, approximately 47. If you add them up,
14 then you come up with a figure of approximately 82 kilometres.

15 Q. [9:47:32] Mr Ntaganda, the road that you have just drawn on this map, was
16 there a lot of fighting in that place during the years 2002 and 2003?

17 A. [9:47:49] Yes. From 2002 until 2003 there was constant fighting, there was
18 intense combat between the FPLC and the APC. The main enemy force was in the
19 HQ and on the road between Beni and Komanda, and the road goes towards Eringeti.
20 Now, for the APC to be able to take over control of Bunia, that road had become
21 impassable due to the intensity of fighting.

22 MR BOURGON: [9:48:43] (Interpretation) Your Honour, I would like this map to be
23 admitted into evidence with the annotations appended thereto by Mr Ntaganda.

24 PRESIDING JUDGE FREMR: [9:48:51] Ms Samson.

25 MS SAMSON: [9:48:52] No objection, your Honour.

1 PRESIDING JUDGE FREMR: [9:48:54] So this map is admitted into evidence as
2 a further Defence exhibit.

3 Brief comment from my part: Frankly saying, Mr Bourgon, I don't find high
4 relevance on such exercise because I think there is no doubt that Mr Ntaganda knows
5 the area very well. So what we made now was that during the 15 minutes we just
6 changed the blind map to classical map.

7 I would have no problem if you would put to Mr Ntaganda normal map, but what
8 would -- I would, and I believe whole Chamber, find more relevant if Mr Ntaganda
9 could then add some specific annotations; for example, we went this way, the fight
10 occurred on that place. But the -- only changing the blind map to normal map,
11 I don't find that it's very, very valuable evidence. Just -- it's in your hands, but it's
12 my comment.

13 Please proceed.

14 MR BOURGON: [9:50:06] (Interpretation) Your comments are very much
15 appreciated. I started with the map so that I could thereafter ask the questions to try
16 to save a bit of time. But I certainly understand your comments, your Honour,
17 which are very much appreciated.

18 Q. [9:50:23] Mr Ntaganda, yesterday you said that you had deployed a person by
19 the name of Nuare with troops in Komanda. Do you remember what happened at
20 that time or in the days or weeks that followed in Komanda?

21 A. [9:50:54] Yes. I sent him at the request of late Kisembo. Kisembo asked me to
22 make him available to the troops in order to block the road from Beni. And
23 afterwards the APC attacked them to drive them away and late Kisembo asked me to
24 intervene. And I went and I fought the APC and I drove them away. And at that
25 place it was the same as where the pillaged goods or the goods where the soldiers had

1 pillaged were burnt, and that took place at Komanda. And I struck the thieves.

2 Q. [9:51:47] Mr Ntaganda, with how many forces, what number of forces did you
3 leave from Mandro in order to go to Komanda?

4 A. [9:51:59] When I left, I had two companies. And we were in Lyogo (phon),
5 where the number "3" is written, in Irumu territory. There was the company that
6 had been defeated by the APC. And it was in that place, at number 3, where there's
7 a river and a bridge.

8 Q. [9:52:34] How much time did you spend in Irumu?

9 A. [9:52:42] I arrived and I spent a night there, and the next day during the day we
10 launched an attack against the APC in Komanda.

11 Q. [9:52:58] What was the result of that attack launched on Komanda?

12 A. [9:53:09] It was at the end of August when we arrived. Houses had been burnt
13 down and the APC had killed a lot of members of the population.

14 Q. [9:53:28] Did you manage to drive the APC out of Komanda?

15 A. [9:53:34] Yes.

16 Q. [9:53:39] When you arrived at Komanda, were there civilians who were still
17 there, still present in Komanda?

18 A. [9:53:53] The members of the population had already fled.

19 Q. [9:54:00] Now, you told us yesterday that you had sent troops there to Komanda.
20 Now, where were the troops at the time that you attacked Komanda?

21 A. [9:54:15] You want to know where the APC troops were or where our troops
22 were?

23 Q. [9:54:30] Your troops, Mr Ntaganda. Those that you sent with Nuare, where
24 were they at that time?

25 A. [9:54:44] Well, there was a defensive line in Komanda. Komanda is a centre,

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 and further up there's a farm which belongs to the livestock farmers, and this position
2 is in that farm.

3 Q. [9:55:19] When you say that there was a defensive position in that farm, what
4 distance from Komanda was it and is it there that you found Nuare and his men?

5 A. [9:55:36] No. They were driven away. When I came to reinforce, there was
6 a withdrawal and they were in Irumu. But before they went to Komanda in order to
7 take up a position that the APC had abandoned.

8 Q. [9:56:06] Did you suffer losses during the attack, Mr Ntaganda?

9 A. [9:56:14] Yes. I remember that we lost a soldier who we buried at that location
10 and a soldier was also injured, a soldier whose name I no longer recall. Now,
11 Américain, who became a commander later, had also been wounded.

12 Q. [9:56:45] What did you do with the wounded persons?

13 A. [9:56:52] We took them to Bunia in a vehicle and we drove them to the hospital.

14 Q. [9:57:12] To the best of your knowledge, were there losses on the enemy side?

15 A. [9:57:22] Yes. We were able to seize four weapons. The enemy had lost four
16 soldiers, and we got these AK-47s. We got four AK-47s.

17 PRESIDING JUDGE FREMR: [9:57:51] Mr Bourgon, sorry, just one additional
18 question from my part.

19 Mr Ntaganda, did you -- did you take any captives from the enemy?

20 THE WITNESS: [9:58:08] (Interpretation) No. We got the weapons, the rifles that
21 were next to the APC troops who had died and whose bodies were on the ground.

22 PRESIDING JUDGE FREMR: [9:58:26] But maybe more generally, not only if we
23 wouldn't focus just on this attack, there were no cases when some members of enemy
24 group would give up?

25 THE WITNESS: [9:58:55] (Interpretation) Your Honour, I haven't understood your

1 question. Please could you repeat it.

2 PRESIDING JUDGE FREMR: [9:59:01] I can -- my question was now a bit broadened
3 to any fights under your command, that what did you do if the enemy, some
4 members of the enemy group, the soldiers from the counterpart, would give up?
5 Wouldn't be killed, but simply have been captured and they said, "I am giving up".

6 THE WITNESS: [9:59:37] (Interpretation) If that is a general question, then,
7 Mr President, I have already provided some examples. When I was -- when I
8 attacked Nyankunde, I was commander, I released them to go deliver messages to
9 their superiors, and that is a military tactic that is used for frightening people.
10 I also captured somebody in Mongbwalu and then I sent him back to his camp to go
11 and tell his companions to rally our own troops to join us. Then there was another
12 instance in Chai where we captured some other soldiers and then we taught them the
13 FPRC ideology.
14 But in general terms, I am familiar with laws governing war which provide that
15 captured persons should not be killed and that any wounded person on the battlefield
16 should not be killed because such a person could provide information.
17 So, secondly, it is forbidden to kill injured soldiers because they are entitled to
18 treatment, just like yourself, because they are soldiers like yourself, and in any event
19 they might actually be brave soldiers. So it is not possible to kill people who are
20 captured. That is the answer I can provide to your question, Mr President.

21 PRESIDING JUDGE FREMR: [10:01:12] Yes, it's exactly what I was interested in, and
22 you are saying that it's forbidden. So you believe that your inferiors, your soldier
23 obeyed this, this rule that captives shouldn't be -- shouldn't be killed?

24 THE WITNESS: [10:01:44] (Interpretation) Yes, they were aware of the rule. And
25 during the operation in Chai, I was not the one who captured them. It was

1 a battalion commander called David who captured them. He brought them to the
2 headquarters and I saw them there.

3 Then I handed them over to my soldiers and asked them to take them to Mandro for
4 training on ideology. All the commanders were aware of this, Mr President.

5 PRESIDING JUDGE FREMR: [10:02:20] Thank you, Mr Ntaganda.

6 Mr Bourgon, please proceed.

7 MR BOURGON: [10:02:30] (Interpretation) Thank you, Mr President.

8 Q. [10:02:31] Now, Mr Ntaganda, I would like to clarify something on page 12, line
9 13 of the English transcript, and in French, let me read out what you said. Now,
10 Mr Ntaganda, let me tell you what I see in the English transcript. It will be
11 interpreted to you and then you let me know whether that's what you said. Page 12,
12 line 12 in English (Speaks English):

13 "... I released them to go deliver messages to their superiors, and that is a military
14 tactic that is used for frightening people."

15 (Interpretation) Were those your words, Mr Ntaganda?

16 A. [10:04:09] No, I didn't say it was a military technique to frighten people. It's
17 rather to frighten the enemy and to send a message to the enemy. So it is not about
18 frightening the population. Rather, it's about the enemy.

19 Q. [10:04:30] Thank you, Mr Ntaganda. Let me proceed. Was Kisembo a witness
20 to the outcome of the battle or the fighting in Komanda?

21 A. [10:04:58] Kisembo arrived later after we had taken over control of the region.
22 He came in a vehicle. He was present when I called on all those who had looted.
23 He was there. He was by the roadside and he observed what was going on. He
24 could see it.

25 Q. [10:05:26] Following that incident or that event, Mr Ntaganda, what did you do

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 yourself?

2 A. [10:05:46] Subsequently, and I mean that after the commanders had been
3 deployed, we left the troops with Nuare and Kasangaki and then went back to Bunia.

4 THE INTERPRETER: [10:06:14] After the troops had been deployed to Komanda,
5 correction from the Swahili booth.

6 MR BOURGON: [10:06:18] (Interpretation)

7 Q. [10:06:19] You have mentioned Kasangaki for the first time. When did he
8 arrive in Komanda?

9 A. [10:06:32] I took two companies with me for the purpose of that intervention
10 and I was with him. We came together from Mandro.

11 Q. [10:06:43] Who did you return to Bunia with?

12 A. [10:06:52] I returned to Bunia with Kisembo.

13 Q. [10:07:00] Did you receive any instructions at that time or what were your
14 activities when you got to Bunia?

15 A. [10:07:15] At that time I hadn't settled in Bunia yet, so I went to fetch other
16 companies to provide reinforcements to the troops in Komanda, because Komanda
17 was a weakened area which could be struck at any time by the enemy and the troops
18 in Komanda could have come under attack at any time. And you may want to know
19 that Komanda was also a very important road which led to Bunia.

20 Q. [10:07:56] At that time did you then put together additional troops and, if yes,
21 how many?

22 A. [10:08:06] I put together another company.

23 Q. [10:08:15] What did you do with that company?

24 A. [10:08:27] I took the company with me all the way to Bunia. Then when we got
25 to Bunia, we received a message from Chef Kahwa in relation to Thomas Lubanga,

1 who was the then minister of defence, and the message stated that he had arrived in
2 the company of Ntumba Luaba, so Chef Kahwa asked us to change our programme.

3 Chef Kahwa added that he was on his way, coming to meet us.

4 He asked late Kisembo to accompany those troops because upon arrival he was not
5 going to return and for Thomas Lubanga to remain in the area and seek the release of
6 those who had remained in Kinshasa. And that is how the entire previously
7 established programme had to be changed.

8 Q. [10:09:55] Let us start with the programme that was established, Mr Ntaganda.

9 Who was supposed to take the troops to Komanda?

10 A. [10:10:08] According to that programme, I was the one to take the troops to
11 Komanda. Kisembo had asked me to take a company and reinforce the troops at
12 that location and then to return later on.

13 Q. [10:10:30] Who went with the troops to Komanda after the plans changed?

14 A. [10:10:41] Kisembo, it was Kisembo who took them there.

15 Q. [10:10:45] You have just said that there was some communication with
16 Chef Kahwa. Can you explain to the Court how that communication happened and
17 who was present?

18 A. [10:11:15] The first time he informed us of the change in programme, well, was
19 the time at which minister Ntumba Luaba was, was forbidden from leaving. He was
20 blocked with Thomas Lubanga, and I was with other persons when we received that
21 information.

22 Q. [10:11:51] What I'm interested in, Mr Ntaganda, is the meeting with Kahwa, that
23 meeting. Who was present and what was Kahwa's plan?

24 A. [10:12:05] Okay, at the residence of the minister of defence, Thomas Lubanga,
25 there was Litsha, Lonema, myself and Kisembo.

1 Q. [10:12:29] What was Chef Kahwa's plan?

2 A. [10:12:35] The delegation from Bunia had been taken hostage.

3 Thomas Lubanga was no longer to return to Kinshasa. Ntumba Luaba as well.

4 That hostage-taking was designed to insist that the delegation that had accompanied

5 Thomas Lubanga be returned and that there would be an exchange with

6 Ntumba Luaba, and the idea was for the delegation to be released to Bunia so that

7 Ntumba Luaba could also be released by us.

8 Q. [10:13:33] As far as you know, was Thomas Lubanga aware of that plan?

9 A. [10:13:40] Not at all, because we developed that plan in his absence. It is only

10 later on that he found out that he is no longer going to return to Kinshasa. But he

11 did not agree because he felt that the others were going to claim that he,

12 Thomas Lubanga, had betrayed them.

13 Q. [10:14:13] When you say "the others", who are you referring to?

14 A. [10:14:21] I did not know them, I only got to know them later on. When they

15 left, I didn't see them. So I think the delegation was made up of about 10 persons. I

16 do not recall the exact number, but there must have been about 10 of them in that

17 delegation.

18 Q. [10:14:46] Mr Ntaganda, for clarification purposes, when you answered one of

19 my questions on Chef Kahwa's plan at page 17, line 5, you said the following, and I

20 will read it out to you in English because I don't have the French text

21 (Speaks English):

22 "The delegation from Bunia had been taken hostage." (Interpretation) Are those the

23 words you used?

24 A. [10:15:30] I believe I was not well understood. There was a delegation that had

25 gone to Kampala and the delegation was arrested there and taken to Kinshasa. The

1 delegation then left Bunia for Kampala and then Kampala to Kinshasa. That
2 delegation was arrested there.

3 Q. [10:16:02] Now, you were informed of a plan by Chef Kahwa. What was your
4 role in that plan?

5 A. [10:16:17] He told me to remain on the spot and provide security for those
6 people. Because he knew that the UPDF troops could use force at any time to seek to
7 liberate Thomas Lubanga and Ntumba Luaba, meaning that they could have come
8 and forcibly taken them and released them. So that is why he asked me to remain at
9 that location. I was in Mandro and I was aware of the forces that were present in the
10 area, so my role was to provide security for those people.

11 Q. [10:17:11] The company with which you went to Bunia, where did they go
12 thereafter, at that time?

13 A. [10:17:21] Members of that company welcomed and received Thomas Lubanga
14 when he arrived and then they went on to Komanda.

15 Q. [10:17:40] Who was their commander?

16 A. [10:17:50] Their commander was Kisembo.

17 Q. [10:17:56] Did Kisembo take other forces with him, other than that company?

18 A. [10:18:06] Yes. He did not go with the company that travelled by a lorry. He
19 travelled in his vehicle along with his bodyguards, but I don't know how many. I
20 know that he travelled in a vehicle, not in the big lorry. Rather, he travelled in a -- in
21 his own vehicle along with his bodyguards, who travelled in the same vehicle.

22 Q. [10:18:39] Were you present when Thomas Lubanga and Ntumba Luaba arrived
23 at the airport?

24 A. [10:18:50] Yes, I went there to receive them. I went to the airport, and from the
25 airport we went to the city centre, and from the city centre I accompanied them all the

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 way to Mandro.

2 Q. [10:19:07] Mr Ntaganda, I would like to show you a video and I would like to
3 ask you whether you recognise the images portrayed on -- in the video. And these
4 images will be in relation to the events we have just been talking about.

5 MR BOURGON: [10:19:27] Mr President, I would like, with your leave, to show
6 a video, audio video exhibit. It is on our list, number 276, and the video itself bears
7 the number DRC-OTP-0124-0002. For this part I do not wish to have the transcript
8 or the translation; it is simply a two-minute excerpt to ensure that Mr Ntaganda is
9 able to testify on the content of the video in accordance with the established
10 procedure.

11 So I would like to display from 01.19 to 03.13.

12 (No interpretation)

13 PRESIDING JUDGE FREMR: [10:20:50] Prosecution, any objection?

14 MS SAMSON: [10:20:54] No, Mr President.

15 PRESIDING JUDGE FREMR: [10:20:55] All right.

16 THE COURT OFFICER: [10:20:56] Before starting displaying the video, we'd like to
17 know the level of confidentiality, please.

18 MR BOURGON: [10:21:06] (Interpretation) It's public.

19 PRESIDING JUDGE FREMR: [10:21:13] So let's proceed as requested.

20 MR BOURGON: [10:21:18] (Interpretation)

21 Q. [10:21:20] Mr Ntaganda, please watch carefully what will be displayed on the
22 screen before you.

23 (Viewing of the video excerpt)

24 MR BOURGON: [10:23:10] (Interpretation)

25 Q. [10:23:11] Mr Ntaganda, for the record I would like to indicate that the video

1 was stopped at 02.49. Now, Mr Ntaganda, do you recognise the images that have
2 just been played for you?

3 A. [10:23:33] Yes. That video depicts the arrival of Ntumba Luaba, who was the
4 minister for human rights. You can see also that the minister of defence,
5 Mr Thomas Lubanga, was present. He had just got off the plane and I was at the
6 airport to receive them. This area was under the defence of the UPDF troops and
7 they were in charge of security at that airport.

8 Q. [10:24:12] Mr Ntaganda, you have said minister of defence. Now, was
9 Thomas Lubanga still the minister of defence at that time?

10 A. [10:24:31] When he left, that was his title. And he was never suspended from
11 that position and we continued to call him by that title. So he left, but he still had
12 those powers and he still had that title, until he became president of the UPC. But
13 that was later on.

14 Q. [10:25:04] Mr Ntaganda, were you present with the delegation all the way to
15 Mandro?

16 A. [10:25:15] Yes.

17 MR BOURGON: [10:25:21] Mr President, with your leave, I would like to show
18 a further exhibit, this time with sound. The witness has recognised both the audio
19 visual excerpt and the fact that he was present, and the requirements are met for him
20 to play the video and to answer some questions on the same.

21 The first excerpt I would like to play is the same video, of course,

22 DRC-OTP-0124-0002, and I would like to play from 06.11 until 07.54.

23 All the material has been distributed to the interpreters in -- working in the courtroom.

24 The transcript reference is DRC-OTP-0176-0011 and the corresponding lines can be

25 found at page 0015, line 94 to page 0016 at line 105. The corresponding translation is

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 found in DRC-OTP-0176-0027, from page 0033, line 101 to 112.

2 Q. [10:27:14] (Interpretation) Mr Ntaganda, I would like you -- I would like to
3 invite you to watch carefully and listen carefully to the excerpt of the video that will
4 be played for you.

5 PRESIDING JUDGE FREMR: [10:27:29] Ms Samson.

6 MS SAMSON: [10:27:30] Yes, no objection, your Honour, but I rise to ask whether
7 the transcripts are also located on the Defence's list of items, in which case I know I
8 have them printed in binders behind me. Otherwise I don't have them. Thank you.

9 PRESIDING JUDGE FREMR: [10:27:45] Mr Bourgon, can you assist?

10 MR BOURGON: [10:27:48] Absolutely, Mr President, 277, 278.

11 PRESIDING JUDGE FREMR: [10:27:51] Thank you very much. So we will give
12 Ms Samson adequate time to find it and -- just a minute, I think Ms Samson is
13 working on that. Fine.

14 So now since the conditions set up by the Chamber have been met, we can proceed as
15 requested.

16 THE INTERPRETER: [10:28:21] Mr President, a message from the interpreters as
17 well: If a handy copy were available in court, it would be easier for us to use than go
18 through the whole pack ourselves too. Thank you.

19 MR BOURGON: [10:28:40] Mr President, we distributed all the material yesterday,
20 so we -- it was our understanding that it was available, and we made copies of
21 transcript and translation available to everyone. So if we are missing some ...

22 PRESIDING JUDGE FREMR: [10:28:53] Court officer, could we verify whether we
23 still have some handy copies for all interpreters?

24 THE COURT OFFICER: [10:28:59] I hereby confirm that I distribute a copy of the
25 transcript to the interpretation booth yesterday, indeed.

1 PRESIDING JUDGE FREMR: [10:29:19] So I'm afraid that the English booth is still
2 missing that.

3 Give me a second, I see some communication between the interpreters. All right.
4 So unfortunately it seems that --

5 THE INTERPRETER: [10:29:42] Your Honour, I apologise. Could I kindly request
6 that we do this after the break, with all the relevant materials? There seems to have
7 been a mix-up as to who the documents were distributed to.

8 PRESIDING JUDGE FREMR: [10:29:57] Mr Bourgon.
9 Court officer, it seems that the Defence is able to provide English booth with further
10 copy, which we appreciate.

11 MR BOURGON: [10:30:16] Mr President, while the copies are being distributed,
12 I think we can proceed with a few questions to try and save some time.

13 PRESIDING JUDGE FREMR: [10:30:25] All right. Please proceed.

14 MR BOURGON: [10:30:31] (Interpretation)

15 Q. [10:30:32] Mr Ntaganda, we will watch the video later on, but for now I simply
16 want to ask you to confirm a number of statements that were made by
17 Thomas Lubanga at that time.

18 Now, for now I would like to find out from you, you said that you had been in
19 Mandro with the delegation. What happened in Mandro?

20 A. [10:31:02] When we arrived in Mandro, Chef Kahwa's house had been prepared
21 to receive the others, with some good mattresses. Thomas Lubanga and Mr Luaba
22 stayed at that house. Ntumba Luaba at that time had a satellite phone and I do
23 remember that Chef Kahwa told him that we had no problem with him. He
24 reassured him that he had nothing to fear, that his security was provided for. And
25 all we wanted, he said, was to have our people who are detained in Kinshasa

1 returned to us. Then he went on to say to them, "Tell the authorities in Kinshasa to
2 release our people to us and then we will release you." That is what happened.

3 THE INTERPRETER: [10:32:32] Mr President, there was an overlap and we didn't
4 get the question.

5 PRESIDING JUDGE FREMR: [10:32:36] Mr Bourgon, please kindly repeat. Your
6 question hasn't been captured.

7 MR BOURGON: [10:32:53] (Interpretation) Yes, Mr President.

8 Q. [10:32:58] Mr Ntaganda, my question is as follows: Was Mr Ntumba Luaba in
9 captivity in Mandro? Was he a detained person?

10 A. [10:33:15] No, he was not held in captivity. To be held in captivity, one has to
11 be in a cell. He was free to move about. And you saw the house in Mandro. It
12 has a large compound, so he was able to move about freely. In fact, at some point he
13 even went to visit the Lendus who had come to set to -- sought refuge at that location.
14 So he was free, he was a free man.

15 Q. [10:33:53] Were you present when minister Ntumba Luaba moved about?

16 A. [10:34:05] Yes. You saw the location of my house and you also saw
17 Chef Kahwa's compound. Now, when I went to greet them, they were having a beer,
18 and I saw him move about within the compound. I accompanied him to visit the
19 Lendus where they were located. I gave him a stick, which he used because he had
20 gout, and that's how we got to know each other.

21 Q. [10:34:56] Was minister Ntumba Luaba released? Was he allowed to return to
22 Kinshasa?

23 A. [10:35:07] Yes, yes. A few days later those people came. We met at the airport.
24 The Ugandans were our intermediaries, so to speak, so there was an exchange and
25 then he went back to Kinshasa without any problem.

1 Q. [10:35:33] What happened to the delegation that was in Kinshasa? Was it
2 released?

3 A. [10:35:47] Yes, yes, I saw them. I did not know them, but I had just arrived in
4 the Ituri. But I saw them. These people were notables who represented the Bira,
5 the Mbisa and various other communities of the Ituri. And the entire delegation
6 came back.

7 Q. [10:36:18] Did they come back before or after the departure of minister
8 Ntumba Luaba?

9 A. [10:36:31] When we accompanied Ntumba Luaba from Mandro, we found that
10 the plane was already available, the plane was already there. So I think they had just
11 landed, they arrived at about the same time.

12 Q. [10:37:00] Who accompanied the minister to the airport for his departure?

13 A. [10:37:13] I remember that Chef Kahwa was there, Lonema was there, Litsha.
14 Mama Adèle Lotsove was also there. Those are the people whose names I can
15 remember, and I was present too.

16 Q. [10:37:41] During that period between the time of the arrival of Minister
17 Ntumba Luaba in Mandro and his return to Kinshasa, or the time of his departure to
18 Kinshasa, did you have a chance to have any discussion with Thomas Lubanga?

19 A. [10:37:59] Yes. While I was in Mandro, I realised that they were free to move
20 about. I saw Thomas Lubanga, who was our superior. He had returned and I
21 remember that at some point he gave me orders to send some troops since Mabanga
22 had come under attack and people had been killed there. So he asked me to send
23 some soldiers to that location, and I complied. I sent two companies. So I had had
24 discussions with him at that time.

25 Q. [10:38:47] Do you know where Thomas Lubanga got the information concerning

1 the attack on Mabanga?

2 A. [10:39:10] The person responsible for the committee of peace came from there
3 and he knew the minister of the defence well. And he was the person who came and
4 had announced that there had been an attack and the attack had been launched even
5 before the arrival of Thomas Lubanga.

6 You know, Mabanga is far from that place. I heard him say that a high number of
7 people had been killed in Mabanga and houses had been set alight. Mabanga, Lalu,
8 Dala, all these localities had been attacked and houses had been burnt down, people
9 had been killed. In Mabanga there were a lot of civilians that had been killed and
10 they were crying as a result of these massacres.

11 Q. [10:40:07] Do you remember who sent you the troops?

12 A. [10:40:18] I deployed Commander Museveni with two companies. He left with
13 Roy.

14 Q. [10:40:32] Who's Museveni?

15 A. [10:40:38] At the time I arrived in Ituri, he was a member of the APC. But he
16 surrendered to our side. He was Rwandophone. I got to know him when I arrived
17 in Ituri. He is originally from north Kivu.

18 Q. [10:41:11] Do you know a person by the name of Mafuta?

19 A. [10:41:19] Yes, I got to know that person during that period when he came to
20 announce the news, according to which Kakwavu intended to join us. I therefore
21 know him.

22 Q. [10:41:41] So starting with Jérôme Kakwavu, who was that person?

23 A. [10:41:54] I didn't know that person previously, but afterwards he was named
24 sector commander of the FPLC in Mahagi and in Ariwara. And at that time he was
25 a member of the APC and he commanded the Watsa region. He was a member of

1 RCD-K/ML at the time that I was in Mandro.

2 Q. [10:42:30] Second question: When Mafuta came to give this news, who did he
3 give this news to and how did you know about it?

4 A. [10:42:51] He announced the news to the minister of defence, Thomas Lubanga.
5 They knew each other. The minister of defence got me to come and he asked me to
6 enter into contact with Jérôme Kakwavu because -- because we had to have
7 discussions between soldiers, and as a consequence the discussions were going to go
8 well between soldiers.

9 Q. [10:43:24] Now, these conversations with Thomas Lubanga, at what time exactly
10 did they happen?

11 A. [10:43:32] At the end of August, beginning of September.

12 Q. The minister Ntumba Luaba, was he still in Mandro at that time?

13 A. [10:43:58] I have no precision or clarification in that regard. What I can say is
14 that he left the day before or the same day. I can't give a clarification in that regard,
15 but it was during that period. I don't know if he left well before or whether he was
16 preparing to go.

17 Q. [10:44:22] Do you know how Mafuta got the information from
18 Jérôme Kakwavu?

19 A. [10:44:32] A high number of traders had phonies. You know, at the time there
20 weren't mobile phones, not even satellite phones, at least in Bunia. I didn't know
21 anybody in Bunia who had a satellite phone. Communication between far, distant
22 regions was carried out by phonie. You know, communication via phonie is done
23 over the radio and the conversation is carried out by a phonie. And he called
24 Thomas Lubanga.

25 Q. [10:45:30] Did you speak to Jérôme?

1 A. [10:45:36] Yes. Yes, I spoke to Jérôme via the phonie.

2 Q. [10:45:49] Can you tell us if you remember what was said or the results of the
3 conversation?

4 A. [10:46:02] Yes, he confirmed the news that had been given to me by
5 Thomas Lubanga. He told me that he had the intention of joining us, and I
6 remember at a certain time he didn't want to give more information so as not to be
7 intercepted. And he gave me Manu to speak in Kinyarwanda. Jérôme didn't speak
8 Kinyarwanda, you know. A lot of people at that place in that region don't speak
9 Kinyarwanda, and he told me, "I am going to give you somebody with whom you can
10 speak in Kinyarwanda so that the content is not disclosed to everybody."

11 Q. [10:46:56] Who is this Manu that you spoke about?

12 A. [10:47:08] He became brigade commander, and afterwards he was appointed
13 deputy commander for the sector controlled by Jérôme. He was one of the APC in
14 August 2002 in Watsa.

15 Q. [10:47:33] Do you know Commander Manu?

16 A. [10:47:40] No. I spoke to him for the first time via phonie on that day, and he
17 didn't know me.

18 Q. [10:47:54] Did Commander Manu give you certain information concerning the
19 wish of Jérôme or plans of Jérôme that Jérôme had?

20 A. [10:48:04] Yes. He explained to me that they were having difficulties because
21 they were subject to discrimination. They didn't have the means to go to Beni and
22 anybody who tried to go to Beni was imprisoned. So that is how they wanted to join
23 us. We did not want to collaborate with the APC. The situation was similar on
24 their side and that's the reason why they wanted to join us.

25 Q. [10:48:49] Did Manu tell you where Jérôme's forces were at that time and what

1 their operational situation was?

2 A. [10:49:08] They told me that they had their positions by Watsa. I didn't know
3 Watsa. I had no idea of where Watsa was in that region of Congo. But they told me
4 that they were positioned in Watsa and that they had sufficient troops and they had
5 commanders. That's it.

6 Q. [10:49:37] What did you do having obtained this information from Manu and
7 Jérôme?

8 A. [10:49:54] I reported to Minister Thomas. We had spoken with Jérôme and he
9 expressed his intention to join us.

10 Q. [10:50:23] At what time did you make this report to Thomas Lubanga?

11 A. [10:50:31] Just after the meeting I had with them, I reported the tenor of our
12 discussions.

13 Q. [10:50:58] Did you carry out other troop deployments at that time?

14 A. [10:51:10] Yes. Afterwards, in the absence of the late Kisembo, the minister of
15 defence called me to come and asked me to deploy troops by Largo, at Largo, and I
16 said, "It's near the territory of Djugu". Largo had been attacked by the APC and the
17 combatants, who had set houses alight and killed people. Now I deployed two
18 companies and I made them available to Lyevin -- with Lyevin, and he left with two
19 companies.

20 Q. [10:52:10] Who is Lyevin?

21 A. [10:52:20] Lyevin is the younger brother of Thomas Lubanga.

22 Q. [10:52:32] When you sent Lyevin and when you carried out other deployments,
23 who decided on the weapons that were going to be taken by the forces deployed?

24 A. [10:52:59] The soldiers had personal weapons. You know, each soldier who is
25 deployed must have a personal weapon in his possession available to him. Now,

1 Lyevin had a support weapon, a 12.

2 Q. [10:53:28] Did Lyevin already have this weapon or was it you who provided
3 such a weapon to the company?

4 A. [10:53:46] Lyevin was not with us at the beginning. He was in the APC, and
5 when he joined us, he learnt how to handle this weapon. I gave it to him and he left
6 with it. It was a weapon that belonged to the company. It wasn't his personal
7 weapon. So I gave both weapons to him.

8 Q. [10:54:21] Do you know somebody by the name of Didier?

9 A. [10:54:34] Yes, I know him.

10 Q. [10:54:37] I am sorry, before going on to Didier, did you know where Lyevin
11 must deploy the two companies?

12 A. [10:54:52] At that time I was not familiar with this region, but later I found out
13 that he had been deployed in Largu, Fataki, Djugu, and other localities such as
14 Dendro (phon). This is a large region. It was a large region at the time. There
15 weren't troops deployed. The two companies were not enough for the whole region;
16 they were deployed in certain places just by way of reinforcement on an ad hoc basis.

17 Q. [10:55:42] Let's go back to Didier. Who is Didier?

18 A. [10:55:55] He was a battalion commander within the APC and when he deserted,
19 he came into our camp at the time that we were the mutineers. He was with late
20 Kisémbó, but later he came with me for a deployment in Mahagi.

21 Q. [10:56:29] At what time did the deployment in Mahagi -- or was the deployment
22 in Mahagi decided on?

23 A. [10:56:46] After Thomas Luaba left, having accompanied him -- Ntumba Luaba
24 left, having accompanied him to the airport, Didier came and we were deployed.

25 Q. [10:57:03] Who took the decision to deploy -- to carry out a deployment in that

1 place in Mahagi?

2 A. [10:57:15] The reason why late Kisémbó sent Didier is because they had been
3 together. So he came to me and he told me that late Kisémbó had just sent him to me
4 in order to get troops with whom we would go to Mahagi, because Mahagi had to be
5 freed and we couldn't risk losing a lot of troops in that place which had been attacked.

6 Q. [10:57:55] Now, this meeting with Didier, where did that take place?

7 A. [10:58:06] I was in Mandro. He found me in Mandro and our discussions took
8 place in Mandro.

9 Q. [10:58:20] Did Didier give you information concerning the fighting or combat in
10 which he had participated? I think Didier was with Kisémbó.

11 A. [10:58:35] Yes. Didier told me that Kisémbó and he had tried to launch an
12 attack on Songolo but the attack had failed. That's what he told me.

13 Q. [10:59:00] Did Didier give you details concerning this attack on Songolo?

14 A. [10:59:07] Yes, yes. He told me that he went to Songolo without
15 knowing -- without having a lot of APC combatants, and once he was there, they lost
16 the battle, and one troop who used the machine gun was killed and the enemy seized
17 the machine gun. And there was an escort, Kaswara, who was also taken hostage,
18 chief escort. That was the detail that I was given.

19 Q. [11:00:03] Did you deploy troops in Mahagi with Didier at that time?

20 A. [11:00:14] Yes. We went with three companies, the equivalent of a battalion.
21 Didier was the commander of the three companies. We left on lorries and we were
22 deployed.

23 Q. [11:00:37] Where were you deployed?

24 A. [11:00:47] We took the Mahagi road and once we arrived in Mahagi, it was
25 during the night. First of all, we went to Fataki and our intention was to go to

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Mahagi. But the UPDF had blocked the road. We did not get to Mahagi. Now,
2 the next day when we arrived in Fataki, we learnt that late Kitembo had received -- or
3 been hit by a bullet in his leg, next to Nyankunde.

4 MR BOURGON: [11:01:28] Mr President, I think it's -- the time is right for the break.

5 PRESIDING JUDGE FREMR: [11:01:33] Yes, exactly. So we are taking our regular
6 30 minutes break and we will reconvene half past 11.

7 THE COURT USHER: [11:01:41] All rise.

8 (Recess taken at 11.01 a.m.)

9 (Upon resuming in open session at 11.30 a.m.)

10 THE COURT USHER: [11:30:45] All rise.

11 Please be seated.

12 PRESIDING JUDGE FREMR: [11:31:06] So we can continue with direct examination
13 of Mr Ntaganda conducted by Mr Bourgon.

14 And, Mr Bourgon, once more, thank you very much for your flexibility at the moment
15 when we had problem with video.

16 MR BOURGON: [11:31:31] (Interpretation) Thank you, Mr President.

17 Q. [11:31:36] Mr Ntaganda, when we took the break we were in Fataki, but before
18 we continue with this part of your testimony I would like to hop back to do two
19 things. First of all, I would like to show you a document dealing with what you said
20 relating to the events that happened in Komanda. (Speaks English) Mr President, if I
21 can have on the screen please, it is item 838 on our list of items. This is a daily report
22 dated 26 August 2002.

23 Mr President, I note for the record that this document was added to our list this very
24 morning. It is a document that was missed by oversight. It is a Prosecution
25 document which was disclosed, which was obtained by the Prosecution in 2005 and

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 which was disclosed to the Defence in 2016, in May, to be more precise. And it is
2 one of those United Nations document. I would like to show the first page of the
3 document to the witness.

4 PRESIDING JUDGE FREMR: [11:33:13] Ms Samson, any objection?

5 MS SAMSON: [11:33:15] No, your Honour, following the procedures that we've
6 implemented in the past. Thank you.

7 PRESIDING JUDGE FREMR: [11:33:21] Very well.

8 MR BOURGON: [11:33:26] The number of the document is DRC-OTP-0056-0761.
9 (Interpretation)

10 Q. [11:34:01] Mr Ntaganda, this document will be displayed on your screen. I
11 would like to start by asking you, first of all, whether you have seen this document
12 before?

13 A. [11:34:33] I do not see the document on my screen yet.

14 Q. [11:34:41] This document was confidential but it's now public.

15 A. [11:35:07] I can now see the document.

16 THE INTERPRETER: [11:35:09] Says the witness.

17 MR BOURGON: [11:35:13] (Interpretation)

18 Q. [11:35:15] Mr Ntaganda, first question for you, have you seen this document
19 previously?

20 A. [11:35:25] No.

21 Q. [11:35:31] Mr Ntaganda, I would like to read out one paragraph from page 0764.
22 Please could that page be displayed.

23 I will read out this paragraph for your attention and then put a few questions to you
24 thereafter, paragraph 11, and the subject of that section is "Military". I will read out
25 the excerpt in English: (Speaks English)

1 "On 26 August, the Ituri police chief informed the MONUC team at Bunia that 840
2 policemen were in the province but lacked of transport, arms and communication
3 equipment. He also informed that 14 policemen are in the captivity of RCD-K/ML in
4 Ezekele. Former UPC minister Mr Richard Lonema informed that on 26 August
5 UPC had recaptured Komanda (90 kilometres southwest of Bunia) and that the
6 RCD-K/ML had killed 157 persons in Komanda. 128 unarmed RCD-K/ML soldiers
7 have surrendered to UPDF and have been kept in the camp close to the airport."

8 (Interpretation) Mr Ntaganda, my first question is in relation to the results mentioned
9 here, namely, that on 26 August the UPC is said to have recaptured Komanda and
10 that some 157 persons are said to have been killed by the RCD-K/ML. Is this
11 something that is related to the events that you described?

12 A. [11:38:34] At that time we were not yet the UPC.

13 Q. [11:38:47] Mr Ntaganda, my question here is in relation to the number of
14 persons killed. Did you witness the fact that RCD-K/ML had killed 150 or 157
15 persons in Komanda? Were you a witness to that?

16 A. [11:39:06] We learnt that they had killed many people and had buried them.
17 When we arrived there houses had been burnt down. Yes, this is true.

18 Q. [11:39:23] Then it is later stated that 128 unarmed soldiers surrendered to the
19 UPDF and were kept at the airport. Were you aware of that fact?

20 A. [11:39:47] Yes. Later on, those soldiers who surrendered were handed over to
21 us and we taught them our ideology and subsequently integrated them into our
22 troops.

23 Q. [11:40:07] What is of interest to me, Mr Ntaganda, is whether you know what
24 the UPDF was doing, why did those soldiers surrender to the UPDF, if you know
25 why?

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 A. [11:40:32] UPDF had attacked and driven out Molondo, so some people
2 surrendered while others were taken as prisoners of war.

3 Q. [11:40:50] The persons mentioned here in this document as having surrendered
4 to the UPDF, is this in relation to Komanda or does it relate to some other event, as far
5 as you know?

6 A. [11:41:13] Now, when it comes to Komanda and how those people got to the
7 UPDF, I don't know, I have no idea. I don't know how they left Komanda to join the
8 UPDF. What I know is that some people joined the UPDF after the UPDF drove out
9 Molondo.

10 Q. [11:41:32] As far as you know, was the UPDF involved in any manner
11 whatsoever in the fighting in Komanda?

12 A. [11:41:47] No. While I was there the UPDF never went to Komanda.

13 Q. [11:41:59] In that paragraph it is stated that one Richard Lonema, former UPC
14 minister, that he was a former UPC minister, were you aware at that time of the
15 duties and activities of Richard Lonema?

16 A. [11:42:21] No. Not at all. No.

17 Q. [11:42:29] At the beginning of the document reference is made to 14 policemen
18 who were held in captivity by the RCD-K/ML in Ezeklele, is this something that you
19 had information about in 2002?

20 A. [11:42:52] No. I did not receive such information.

21 Q. [11:43:00] The name Ezeklele, where is Ezeklele located?

22 A. [11:43:14] Ezeklele is situated above Mandro, not too far away from Zumbe, and
23 I was going to point that out yesterday on the map.

24 Q. [11:43:23] Were there any RCD-K/ML troops at Ezeklele?

25 A. [11:43:38] Zumbe and Ezeklele are neighbouring villages. Yesterday I used red

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 ink to show you the locations where the APC and combatants were located and I
2 indicated that they were deployed to those locations. Yes, they were there before.

3 Q. [11:43:57] Thank you. The second aspect I would like to cover before returning
4 to Fataki is the video we started watching. Now I want to show you an excerpt and I
5 once again call out the reference of the video, DRC-OTP-0124-0002. And I would
6 like to play excerpt from 6.11 to 07.55.

7 And the reference for the transcript is DRC-OTP-0176-0011 at page 0015 from lines 94
8 to page 0016, line 105. And for the translation it is at DRC-OTP-0176-0027, from
9 page 0033, line 101 to 115 -- from 112, rather.

10 Mr Ntaganda, will ask you to pay attention to what is said and this will be interpreted
11 to you in your language.

12 With the leave of the Court we shall now play the excerpt.

13 PRESIDING JUDGE FREMR: [11:45:48] All right. Let's proceed as requested.

14 THE COURT OFFICER: [11:45:51] The video will be played on the evidence 2
15 channel.

16 MR BOURGON: [11:46:37] (Interpretation) With sound, please, so that we can be
17 provided with interpretation. If we are all ready, then let's proceed.

18 (Speaks English) There appears to be some technical difficulties.

19 PRESIDING JUDGE FREMR: [11:47:38] I'm afraid so, but I believe that our court
20 officer will resolve the problem.

21 THE COURT OFFICER: [11:47:58] The technician is on his way.

22 MR BOURGON: [11:48:26] Maybe I can proceed with some questions, Mr President,
23 in the meantime.

24 PRESIDING JUDGE FREMR: [11:48:29] Yes. I am sorry for that and I appreciate
25 your proposal. Please proceed.

1 MR BOURGON: [11:48:36] (Interpretation)

2 Q. [11:48:38] Mr Ntaganda, before we listen to the audio video excerpt, let us hop
3 back to what you have just said relating to the deployment in Fataki. In your last
4 answer to that question which is found in today's transcript at page 35 -- well, I'm not
5 able to find the page, but in French it's at page 33. This is what you say at line 28:
6 "It was at night, we first of all arrived at Fataki and our intention was to go to Mahagi.
7 But the UPDF blocked us along the way so we could not get to Mahagi. Then the
8 next day when I arrived in Fataki I learnt that late Kisémbó had been shot around
9 Nyankunde."

10 Now my first question, Mr Ntaganda, is as follows: Why did you go back to Fataki?

11 A. [11:50:14] Because we did not have any means to continue to go to Mahagi.
12 The UPDF had blocked the road and so we could not deploy to Mahagi. And since I
13 had no other way out I returned with the troops to Fataki so that we could seek
14 another solution.

15 Q. [11:50:40] At what location did you receive information relating to Kisémbó's
16 injury?

17 A. [11:50:54] There are some missionaries in Fataki who had communication
18 equipment. They are the ones who informed Didier and then Didier brought that
19 information to me at the location where I was. He told me that Kisémbó had been
20 wounded in the leg.

21 Q. [11:51:20] Were you yourself in contact with Bunia and what did you do at that
22 time?

23 A. [11:51:34] I did not have any communication contact with Bunia. The message
24 was sent whereby, you see, when Didier brought me the information he told me that
25 Thomas Lubanga, the minister of defence, had requested that I return quickly.

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Q. [11:52:04] At what time did you go back?

2 A. [11:52:10] What I remember is that I had malaria and typhoid fever at that time.

3 So within three days I went back to Bunia. Didier travelled by another road since he
4 was familiar with that area, he hails from that area. He knew the area. He is an
5 Alur. So he travelled by another road. And then he went along with the troops and
6 they deployed to Mahagi. But I did not go to Mahagi. I went back, first of all to
7 Mandro and then on to, to the location where Kisémbó was. Kisémbó, where he
8 had -- where Kisémbó, Kisémbó who was wounded was located.

9 Q. [11:53:09] Where were your escorts at that time, your bodyguards, where were
10 they?

11 A. [11:53:21] Some of my bodyguards were with me while others stayed back in
12 Mandro.

13 Q. [11:53:29] When you arrived in Bunia what did you do?

14 A. [11:53:38] I first went through Mandro where I got ready and then I went back
15 to Bunia to see what had happened regarding Kisémbó's injury. I found him but he
16 had already moved. Thomas Lubanga as well had already moved. They went to
17 settle in sous-région.

18 MR BOURGON: [11:54:24] Mr President, I'm informed that it's not possible to repair
19 the technical difficulty before lunch, so I will proceed with the other questioning and
20 proceed with the video after lunch.

21 PRESIDING JUDGE FREMR: [11:54:37] Well noted, and I appreciate your flexibility
22 and ask you for indulgence.

23 MR BOURGON: [11:54:50] (Interpretation) Thank you, Mr President.

24 Q. [11:54:55] Now, Mr Ntaganda, you just stated that Kisémbó and Thomas
25 Lubanga had moved. You said that they moved to sous-région. Can you show us

1 on a map where that place is located?

2 A. [11:55:22] Yes, I can do that.

3 Q. [11:55:29] Now, on your side and at that time did you also move?

4 A. [11:55:41] Yes. A few days after. First of all, upon leaving Fataki I learnt over
5 radio that President Thomas had just created the UPC and that I had been appointed
6 deputy to the commander while Kisembo had been appointed commander of all the
7 troops and I was his deputy. And the decree had just been signed so I was getting
8 ready to move to Bunia. In fact --

9 THE INTERPRETER: [11:56:33] Correction from the interpreters: I was informed
10 that the chief of general staff Kisembo had been appointed and that I was appointed
11 his deputy.

12 Q. [11:56:45] In your last answer you said that you learnt before getting to Mandro
13 on the road and by radio that President Thomas had created the UPC. Can you tell
14 us a little more about that? How did you find out about the UPC and what was the
15 exact nature of the information you found out about the UPC?

16 A. [11:57:17] I was not on the road. I was still in Fataki. We heard over the radio
17 that he had just created a political party, a political party with an armed wing known
18 as the FPLC. And he had appointed the chief of general staff, late Kisembo, and he
19 had appointed a deputy chief of general staff in charge of operations, which was
20 myself, and the chief, deputy chief of general staff in charge of logistics and
21 administration, who was Dilangu. Those are the pieces of information that I
22 received at that time. So I got ready, I first went to Mandro, where I used to live, and
23 then subsequently to Bunia to congratulate -- or, rather, to visit Kisembo who had
24 been injured.

25 Q. [11:58:27] Now let's start with Dilangu, who is Dilangu?

1 A. [11:58:40] He too was one of the soldiers who had surrendered. They came
2 from the APC and joined us in the FPLC. Dilangu, as I said, had also just been
3 appointed, but prior to that he had served as a soldier under Mobutu Sese Seko in
4 what was called the FAZ at the time, the Forces Armées Zaïroises, the Zairean Armed
5 Forces.

6 Q. [11:59:25] What position was he appointed to? You gave us the title of the
7 position but what were the duties that went with that position, that is, the position of
8 the deputy chief of general charge of administration and logistics? What does he do
9 as work?

10 A. [11:59:47] The deputy chief of general staff in charge of logistics and
11 administration is the one who handles all the FPLC administrative matters. So he
12 and myself had the duty of supporting and assisting Kisembo.

13 Q. [12:00:22] Did you work personally with Dilangu?

14 A. [12:00:29] Yes, I worked with him. His office was located at the FPLC
15 headquarters, which I pointed out to you. His office was located there.

16 Q. [12:00:43] You told us that Kisembo had moved. Was his office still in the same
17 location?

18 A. [12:01:08] Yes, we all had our residences, but that HQ of the APC previously
19 became the FPLC HQ, headquarters, so we didn't move buildings, we didn't change
20 buildings.

21 Q. [12:01:23] Mr Ntaganda, regarding your appointment, what were your duties,
22 the duties of the deputy chief of general staff in charge of operations and organisation?
23 What were your duties?

24 A. [12:01:54] I was the deputy to the chief of general staff, and you can understand
25 what my duties were. You know what a deputy chief of general staff does, the 2IC.

1 When you are someone's deputy, well, I can tell you in French that you are an
2 implementer or executer, so to speak, you have the chief of general staff who's at the
3 top, and then you as a deputy would be somewhat of an implementer, and that
4 enables you to understand what my duties must have been.

5 Q. [12:02:45] Now, that appointment to the position of deputy chief of general staff,
6 did it grant you powers to give orders?

7 A. [12:03:00] No, I could not give orders directly, but when I received an order I
8 would execute or implement it. That is what a 2IC does, according to my knowledge
9 of what happens in the army.

10 Q. [12:03:19] How did you implement or execute those orders?

11 A. [12:03:29] When late Kisémbó gave me an order, I had to obey and implement
12 the order.

13 Q. [12:03:42] So who passed on Kisémbó's orders to the lower-ranking members?

14 A. [12:04:07] What I understand from the interpreters is who is it that gave orders
15 to Kisémbó. Is that the question?

16 Q. [12:04:20] My question, Mr Ntaganda, is the following: How were orders
17 transmitted to persons below you, of lower rank than yourself?

18 A. [12:04:50] The commander-in-chief was Thomas Lubanga, then there was the
19 secretary for defence, the deputy secretary for defence was Chef Kahwa, then there
20 was late Kisémbó, chief of general staff, then there was Dilangu and myself, I was the
21 2IC, deputy chief of general staff in charge of organisation and operations. Dilangu
22 was deputy chief of general staff in charge of logistics and administration. And as
23 we continued to set up the structure an organisational chart was developed, so there
24 was a chief of general staff who would issue orders in relation to the command
25 structure. So that's the way the army was set up at the time.

1 Q. [12:05:49] Now, Mr Ntaganda, my question is the following: When orders
2 came from the chief of general staff did they transit through you? How did those
3 orders trickle down to lower-ranking troops?

4 A. [12:06:11] I was not the commander, the commander was the chief of general
5 staff. I was his deputy. So the chief of general staff gave orders directly without
6 going through me, except when he assigned me on a specific mission in my capacity
7 as his 2IC, in which case he would tell me go do such-and-such a thing, and that's
8 why I told you that a 2IC is an implemental or an executer, so to speak. So when it
9 came to orders, orders were issued by the chief of general staff without going through
10 me, necessarily.

11 Q. [12:06:55] Mr Ntaganda, has it happened that you have had to sign paper
12 orders?

13 A. [12:07:01] When the chief of general staff asked for that to be done, I did it.
14 That was following his orders. If he told me to do something, to write a message,
15 then I could put that on paper at his request.

16 Q. [12:07:43] Was there a way of knowing who the order came from?

17 A. [12:07:55] If you look at the chain of command and the organigram, the
18 organigram, you will understand the source of any given order.

19 Q. [12:08:09] And how did you do that? How could one do that?

20 A. [12:08:21] Well, I have already given you an example, when, when I explained to
21 you the structure or the organigram of the army I gave you the chain of command.

22 Q. [12:08:39] I am going to try and make my question more clear. If I have got
23 a written order what do I have to do to know who gave that order, if you were the
24 person who signed it?

25 A. [12:08:53] For example, if it was a letter you could mark the letter "PO", "par

1 ordre", and if there were times when you put your title, you could put "titulaire"
2 without having to mark "PO". And when you were OIC, then it would be
3 understood that you gave the order. And that's automatic.

4 Q. [12:09:42] So let's go back to the name of the FPLC. Did you know this name
5 previously?

6 A. [12:09:55] No. I didn't know those initials. It was when the FPLC was set up
7 that it was explained to me what it was, after it had been introduced publicly.

8 Q. [12:10:19] Who chose the name of FPLC?

9 A. [12:10:30] That was the president of the movement himself, namely, Thomas
10 Lubanga.

11 Q. [12:10:37] What did you think of the name? Were you in agreement with the
12 choice of names?

13 A. [12:10:57] I couldn't go against the order of our chief who was minister of
14 defence. But before that I had personally proposed APR -- or, rather, ARC, Armée
15 révolutionnaire congolaise. That was my proposal before, and when he came he
16 said the army doesn't have a name. I said I would wish for our army to be called
17 ARC. He didn't take my suggestion into account.

18 Q. [12:11:40] Now, you mentioned also having heard about the creation of the UPC.
19 Now, what exactly was created? What was the UPC movement that was created
20 according to what you heard at the time?

21 A. [12:12:15] This was a political and military movement. I therefore heard that
22 the UPC had become our political party. Their soldiers would take on the name of
23 FPLC.

24 Q. [12:12:36] Did you become a member of the political party the UPC?

25 A. [12:12:47] Yes. I became a member of the UPC immediately. From the decree I

1 became a member.

2 Q. [12:13:11] Now, we spoke about appointments. Were other appointments
3 made by Thomas Lubanga thereafter?

4 A. [12:13:21] Yes, yes. The G1 was appointed, G2, G3, G4, and the G5.

5 Q. [12:13:37] Can you tell us what G1, G2, G3, G4, G5 is?

6 A. [12:13:49] That's the staff, general staff working in different offices who report
7 directly to the chief of general staff.

8 Q. [12:14:08] Do you remember who was appointed G1?

9 A. [12:14:16] Yes, that was also a former member of the APC. Ex-FAZ as well.
10 Luaba. But I don't know his other name.

11 Q. [12:14:37] What's the main function of the G1?

12 A. [12:14:46] Administration. He's responsible for administration.

13 Q. [12:14:53] Do you remember who was appointed as G2?

14 A. [12:15:04] Yes. That was also a former member of the APC, Idris Bobale.
15 The two had left Molondo and gone to us and, having taken on the ideology, they
16 were appointed to those posts of the staff.

17 Q. [12:15:39] During how much time did Idris Bobale, or how much time was
18 Idris Bobale G2 for?

19 A. [12:15:58] He was appointed and that continued until the middle of November.
20 I would say until the beginning of the month of November and he left those
21 (Overlapping speakers)

22 Q. [12:16:20] Why did he leave those functions?

23 A. [12:16:27] Because he was taking the goods of the members of the population.

24 Q. [12:16:31] So what happened to him?

25 A. [12:16:43] He was put into detention and when he was in detention an

1 investigation was carried out, but during that time he was able to escape and he
2 joined the UPDF.

3 Q. [12:16:57] Who took the decision to put him in detention?

4 A. [12:17:08] That was President Thomas Lubanga. He himself had appointed
5 him and put him in detention -- or he had put him in detention.

6 Q. [12:17:23] And the population that he was stealing from, was it the entire
7 population or was it just part of the population?

8 A. [12:17:31] No, there weren't many of them. We found out that he was asking
9 for money from them, that he was committing offences. And when this news got to
10 Thomas he immediately arrested -- or, rather, gave the order for his arrest.

11 Q. [12:18:11] So who was he asking for money from?

12 A. [12:18:17] He would go to the Nande traders and it was those traders who went
13 to complain. And he was able to escape and join the UPDF when he was in
14 detention. And he decided, when this case got very serious, he decided to leave.

15 Q. [12:18:54] Who was appointed as G3?

16 A. [12:19:01] John Hoyeti.

17 Q. [12:19:10] And who was he?

18 A. [12:19:16] He too was a former APC member. Ex-FAZ as well.

19 Q. [12:19:33] And what's the principal function of a G3?

20 A. [12:19:41] He is also responsible for organisation and for operations within the
21 general staff.

22 Q. [12:19:59] Did you work with John during -- or, for a very short period? Now,
23 until what time did he hold the post of G3?

24 A. [12:20:20] Until mid-November. Yes, middle of November 2002.

25 Q. [12:20:37] And why did he leave these functions?

1 A. [12:20:43] He didn't leave these functions. He was sick and he asked for
2 permission to be treated in Aru. He left. But he didn't come back when Jérôme had
3 changed.

4 Q. [12:21:08] Did you try to appoint somebody else as a G3 during his absence?

5 A. [12:21:17] No. I sent several messages to ask him to come back. The messages
6 are to be found in the logbook. But he told me that he was suffering a lot due to his
7 leg and he still needed treatment. Things changed, because Jérôme changed. He
8 didn't come back and, as such, the post remained vacant.

9 Q. [12:21:57] Now, you briefly yesterday mentioned during your testimony, or
10 perhaps that was the day before, you mentioned that there were two firing squad
11 cases in the FPLC. You mentioned who had authorised the firing squad. Now, do
12 you remember the first firing squad? Do you remember what happened?

13 A. [12:22:32] Yes. At that time I had already set up in Bunia under the FPLC and
14 one morning members of the population who were not far from where we were, and
15 from the Nande community, they came to say to my bodyguard that somebody had
16 stolen from them and had taken all the merchandise that they had been able to bring.
17 He had immobilised the men, and the mothers, the elderly, and he blindfolded them.
18 We carried out an investigation and what we saw was that it was the soldiers who
19 were with Dilangu -- well, myself I went to see the elderly couple, the elderly lady, as
20 well as the child who just had one arm. And these people were crying. They had
21 been violently attacked by him before leaving.

22 We left, the young child saw the vehicle which had been used and he said that the
23 vehicle was with Dilangu. So I went with this child to Dilangu's residence and once
24 arrived I found the stolen goods in his lounge, as well as the person they had been
25 stolen from. And I took them, I put him into detention, and late Kisembo asked me

1 to come with Dilangu and to take him to his residence. This is something I did, and
2 afterwards the president and the chief of general staff had concluded that this soldier
3 had done wrong and must be punished by way of example to all the other soldiers,
4 such that what was done would not be repeated in the future.

5 Q. [12:25:18] The sentence ordered by Thomas Lubanga, was that implemented?

6 A. [12:25:33] Yes, yes, I was sent to supervise it, to supervise that operation. I
7 went to camp Ndromo in order to do it before the soldiers. There were also
8 members of the family whose goods had been stolen, as well as their neighbours.
9 They came to see what was going to be done within camp Ndromo. And that is how
10 the operation went during the day.

11 Q. [12:26:08] Mr Ntaganda, is there any link between John, the G3, and the person
12 who was executed?

13 A. [12:26:23] Yes. It was one of his relatives, it was his brother.

14 Q. [12:26:31] Mr Ntaganda, do you remember who was appointed G4?

15 A. [12:26:39] That was an elderly man, former FAZ, F-A-Z, of a certain age.
16 I don't remember his name anymore.

17 Q. [12:26:58] What was the main function of the G4?

18 A. [12:27:08] He was responsible for logistics.

19 Q. [12:27:13] Who was appointed G5?

20 A. [12:27:23] That was Eric Mbabazi.

21 Q. [12:27:31] Now, you spoke about Eric Mbabazi, but what was the main function
22 of the G5?

23 A. [12:27:41] The G5 is responsible for instructing soldiers in ideology. Now, this
24 instruction was given to the peloton, to a company, to a brigade to be deployed into
25 different areas. Furthermore, he was an intermediary between the soldiers and

1 members of the population. In order to take care of relations between these parties I
2 would say that he was an ambassador between the army.

3 Q. [12:28:39] Let's go quickly back to the G3. Was a new G3 appointed -- I'm sorry,
4 G2. Was a new G2 appointed when Idris Bobale was put into detention?

5 A. [12:29:01] Yes. In the same month of November, when Bobale was incarcerated
6 in -- Ali Mbuyi -- Ali Mbuyi arrived in order to replace him, Ali Mbuyi.

7 Q. [12:29:28] Who is Ali Mbuyi?

8 A. [12:29:35] He became G2 from the month of December 2002 and he held that
9 post until 5 March 2003.

10 Q. [12:29:57] Did you have any role to play in the choice of Ali Mbuyi when it came
11 to holding the function of G2, holding that post?

12 A. [12:30:13] Yes, because I knew him before when I was member of the APR. I
13 knew that he was Congolese and that he worked as G2. Given that he had worked
14 within a disciplined army, well-organised army, I thought he would be able to
15 accomplish that task well. I proposed the name and the chief of general staff, as well
16 as President Thomas, accepted the proposal. He worked as a G2.

17 Q. [12:31:03] Did you have the opportunity to discuss with Ali Mbuyi what had
18 happened with the former G2?

19 A. [12:31:21] Yes, I explained to him -- when he was appointed I explained why he
20 had been appointed. That was in order to establish discipline within our army.
21 That was the responsibility of the office of G2. He had to pursue all the people who
22 had committed crimes or offences. He had to arrest them and provide discipline
23 such that everybody would follow military discipline.

24 Q. [12:31:57] Why did Ali Mbuyi leave his functions on 5 March?

25 A. [12:32:07] He deserted and he went to the UPDF, UPDF. He left and went

1 there.

2 Q. [12:32:30] Was there an important event on 5 March, I think you said it was 2003,
3 but could you confirm that?

4 A. [12:32:47] Yes. And that's the reason why I said that he had sold us out. We
5 held a meeting to fight the UPDF and he had participated in that meeting. He knew
6 what, what was done and he went to go and sell it there and he went to fight the
7 UPDF on that date, on 6 March.

8 Q. [12:33:24] Those who served as G1 and G5, and let's talk about the term of their
9 appointment, were they appointed by decree like yourself and Kisembo?

10 A. [12:33:40] Yes. Yes, they were appointed by decree.

11 Q. [12:33:51] Now let's go back to the time when you arrived in Bunia and, as you
12 said earlier, you went back to meet with Kisembo who had been injured. What
13 happened? Did you find him? Did you meet him? And what happened when
14 you, when you met him?

15 A. [12:34:16] I saw him. He was already in his new residence. We had
16 a discussion. He told me about how he had been injured.

17 Q. [12:34:32] Where was he injured?

18 A. [12:34:43] Nyankunde had come under attack and there were many killings,
19 massacres, actually, and that's when he was hit.

20 Q. [12:34:59] What information did you obtain concerning the massacres in
21 Nyankunde?

22 A. [12:35:14] Please kindly repeat your question.

23 Q. [12:35:22] Yes. In 2002 what information did you receive regarding the
24 massacres in Nyankunde?

25 A. [12:35:38] Everybody in the Ituri, throughout the Congo, and even neighbouring

1 countries were aware of the killings, the massacres in Nyankunde. It could not have
2 been hidden. It was not only from two or three people that one, one heard about it.
3 The entire country of the Congo and neighbouring countries were all aware of the
4 massacres of Nyankunde.

5 Q. [12:36:09] If one were to attempt to assign a scale to the scope of the killings in
6 Nyankunde, would you be able to provide information in that regard?

7 A. [12:36:25] Thousands. Although I didn't go there myself, I heard about it from
8 people, and the entire Congo and even neighbouring countries, as well as Africa as
9 a whole, had learnt that thousands and thousands of people had died in Nyankunde.

10 Q. [12:37:01] Did you personally have the opportunity to go to Nyankunde at any
11 time during the period from 2002 to 2003?

12 A. [12:37:17] Yes. When the Goma delegation arrived to visit Goma in
13 February -- to visit Bunia, rather.

14 THE INTERPRETER: [12:37:30] Interpreter corrects.

15 A. [12:37:32] To visit Bunia in early February, we went along with them and visited
16 the site. There was nothing in Nyankunde. We moved about and all what could be
17 seen was destroyed houses and forests growing through various buildings that had
18 been destroyed. Everything was destroyed. There was nobody at that place.

19 MR BOURGON: [12:38:14] (Interpretation)

20 Q. [12:38:15] In February when you visited that place were you particularly
21 attracted to any specific location?

22 A. [12:38:32] Yes, they took us and showed us the various places where people had
23 been buried. We visited the hospital where people had been killed. There was
24 blood on the walls of the buildings, blood that was already clotted. And there were
25 many signs pointing to the fact that those things actually happened.

1 Q. [12:39:06] Did you know the hospital in Nyankunde?

2 A. [12:39:13] Yes. I had visited that hospital before those events. During the
3 time of the Chui mobile force we had just taken control of that region and one of our
4 commanders had been struck by a bullet so I took him to that hospital for the doctors
5 to treat him. I had discussions with the medical staff at the time. It was a good
6 hospital, it's a well-supplied hospital, well-built hospital and well equipped.

7 Q. [12:40:02] Who is the author of those killings and destruction in Nyankunde?

8 A. [12:40:13] It was the APC soldiers and Lendu combatants. They were under
9 Faustin's command, APC combatants. And the person in charge of the combatants
10 was called Kando (phon), they had a strong force and strong enough to destroy
11 Nyankunde. They looted everything. They looted property belonging to the
12 civilian population. They took everything.

13 Q. [12:41:01] During your meeting with Kisémbó did he provide you with
14 information about what he had done in relation to the Songolo events?

15 A. [12:41:19] Yes. He talked to me about it, Didier as well. He said that he had
16 gone to that location not knowing that the enemy was very strong. So they were
17 struck, one of their soldiers who was using the G2 weapon was killed and his
18 bodyguard, Kaswar (phon), was also hit on the leg and I saw him myself, *he was
19 shot in Songolo, but Kisémbó was hit in Nyankunde. It happened on 5 September.

20 Q. [12:42:10] When Kisémbó was wounded on 5 September in Nyankunde, what
21 happened to him, or what happened to the forces that were with him?

22 THE INTERPRETER: [12:42:21] Interpreter corrects.

23 A. [12:42:28] The troops in Nyankunde tried to protect him since he had been
24 injured to the leg. If they didn't do so he could have been captured as a prisoner of
25 war by the enemy, so they took him with them to camp Ndromo.

1 Q. [12:42:57] The other soldiers who had been with him, after Kisembo was injured
2 what happened to them, did they continue fighting?

3 A. [12:43:07] Those who were in Nyankunde withdrew. They retreated to
4 camp Ndromo. There was no one remaining in Nyankunde. They were about
5 a company, I think. I don't think there were more than two companies there.

6 Q. [12:43:32] During your meeting with Kisembo did he give you any instructions
7 or did he inform you about anything that you needed to do in relation to or because
8 of the attack on Nyankunde?

9 A. [12:43:54] Yes, he told me that he had just been injured and that I should be
10 courageous and continue to control the entire zone, entire area while he was receiving
11 medical attention. So he assigned a commander to me, Bugasaki, and asked that I
12 help him to put together a battalion in order to stop anyone from attacking us in
13 Bunia. That is how he assigned that commander to work with me.

14 Q. [12:44:42] You have just mentioned the name, a name which was not properly
15 captured in the transcript. Can you repeat that name and spell it out for us, please?

16 A. [12:45:02] David Bugasaki, Bravo -- B-U-S-A-K- -- S-A-G-A-K-I, Bugasaki.

17 Q. [12:45:28] Who is he, did you know him?

18 A. [12:45:33] No. I did not know him. He told me that he had worked with him
19 in Watsa, but I didn't know him previously. I only got to know him when he was
20 assigned to work with me.

21 Q. [12:45:57] So what were you supposed to do -- or, in fact, what did you do with
22 Bugasaki?

23 A. [12:46:10] I took him along with me to Mandro and I helped him to build or set
24 up his battalion. He remained in Mandro until military uniforms arrived. He took
25 his and then he was deployed. I deployed him to a location called Simbilyabo.

1 Q. [12:46:45] Where is Simbilyabo?

2 A. [12:46:50] When you leave Bunia going through town, the first village you come
3 upon on the way to Mandro as you leave the centre of the city, that village is called
4 Simbilyabo.

5 Q. [12:47:08] Why did you deploy him to that village?

6 A. [12:47:22] Kisembo had asked me to be on standby, given that we could come
7 under attack from the enemy at any time. After what happened in Nyankunde,
8 Bunia was to be next in line. That is why I had to intervene to ensure that Bunia
9 could stand if it came under attack.

10 Q. [12:47:53] Earlier on you told us that those who had been with Kisembo in
11 Nyankunde retreated to camp Ndromo. Did you have any connections whatsoever
12 with those people who had retreated to Ndromo?

13 A. [12:48:12] Yes. They told me that they had retreated to camp Ndromo, so I
14 went there and I saw them, I talked with them, and I told them to remain at that
15 location until further orders were issued. And they were under the command of
16 commander Kaswara.

17 Q. [12:48:40] How many of them were in camp Ndromo at that time.

18 A. [12:48:52] I did not proceed to a headcount and these things happened a long
19 time ago, but I believe that there must have been more or less 200 troops, 200 of them.

20 Q. [12:49:09] During that period did you obtain any information about the need to
21 train soldiers to become operators of heavy weapons?

22 A. [12:49:35] Yes. I was the one who had discussions with the chief of general
23 staff of the RCD/Goma, Sylvain Mbuki. Well, he was told that they had few people
24 to use those weapons. So we did not have enough people to, to run those weapons.
25 We were training them and yet we did not have enough experience. You see, there

1 are people who need special training for this. Sylvain Mbuki answered that he was
2 going to consider the matter, and shortly thereafter the commander told me that the
3 chief of general staff had called him up and asked that he prepare some young people
4 for training.

5 Now, as for myself, I went to meet with Kisembo and he told me that he had had
6 a discussion with Sylvain Mbuki, the chief of general staff, and that he had told him to
7 prepare young intellectuals for training on how to handle those weapons. At that
8 time the RCD/Goma was getting ready to go to Kinshasa while other officers were
9 getting ready for training for officers in Rwanda. So he said he would take
10 advantage of that opportunity to send his own troops for training in how to handle
11 those weapons.

12 Q. [12:51:23] Those people who were to be sent on training, to which location were
13 they going to be sent?

14 A. [12:51:39] It was difficult to send them there, that is why -- in fact, given that
15 Kisembo had been injured and I was on standby, it was not possible for me to go.
16 And it is only after Jacques had -- went to Tchomia where they had a battalion, where
17 Mugisa had a battalion, that they then put together some young people to go to Goma
18 for training on how to handle those heavy weapons. A landing strip was actually
19 being built to enable a plane to land.

20 Q. [12:52:33] Mr Ntaganda, did you play any role whatsoever in the selection of
21 those who went for that training?

22 A. [12:52:45] My role was to provide them with troops to provide security from
23 Mandro to Tchomia. That was my role. I was not involved in the selection of those
24 who were to be trained.

25 Q. [12:53:19] When, as the case may be, did you meet or see these people who were

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 going for training?

2 A. [12:53:32] They passed through Mandro and, yes, I, I prepared troops to escort
3 them. They were supposed to travel through the hills, a dangerous area which was
4 near Zumbe, and that is why I had to provide them with troops to accompany them
5 on foot along the road all the way to Tchomia.

6 Q. [12:54:04] We will return to how those people were sent from Mandro, but just
7 before the break I would like to ask you to please annotate the map of Bunia. But
8 before I ask you to get up I would like to ask you whether you continued to stay in
9 Mandro or had you moved at that time, and the time frame is September 2002?

10 A. [12:54:40] Yes, I, I had moved to Fataki. Or, rather, I had left Fataki and I
11 moved.

12 Q. [12:54:57] Mr Ntaganda, with the leave of the Court I would now ask you to
13 please annotate a map of Bunia.

14 Mr President, I would like to ask the witness to move to the screen.

15 PRESIDING JUDGE FREMR: [12:55:10] All right.

16 Court officer, please assist.

17 MR BOURGON: [12:55:23] (Interpretation)

18 Q. [12:55:24] The map to be used bears the number DRC-OTP-0207-0330. It's
19 a map of Bunia which we have been using from the beginning. Now, Mr Ntaganda,
20 can you point out to me using a circle the location of Thomas Lubanga's new
21 residence which you talked about?

22 A. [12:56:02] This entire area is what made up his new residence, namely, his
23 residence and his offices.

24 Q. [12:56:20] Can you please insert the number "1" next to that circle. Where was
25 the new residence of late Kisembo?

1 A. [12:56:42] Kisembo occupied this area.

2 Q. [12:56:50] Please insert the number "2" next to Kisembo. Where was the
3 headquarters of the FPLC?

4 A. [12:57:14] It was here.

5 Q. [12:57:16] Please write "3" next to the circle.

6 Now, camp Ndromo, are you able to see that location on this map?

7 A. [12:57:43] It is here.

8 Q. [12:57:47] Please insert the number "4".

9 Finally, can you see the location which you talked about earlier, known as Simbilyabo
10 on this map?

11 A. [12:58:15] Simbilyabo does not appear on this map. It is a locality that is
12 situated further, further away. I cannot see it on this map.

13 Q. [12:58:28] Looking at number 4, camp Ndromo, what was the importance of that
14 location at that time mindful of the operational situation?

15 A. [12:58:50] That location was strategic in terms of enemy attacks from Chai.

16 When the enemy attacks from there one is able to follow the road from Komanda to
17 Nyankunde. It was easy to conduct operations on those roads. It is a very strategic
18 place. The camp had been used by former soldiers of Mobutu's army. That is
19 camp Ndromo. That's what I'm referring to.

20 Q. [12:59:34] Final question, Mr Ntaganda: The area where you lived in Bunia
21 when you moved to that town, can you point it out?

22 A. [12:59:50] My house was somewhere up here.

23 Q. [13:00:00] Why do you say "was somewhere"?

24 A. [13:00:13] My house or my residence was next to President Thomas's residence
25 before he moved. So when he moved his residence was contiguous to mine below

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 the headquarters.

2 Q. [13:00:31] Can you take two different colours and draw two circles, one around
3 Thomas Lubanga's former residence and another around your residence, please.

4 Could you put the figure "5" next to your residence.

5 And figure "6" next to the residence of Thomas Lubanga. Your Honour, I would like
6 this annotated map to be admitted into evidence, your Honour.

7 PRESIDING JUDGE FREMR: [13:01:24] Ms Samson.

8 MS SAMSON: [13:01:25] No objection, your Honour.

9 PRESIDING JUDGE FREMR: [13:01:27] This map annotated by Mr Ntaganda is
10 admitted into evidence as a further Defence exhibit.

11 MR BOURGON: [13:01:39] (Interpretation) I think we have come to the lunch break,
12 your Honour.

13 PRESIDING JUDGE FREMR: [13:01:44] Yes. Definitely. So we are going to take
14 our regular lunch break for 90 minutes and we will reconvene at half past 2.

15 THE COURT USHER: [13:02:01] All rise.

16 (Recess taken at 1.02 p.m.)

17 (Upon resuming in open session at with 2.34 p.m.)

18 THE COURT USHER: [14:34:10] All rise.

19 Please be seated.

20 PRESIDING JUDGE FREMR: [14:34:42] Good afternoon, everybody.

21 Any changes in appearances, Prosecution? No.

22 Defence, any change in appearances? I think so.

23 MR BOURGON: [14:34:53] (Interpretation) Yes, your Honour. The Defence,
24 two people have left, Dignité Bwiza, who had already left the last session and I forgot
25 to mention it, and for the afternoon session Mr Justin Lwombo Kabika has also left.

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 Thank you, your Honour.

2 PRESIDING JUDGE FREMR: [14:35:17] Thank you, Mr Bourgon. And also one
3 change here. Mr Suprun, go ahead.

4 MR SUPRUN: [14:35:21] (Interpretation) Thank you, your Honour.

5 Cherine Luzaisu has left this afternoon. Thank you.

6 PRESIDING JUDGE FREMR: [14:35:33] Thank you, Mr Suprun. Otherwise there
7 are no changes. So we can continue directly with next part of examination-in-chief
8 of Mr Ntaganda.

9 Defence, Mr Bourgon, you have the floor.

10 MR BOURGON: [14:35:44] (Interpretation) Thank you, your Honour.

11 Q. [14:35:51] Mr Ntaganda, we are going to take a step back and go back to the
12 visit of Mr Ntumba Luaba and the video that I wanted to show you this morning.

13 (Speaks English) Mr President, in order to facilitate the proceedings, what I would
14 like to do is to read out some excerpts of the transcript of the video and then ask
15 questions to Mr Ntaganda on the excerpts of the transcript, rather than go through the
16 procedure of showing the video. What I'm interested in is the words that are on the
17 transcript and then I can ask him a few questions on that.

18 PRESIDING JUDGE FREMR: [14:36:42] So you mean that the picture is not
19 relevant, that we will just fine, will be fine with words?

20 MR BOURGON: [14:36:49] Well, the picture is relevant but what is most relevant
21 is the contents of the words spoken by the persons on the video when Mr Ntaganda
22 was there.

23 PRESIDING JUDGE FREMR: [14:37:00] I can understand your reservation, but at
24 the moment I understood that the video now should be ready. So you still insist just
25 to limit yourself on the text?

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 MR BOURGON: [14:37:12] Yes, Mr President. I think we can save some time and
2 get the same result.

3 PRESIDING JUDGE FREMR: [14:37:19] Prosecution, your position?

4 MS SAMSON: [14:37:22] I recognise that it may save some time, your Honour, but
5 it strikes me as being preferable to see the video in connection with the transcript
6 itself. Only because otherwise it just seems so disconnected from what the exercise
7 is all about. That said, I have no reason to believe that there is anything untoward in
8 the proposal. It just seems that possibly seeing the video might connect the evidence
9 better.

10 PRESIDING JUDGE FREMR: [14:37:57] Give me a second. I will consult my
11 colleagues on that issue.

12 (Trial Chamber confers)

13 PRESIDING JUDGE FREMR: [14:38:49] So after brief silent deliberation in the
14 courtroom the opinion of the Chamber, or in fact the ruling is that the video should be
15 shown because clearly that could have some relevance to see in what situation those
16 words have been said. So, Mr Bourgon, we appreciate your attempt to speed up, but
17 at this occasion we would prefer to -- if you can show complete video.

18 MR BOURGON: [14:39:18] Absolutely, Mr President. I was just trying to save
19 some time, but we are ready and I cross my fingers that the technical aspects will
20 follow.

21 Q. [14:39:34] (Interpretation) Mr Ntaganda, I'm going to show you a first video
22 excerpt. This is the video that you already recognised this morning.

23 I'm going to say once again what the references are for the record. That is video
24 DRC-OTP-0124-0002 and I would like to play from 6.11 to 7.54. Now, the reference
25 for the transcript is DRC-OTP-0176-0011, page 0015, line 94 to page 0016, line 105.

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 And the translation can be found at DRC-OTP-0176-0027, page 0033, lines 101 to lines
2 112.

3 Mr Ntaganda, if you are ready, we are going to play this video. I would ask you to
4 look at the picture and to listen to what is said.

5 Are the interpreters ready?

6 In that case we can go.

7 (Viewing of the video excerpt)

8 THE INTERPRETER: [14:41:24] "My first message is my message of condolences, my
9 messages with the most emotion for all the families that have been martyred,
10 traumatised in recent murderous events in Ituri. We have been subject to mourning
11 with them, we have cried with them and we have asked with God to support their
12 pain. Our second message is for peace and reconciliation. We are where we are
13 and we are Congolese. Ituri has been a theatre of war, of disorder, a theatre of
14 murders, a theatre of massacres as if in Ituri the value of human life disappeared, as if
15 in Ituri, that animals had precedence over things. We think that all the world must
16 understand that in Ituri this is not an Alur, this is not a Hema, it is not a Bira, it is not
17 a Lendu, there are Congolese people have the right to live and who together must
18 work together to build Ituri."

19 MR BOURGON: [14:42:50] (Interpretation) For the record I note that the video was
20 stopped at 07.33.

21 Q. [14:43:02] Mr Ntaganda, did you hear the words on the video?

22 A. [14:43:11] There was no sound.

23 PRESIDING JUDGE FREMR: [14:43:26] Excuse me, Mr Ntaganda, you haven't --

24 THE INTERPRETER: [14:43:30] Same thing for the Swahili and French booth, the
25 English booth did a sight translation of the written text as we were unable to hear the

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 sound. We did, however, do a sight translation of the text with which we were
2 kindly provided.

3 PRESIDING JUDGE FREMR: [14:43:49] Mr Ntaganda, have you heard translation?

4 THE WITNESS: [14:44:00] (Interpretation) I saw the video but I didn't have any
5 sound.

6 THE INTERPRETER: [14:44:16] Note from the French booth: The French
7 interpreter read the transcript in French without hearing any sound from the video, ie
8 the French booth did a sight translation of the written text.

9 PRESIDING JUDGE FREMR: [14:44:32] All right. So it seems we will have to
10 repeat it. I am sorry that we are facing those troubles, but otherwise Mr Ntaganda
11 could hardly respond to your questions, Mr Bourgon. So let's proceed and let's
12 return back at the beginning of this excerpt.

13 And, Mr Ntaganda, please if would be again no, no voice, raise your hand. Thank
14 you.

15 MR BOURGON: [14:45:17] (Interpretation)

16 Q. [14:45:19] So we're now going to take up this exercise again with this excerpt.
17 We're going to start at 06.11. I'm not going to repeat the reference in the transcript
18 and translation. Everybody is ready.

19 PRESIDING JUDGE FREMR: [14:45:36] All right.
20 (Viewing of the video excerpt)

21 THE INTERPRETER: [14:45:39]

22 "My first message is a message of condolences, my deepest condolences for all the
23 families that were martyred, traumatised in recent murderous events in Ituri. From
24 far, we have been mourning with them, we have cried with them and we are asking
25 with God to bear this pain. Our second message is one of peace and reconciliation.

1 We are ashamed where we are, and with us all Congolese, that Ituri should be a
2 theatre of disorder, a theatre of murders, a theatre of massacres as if in Ituri the value
3 of human life had disappeared, as if in Ituri more than animals we had things in its
4 presence. We think that all the world must understand that in Ituri there are no Alur,
5 there are no Hema, there are no Bira, there are no Lendu, there are Congolese. They
6 all have a right to life and together must come together to build this Ituri."

7 MR BOURGON: [14:47:37] (Interpretation) For the record the audio stopped at
8 7.56.

9 Q. [14:47:47] Mr Ntaganda, who is speaking on this video?

10 A. [14:48:03] The person who speaks is the minister of defence who has just come
11 back, and on that occasion the members of the population had come back to welcome
12 him and he took advantage of that occasion in order to comfort them following the
13 killings that had taken place in Bunia and in the surrounding area, killings which had
14 been perpetrated by the APC, and he had come from Kinshasa. That's Thomas
15 Lubanga.

16 Q. [14:48:46] How had Thomas Lubanga been received by the population?

17 A. [14:48:53] As you will have seen, the members of the population had put
18 pagnes on the ground and they were singing his name. He was really loved by all
19 the inhabitants of Bunia. The roads were full of people, everybody came to welcome
20 him, women in particular. They had put down their pagnes on the road in order to
21 welcome him.

22 Q. [14:49:33] Thomas Lubanga says in his speech "There are no Alur, there are no
23 Hema, there are no Bira, there are no Lendu, there are Congolese who all have right to
24 life and who must together work to build this Ituri."

25 These words, Mr Ntaganda, do they correspond with the words that you constantly

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 heard on the part of Mr Lubanga?

2 A. [14:50:22] When he set up his political party, that was the basis of the UPC
3 ideology which later became a politico-military movement. That is the ideology that
4 the soldiers had. It was a matter of considering there weren't ethnic groups. And
5 that's what we have brought with us to this very day as soldiers.

6 Q. [14:50:58] Between 2002 and 2003 during your contacts with Thomas Lubanga,
7 whether in public or privately, did you already hear Thomas Lubanga speak
8 something contrary to what he says in this speech?

9 A. [14:51:27] Never. In no case. This message was recurrent.

10 Q. [14:51:38] I would now like to go to a second excerpt in this video and audio.
11 But before showing you the excerpt, Mr Ntaganda, do you remember if the cortège of
12 the ministers Ntumba Luaba and Thomas Lubanga, do you remember where they
13 went having left the airport, where this convoy went?

14 A. [14:52:09] They had a popular meeting having left the airport and the meeting
15 took place in front of a building which was the HQ, and it was next to the road.
16 That's what I wanted to show you.

17 Q. [14:52:38] Were you present on that occasion?

18 THE INTERPRETER: [14:52:46] The answer was missed by the interpreters.

19 MR BOURGON: [14:52:50] (Interpretation)

20 Q. [14:52:51] I would therefore --

21 A. [14:52:55] Yes, I was there.

22 MR BOURGON: [14:53:02] (Interpretation) Your Honour, I would like to play a
23 second excerpt from this audio and video, still the same item, DRC-OTP-0124-0002,
24 and I would like to play the excerpt from 23.05 to 25.19.

25 Now, the reference for the transcript is DRC-OTP-0176-0011 from page 0019, line 229

1 to page 0020, lines 247. Now, the translation thereof can be found at

2 DRC-OTP-0176-0027, page 0037, lines 259 to page 0038, line 280.

3 Q. [14:54:16] Mr Ntaganda, if you are ready, if the interpreters are ready, then we
4 are now going to proceed with this video excerpt. Are you ready?

5 A. [14:54:30] Yes. Yes.

6 (Viewing of the video excerpt)

7 THE INTERPRETER: [14:55:05]

8 "Children of Ituri, good day to you all. Good day. Good day once again. Good
9 day. Before saying a few words that I have to put to you, I would first of all ask you
10 all to observe a minute's silence for the events which took place here during which we
11 have lost a lot of people.

12 I would like to thank you. Children of Ituri, the joy that we feel in our heart is such
13 that we are not able to find what we can speak to you about. You have all been
14 aware of the way in which we left from here. You have been informed of the path
15 that we took and of the place to which we were taken.

16 Thanks to God, we are meeting now, we can see each other again. Isn't that
17 happiness? Yes. Our other brothers ..."

18 MR BOURGON: [14:57:14] (Interpretation) For the record the audio stopped at
19 25.21.

20 Q. [14:57:33] Mr Ntaganda, according to your estimation as a person who was
21 present, what was the feeling of the population to see Thomas Lubanga once again?

22 A. [14:57:52] The population believed that he had been killed. When they saw
23 him, the population was very happy, as you can see. It was a time when a lot of
24 people had been killed in Mudzipela, in Komanda, Mabanga. A lot of people had
25 been killed, and in other localities as well that I cannot mention. And that's the

1 reason why he asked that a minute's silence be observed. But when he saw them,
2 the situation -- or, well, the people in Ituri were very pleased to see him back.

3 Q. [14:58:54] We're now going on to another excerpt, the third excerpt. I will
4 just say what the pages are. 29.22, 32.01. The transcript, the first page -- I'm always
5 asked to say the first page -- 0011 we go to page 22, line 297 to 317. The translation,
6 the first page of the document 0027, page 0040, lines 334 to 360.

7 Mr Ntaganda, if you are ready, if the interpreters are ready, we shall now proceed.

8 (Viewing of the video excerpt)

9 THE INTERPRETER: [15:00:04]

10 "Therefore, if you want us to be respected, if you want yourselves and ourselves to
11 enjoy a measure of esteem in the eyes of the entire world, I urge you to begin to
12 implement this peace among ourselves. Whether you are Hema, whether you are
13 Alur, whether you are Lendu, whether you are Bira, whatever your ethnicity may be,
14 these people have come to point out to us that such and such is a Lendu, and that this
15 brother is Bira while the other is Alur. At the time when we were still young we did
16 not know which ethnic group our classmate belonged to. However, today as I stand
17 before you some are saying this one is Hema. And so following all of that, the only
18 useful thing I can do to render service to the population will be considered as
19 valueless, because I'm a Hema, isn't that so?

20 That's true.

21 Now if a Lendu were to stand up, some would say he's a Lendu, and even if he had
22 the good intention of rendering service, nobody will pay attention to him, is that not
23 true?

24 Yes.

25 I believe that this idea of coming together, that needs to be implemented. We shall

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 not accept that others, other persons should continue to kill, to kill people on the
2 territory of Ituri. All human beings have the right to life as much as their neighbour.
3 So those who may still have ideas of this nature intending to kill, let them know that
4 this is not the time to do so. This is shameful and there is no interest in doing that.
5 Now, I think we don't have much time here because of the work that we have to do,
6 so it is useful for all of us, for that reason we must leave from here this evening to go
7 and participate in other meetings."

8 MR BOURGON: [15:02:51] (Interpretation) For the record the video was stopped
9 at 32.02.

10 Q. [15:03:08] Now, Mr Ntaganda, do you remember this speech delivered by
11 Thomas Lubanga?

12 A. [15:03:19] Yes, I was there, I was present.

13 Q. [15:03:26] At that time did Mr Thomas Lubanga know that he was not going to
14 return to Kinshasa that evening?

15 A. [15:03:42] No, no, because even here I heard him say we have very little time
16 and we shall be going back to participate in other meetings, so he knew that they had
17 only little time and that they were going back to Kinshasa.

18 MR BOURGON: [15:04:06] Mr President, I would like to seek to have tendered in
19 evidence the three video excerpts accompanied by the three corresponding transcript
20 and the three corresponding translation. I don't think I need to say the numbers
21 over again. I think they were quite clear before.

22 PRESIDING JUDGE FREMR: [15:04:28] Yes.

23 Prosecution, any objection to that?

24 MS SAMSON: [15:04:30] No objection, your Honour. I note various portions of
25 the video and transcript and translation have already been admitted into evidence.

1 I've been trying to check quickly whether it's the same excerpts. I'm not certain at
2 this time but I think they may be slightly different, but no objection in principle.

3 PRESIDING JUDGE FREMR: [15:04:50] But if there will be any overlapping it
4 shouldn't be a big, big problem.

5 So those three excerpts specified by Mr Bourgon, plus corresponding transcripts and
6 translations are admitted into evidence as a further Defence exhibit.

7 Mr Bourgon, you may proceed.

8 MR BOURGON: [15:05:16] Thank you, Mr President.

9 Q. [15:05:21] (Interpretation) Mr Ntaganda, let us now return to the issue we
10 were discussing before the break at which point you had annotated a map of Bunia
11 identifying a number of locations. Now, my first question is the following: I would
12 like to know from you when you returned from Bunia and had that meeting with
13 Kisembo, do you remember the approximate date on which that happened?

14 A. [15:06:03] What I can provide is just an approximate date. He was wounded
15 on the 5th. I was in Mahagi, I was unwell myself, and I remained there for two or
16 three days. And then I went to Mandro, I passed by Mandro because I was not very
17 well yet. And so it -- it was in mid-September, maybe around the 15th or the 18th of
18 September, or thereabouts. Yes, I think so. Between those dates.

19 Q. [15:06:56] Now, Mr Ntaganda, after you did that, you explained to us this
20 morning that you then went to Mandro where a battalion was deployed at Simbilyabo
21 and you were involved in organising the forces that had retreated from Nyankunde
22 to Ndromo. Now, what were your activities at that time after you had organised the
23 troops in that manner? What then did you do?

24 A. [15:07:36] At that time I was involved in organising the troops in Mandro
25 when Kisembo asked me to go and arrange things. He proposed a number of

1 commanders for appointment because he was the one who appointed the
2 commanders. I didn't know those commanders. He appointed the various
3 commanders and I had the duty to accompany these commanders and bring them to
4 their troops. Those were the activities I was involved in at that time while he was
5 injured in the leg.

6 Q. [15:08:27] Do you remember to what level of units commanders had been
7 appointed?

8 A. [15:08:54] What I can tell you is that he is the one who appointed David as
9 battalion commander, then in Mandro he gave me someone whose name was
10 Américain, and some company commanders as well. And he told me, "Oh, this one,
11 I have already worked with him, he is knowledgeable in this area and he can head up
12 a company." That's how things transpired at that time. The appointments were
13 made in relation to the forces that had not yet been deployed to the field at that time.

14 Q. [15:09:43] You have just mentioned the name Américain. Do you remember
15 what his functions were in Mandro?

16 A. [15:09:57] At that time when I settled in Bunia he was in charge of the troops
17 that had just completed training, as well as some recruits who were nearing
18 completion of their training. He was like their supervisor, the supervisor of all those
19 troops.

20 Q. [15:10:30] In the discharge of his duties, was he replacing someone else?

21 A. [15:10:41] Yes. He appeared to have temporarily replaced Mugisa Muleke.
22 He was his interim momentarily.

23 Q. [15:11:02] This morning you talked about some candidates who arrived in
24 Mandro for training. Can you tell us about those candidates, where did they go
25 when they arrived in Mandro and how long did they stay in Mandro?

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 A. [15:11:28] They were not there for a long time. The first group arrived and
2 spent a night there. I gave them bodyguards and escorts and then they left. The
3 three groups left within a week.

4 Q. [15:11:57] You have referred to three groups --

5 THE INTERPRETER: [15:11:59] Message from the Swahili booth: Could the witness
6 be requested to repeat his answer, Mr President.

7 PRESIDING JUDGE FREMR: [15:12:13] Mr Ntaganda, sorry to interrupt you, I just
8 got message from the interpreter that they haven't captured your last response.
9 Could you kindly repeat it again.

10 THE WITNESS: [15:12:28] (Interpretation) Yes, this is what I said: They left in
11 three different groups during a week.

12 MR BOURGON: [15:12:45] (Interpretation)

13 Q. [15:12:48] Mr Ntaganda, I believe that when I see the English transcript you
14 said something like "The three groups" --

15 THE INTERPRETER: [15:13:03] Sorry, Mr President, the interpreters didn't
16 understand the question from counsel.

17 PRESIDING JUDGE FREMR: [15:13:10] Now, Mr Bourgon, your question was not
18 understood well by the interpreters. But it should be probably something missing,
19 so our common goal is to find or try encourage Mr Ntaganda to repeat what is
20 missing, if anything, at the moment.

21 MR BOURGON: [15:13:48] (Interpretation)

22 Q. [15:13:51] Mr Ntaganda, in the French transcript this is the question that
23 appears: "Mr Ntaganda, you referred to three groups. How many persons were
24 there in each group?"

25 A. [15:14:43] Well, these events happened a long time ago, a very long time ago,

1 but by my approximation there were between 40 to 45 persons in each group, or
2 maybe even 35. However, all put together there were not more than a hundred of
3 them, maybe 100, 104 persons, something in that, in that range.

4 Q. [15:15:17] The people who arrived for that training, had they already received
5 military training elsewhere?

6 A. [15:15:35] No, most of them were students, students who had not yet received
7 training. They were trained after they left. But we took some of the elements who
8 had already received training and who were of a certain level of education and we
9 inserted them within the groups.

10 Q. [15:16:03] How did you organise the movement of those candidates who were
11 selected to go to Tchomia?

12 A. [15:16:24] I told Américain to organise a force for their security so there was a
13 force in front, an advance force, and other force behind to provide protection for them
14 so that they may not fall into an enemy ambush, the reason being that they were not
15 armed.

16 Q. [15:16:51] How many escorts? Do you have any idea how many escorts you
17 gave Américain or how many escorts you asked Américain to dispatch with the
18 candidates?

19 A. [15:17:15] They were accompanied by a company of soldiers.

20 Q. [15:17:26] Those candidates, before they left, did they receive any weapons?

21 A. [15:17:37] No, these were students, these are people who did not know how to
22 handle weapons. They only learnt how to handle weapons outside, after they left.

23 Q. [15:17:53] Why then did you not give them weapons to defend themselves in
24 case of an ambush?

25 A. [15:18:16] Well, that would be putting in harm's way the people who were

1 accompanying them. You cannot give a weapon, a firearm to somebody who
2 doesn't know how to handle it. So they might be able to release friendly fire and kill
3 their own comrades, even involuntarily.

4 Q. [15:18:37] Were the candidates given any uniforms before they left?

5 A. [15:18:51] At that time the uniforms were not yet available. When the first
6 group left, then upon its return the members of the population helped us by
7 providing military uniforms, and the uniforms were delivered with a plane.

8 THE INTERPRETER: [15:19:22] Message from the Swahili booth: Could the
9 witness please repeat the last part of his answer.

10 PRESIDING JUDGE FREMR: [15:19:30] Mr Ntaganda, again a request from the
11 interpreters: Could you kindly repeat the last part of your response.

12 THE WITNESS: [15:19:47] (Interpretation) Yes. This is what I said: The troops
13 that accompanied the candidates who were on their way for training, now, when the
14 first group arrived in Tchomia, they found that a plane from Goma had just landed.
15 The plane had come to collect the candidates for training, and it is that plane that
16 had -- that brought in the uniforms. The uniforms were then taken by the first group
17 which escorted the candidates to the training. It is those troops who accompanied
18 the candidates who brought back the uniforms which had been delivered by plane.

19 PRESIDING JUDGE FREMR: [15:20:37] Thank you.

20 MR BOURGON: [15:20:43] (Interpretation)

21 Q. [15:20:46] Mr Ntaganda, did you know that you were about to receive some
22 uniforms?

23 A. [15:21:03] It was a surprise to me. I was not aware of this. But I was very
24 happy. It was a pleasant surprise.

25 Q. [15:21:13] Tell us what you did when the uniforms arrived in Mandro.

1 A. [15:21:30] The troops were very happy, morale was high. I myself was very
2 happy. And I remember having put on the uniform on one of my bodyguards.
3 Late Kisembo was in Bunia so I went to his place and he saw me and he was
4 surprised to see me in a brand new uniform. So he got up, he was very happy. My
5 bodyguards were all in uniform and it was really a time of joy. It was a very good
6 quality uniform, a very good uniform.

7 Q. [15:22:18] Now, let us move back briefly to Jérôme Kakwavu. Maybe we
8 want to start by a date. Do you know the date on which the candidates went for
9 training or the date of the arrival of the uniforms? You mentioned those two events.

10 A. [15:22:44] Yes, it was in September, mid-September or towards the end of
11 September. You see, after that time Jérôme came to Aru. That is in early October.
12 It was about -- at about the same time.

13 Q. [15:23:31] You just mentioned Jérôme, probably because I mentioned his name.
14 When you say Jérôme arrived in Aru, how did you become aware of that and what is
15 the source of your information?

16 A. [15:23:55] You see, there was a telephone network, MTN, from Uganda in Aru,
17 so when he arrived there, I don't know how he managed to contact President Toms
18 and late Kisembo. You see, Kisembo and Thomas's houses were not too far the one
19 from the other, so they said that he had already arrived and liberated Aru, Ariwara
20 and Mont Awa. It's President Thomas who received this information. He had a
21 radio and from time to time, whenever Kisembo wanted to talk to Jérôme, he would
22 go to the president and then they would use the radio to communicate with each
23 other.

24 Q. [15:24:55] Did you become aware of any other information relating to Jérôme's
25 operational situation at that time?

1 A. [15:25:11] Yes. At that time the APC elements who were at that location, he
2 disarmed them and liberated that region. But shortly after the APC troops started to
3 attack him, but that was later.

4 Q. [15:25:39] Did you at any time become aware of information relating to
5 Jérôme's requests or what was happening to him over there?

6 A. [15:26:02] Yes. Before making those requests or demands, there was a
7 deployment of troops that late Kisembo had sent under Mugisa Paul's command as
8 brigade commander. Mahagi had been attacked by APC troops from Kpandroma so
9 Jérôme sent reinforcements under the command of one Ndayisaba, and that is the
10 information that came to me in relation to Jérôme's requests.

11 Q. [15:27:05] Let us start by dealing with a name which you just mentioned.
12 Mugisa Paul, who is he?

13 A. [15:27:20] Mugisa Paul belonged to the APC before, but at that time I did not
14 know him. When late Kisembo sent him to me so that I should deploy him with
15 troops to Fataki, he being the commander, that is when I got to know him. He came
16 along with Tchaligonza. He came when the last group was leaving for Tchomia.
17 That is when he arrived. He had been a former member of the APC who joined the
18 FPLC.

19 Q. [15:28:08] So when Mugisa Paul arrives in Mandro, what did you do with him
20 and where did you dispatch him and who with?

21 A. [15:28:27] Kisembo told me that he would be setting up his headquarters in
22 Fataki in order to control the battalion in Ndayisaba, Mahagi and the forces in -- and
23 Lyevin's forces which were to be set up. So the headquarters was to be set up in
24 Fataki. I gave him one company for the protection of his headquarters in Fataki.

25 Q. [15:29:09] According to your answer in the French transcript, line 15, "Kisembo

1 told me that he would be setting up his headquarters in Fataki", and something in
2 relation to Ndayisaba's battalion. Were those your words?

3 A. [15:29:38] Yes. When Ndayisaba arrived in Fataki, he was the battalion
4 commander there and the S5 is -- was with him.

5 Q. [15:29:58] What was the position that Mugisa Paul was supposed to occupy?

6 A. [15:30:10] Brigade commander.

7 Q. [15:30:12] So to go back to the name that you mentioned, Ndayisaba, could
8 you spell that name for us, please?

9 A. [15:30:23] November, Delta, Alpha, Yankee, India, Syria, Alpha, Bravo, Alpha,
10 Ndayisaba.

11 Q. [15:30:47] So he was sent with how many soldiers and who was he sent by?

12 A. [15:31:10] He was sent by Jérôme Kakwavu, accompanied by approximately
13 200 soldiers.

14 Q. [15:31:19] And you told us somewhat earlier that Mugisa Paul arrived at the
15 same time as Tchaligonza. Did other people arrive at the same time as him?

16 A. [15:31:32] Yes. Late Bagonza was also a member of that group, they came
17 together.

18 Q. [15:31:49] Now, Tchaligonza, Bagonza, where did they come from?

19 A. [15:31:59] You will remember that I told you that we split into two. So the
20 two people in question, they had deserted at that time. So at that time they were
21 coming from Uganda.

22 Q. [15:32:17] After the departure of Mugisa Paul in order to become a brigade
23 commander, did you have other information concerning Jérôme and the talks such
24 that he would be part of the FPLC?

25 A. [15:32:41] He already was a member of the FPLC, and Ndayisaba had already

1 been deployed as well as -- well, he was able to take over control of Aru and Mont
2 Awa. The APC, when he tried to attack them, he was a member of the FPLC.
3 Now, I found out that when he was attacked, he asked for firearm -- he asked late
4 Kisembo -- he said he had a lot of men, but he didn't have weapons, so he asked for
5 weapons from him, and that was what he needed. He needed those weapons, and
6 Kisembo hadn't accepted that he hadn't sent him the weapons. And I remember he
7 said that he had to transport non-armed soldiers and that on return he was going to
8 send him in exchange armed men.

9 Q. [15:33:50] When Kisembo contacted you on that subject and gave you the
10 information, what was the aim of this exchange of troops? Why would you have
11 people come without weapons and you would return people who had weapons?
12 What's the advantage?

13 A. [15:34:19] We wanted to join his army, but we wanted to get another army
14 which had taken over our ideology, the ideology of the FPLC. As such, when you
15 haven't met somebody, you haven't discussed things with them, you can't give them
16 weapons, while you're not sure that they really do adhere to your cause.

17 Q. [15:34:51] Did this exchange take place?

18 A. [15:35:00] Yes, this exchange did take place. Kisembo gave me the
19 responsibility for this task, sending non-armed soldiers, and on the return -- on my
20 return, that is, I was going to send him armed men.

21 Q. [15:35:28] Did you have anybody's help in order to complete this task?

22 A. [15:35:37] Yes. When we left Mandro and we started working on the other
23 side, admin Peter, he became my secretary, and I sent him and he started to transport
24 the armed soldiers. And when he came back, he came with soldiers without
25 weapons who we had to get to take on our ideology before integrating them into the

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 FPLC, which was based in Mandro.

2 Q. [15:36:25] Did Peter carry out this task?

3 A. [15:36:37] Yes.

4 Q. [15:36:38] Do you know how many troops were sent by Jérôme?

5 A. [15:36:51] Approximately more than 300 people, slightly over that.

6 Q. [15:37:03] Beyond the -- the men, how were they armed?

7 A. [15:37:17] They had SMGs, AK-47s. They had support weapons, grenade
8 launchers and recoilless as well.

9 PRESIDING JUDGE FREMR: [15:37:40] Hold on, Mr Witness.

10 Ms Samson.

11 MS SAMSON: [15:37:45] Yes, thank you, Mr President. It's just a potential
12 clarification between the English and the French in relation to whether these 300 men
13 were sent to Jérôme or by Jérôme, because the two transcripts contain a different
14 response. Page 87, line 7 and 8, "... ont été envoyées à Jérôme", and then in the
15 English, it's page 89, lines 4 to 5, "Do you know how many troops were sent by
16 Jérôme?"

17 PRESIDING JUDGE FREMR: [15:38:16] Thank you.

18 Mr Bourgon, could you kindly clarify this point.

19 MR BOURGON: [15:38:33] (Interpretation) Certainly, your Honour. I would
20 like to thank my colleague. This is a very important point.

21 Q. [15:38:41] Mr Ntaganda, you just mentioned the sending of 300 to 350 soldiers.
22 Is those soldiers sent to Jérôme or by Jérôme?

23 A. [15:38:53] He had been sent this number, and he sent us approximately the
24 same number. We sent him armed men, he sent us unarmed men.

25 Q. [15:39:25] What means of transport was used in order to transport men to the

1 place that Jérôme was?

2 A. [15:39:47] They left by plane.

3 Q. [15:39:49] I would now like to go back to one of your answers somewhat

4 earlier. You spoke about weapons that were with the troops that had been sent.

5 Now, you mentioned, and this is on line -- I'm talking about support weapons, and

6 the exact line, you stated that there was a grenade launcher, and the versions seem to

7 be different in English. In French you stated exactly what it was. You said, page 87,

8 "In addition to the men, how were these men armed?" And then I think your answer

9 was that, "They had SMGs, AK-47s, they had support weapons, a launch ... grenade

10 launchers and recoilless weapons." Are those the words that you said?

11 A. [15:41:05] Yes, those are the weapons that we gave to the battalion, AK-47s,

12 grenade launchers and recoilless.

13 Q. [15:41:26] How many grenade launchers and how many recoilless?

14 A. [15:41:38] One grenade launcher, one recoilless.

15 Q. [15:41:45] And for what reason would you send support weapons, while

16 Jérôme, according to your testimony, had only asked for armed men?

17 A. [15:42:19] I trained David's battalion and I gave them a grenade launcher and a

18 recoilless, and when this brigade left, we weren't meant to take their weapons. We

19 had a plan to set up each battalion, giving them support weapons. This was an

20 organisation that we had set up within our battalion.

21 Q. [15:42:57] To the best of your knowledge, was anything else sent to Jérôme?

22 A. [15:43:14] Uniforms as well. He was sent uniforms. Because the FPLC and

23 the APC had to wear the same uniform. The APC uniform had to be dropped

24 because we were now the same group, the FPLC. The FPLC.

25 Q. [15:43:45] Do you have information as to what Jérôme intended to do or how

1 he intended to use the armed men that you had sent to him?

2 A. [15:44:00] As a commander, he had to carry out an evaluation. The enemy
3 had already been attacked -- the enemy had already been attacked. They were in
4 Biringi, and when the men that we sent arrived, they were immediately onto the
5 battlefield in order to drive back the enemy.

6 Q. [15:44:32] And the men sent by Jérôme who were unarmed, what did you do
7 with them?

8 A. [15:44:40] They participated in a seminar in which they learnt the ideology and
9 then we joined them into the group of others that was already there.

10 Q. [15:45:06] In what place did that happen, did they join them?

11 A. [15:45:15] In the force that was in Mandro.

12 Q. [15:45:21] During the same period, Mr Ntaganda -- well, there was this
13 exchange of personnel between Jérôme and yourself in Mandro, the FPLC in Mandro.
14 Do you remember during that period if you carried out other troop deployments
15 from Mandro?

16 A. [15:45:54] We didn't carry out deployments, but at that time the enemy
17 attacked us and it was necessary to take control of Bunia. It got to Chai -- or it
18 happened at Chai. This was with the reserves of Gabo. He fought the enemy, and
19 the small force in camp Ndromo attacked the enemy from Chai and continued to
20 Malaba. We deployed a small company towards another zone during the same
21 period, towards the month of October.

22 Q. [15:46:52] Well, let's start with the last part of your answer, the deployment of
23 a small company. Do you know a place called Kunda?

24 A. [15:47:08] Yes, there was a deployment there, there was a battalion deployed
25 there, yes, a battalion. In Katoto too, Barrière, Lopa, as well as in Nizi.

1 Q. [15:47:36] Now, in your last answer -- I don't have the French transcript yet but
2 I understood the translation say "Lopa". Did you deploy forces in Lopa? Did you
3 say Lopa?

4 A. [15:47:55] Yes.

5 Q. [15:48:03] Well, let's start with Kunda. Who did you deploy in Kunda and
6 when?

7 A. [15:48:21] I deployed Commander John, I think that it was at the start of the
8 month of October or in the middle of October, John Kunda, called Juliet, Juliet
9 November, that was the call sign given, that was the commander.

10 Q. [15:48:49] Do you remember an event in which you were involved concerning
11 Juliet November or John?

12 A. [15:49:07] Yes. When he was in Kunda I got information to the effect that
13 there were members of the population who were giving him money or who paid him
14 in order to be protected. But that wasn't the UPC ideology. Nobody should receive
15 money. And that's why I arrested him and I put him in detention.

16 Q. [15:49:35] You put him in detention? Where did you do that?

17 A. [15:49:48] I incarcerated him in a place where there was a garage in a building
18 opposite Tom's residence. That building had a garage, it was quite wide, and that's
19 where I detained him.

20 Q. [15:50:07] When you speak about the residence, I think you said Tom's, is that
21 the first residence or the second residence?

22 A. [15:50:24] The first residence.

23 Q. [15:50:31] Where was this garage, could you give us more details in that
24 regard?

25 A. [15:50:42] There were three buildings. I've already spoken about that. One

1 of them was a garage, the other belonged to President Toms and the third was a
2 woodwork shop.

3 Q. [15:51:03] Let's go to Katoto. Do you remember what type of deployment
4 you carried out in Katoto?

5 A. [15:51:18] I sent one company there.

6 Q. [15:51:26] And Iga-Barrière?

7 A. [15:51:31] I also sent one company there.

8 Q. [15:51:35] Do you remember who was sent to Iga-Barrière?

9 A. [15:51:41] I think Commander Django Liripa. But the same Django Liripa
10 was supervising Nizi-Barrière. That was the highest ranking officer in that area.
11 He was commander over the two areas.

12 Q. [15:52:14] What force was present in Nizi?

13 A. [15:52:20] We deployed one force there, one company, one company.

14 Q. [15:52:36] Do you remember an event involving commander Django Liripa
15 who you mentioned?

16 A. [15:52:48] Yes. At a particular time the enemy had attacked the zone and
17 killed a chief and burnt down houses. I arrested him along with a commander called
18 Sophie (phon). I made them come and I incarcerated them together with Juliet
19 November in the garage opposite the first residence of Toms.

20 Q. [15:53:33] So, Mr Ntaganda, I'm looking at your answer, Django Liripa and his
21 commander Sophie, is it they who burnt the houses?

22 A. [15:53:52] The enemy came, the APC came as well, as the combatants, and they
23 burned the houses. They killed the chief. Django Liripa and his men had to protect
24 the chief, they had to defend him and the members of the population. They were
25 therefore negligent, and that's the reason why they were arrested.

1 Q. [15:54:25] Do you know a place called Boga?

2 A. [15:54:35] Yes, Boga is far away, far from Bunia. We can't go there because
3 the enemy had blocked all the routes. And I remember late Kisembo asked me to
4 send the SSM to Boga because there were young people who had come from
5 Kyankwanzi and Équateur who were with them in the comité de paix. They had to
6 be trained, organised with instructors. They went there in a plane in order to set up
7 a battalion in the month of October.

8 Q. [15:55:34] You mention Kisembo told you to send the SSM. Who was the
9 SSM? Which SSM are we talking about?

10 A. [15:55:49] The person who was SSM of Mandro when we set up a training
11 centre in Mandro, that was Nembe Lokuni.

12 THE INTERPRETER: [15:56:20] Correction from the interpreter: When we
13 replaced a training centre in Mandro.

14 MR BOURGON: [15:56:27] (Interpretation)

15 Q. [15:56:28] What structure did he set up in Boga?

16 A. [15:56:39] He left. And as SSM, firstly, he trained the recruits following the
17 model that was followed in a centre of instruction within our army.

18 Q. [15:56:58] And this structure, was it integrated within the FPLC?

19 A. [15:57:06] When he finished giving this military training, late Kisembo sent
20 him uniforms and weapons. He therefore put together a battalion, set up a battalion
21 which became a reserve force that reported directly to the chief of general staff. It
22 therefore became the battalion commanded by Nembe. Nembe was appointed by
23 late Kisembo himself.

24 Q. [15:57:53] What is a reserve battalion, Mr Ntaganda? Is it a normal procedure
25 for Kisembo to proceed in such a way?

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 A. [15:58:09] Yes. As chief of general staff he can create a reserve force attached
2 to him if he wishes to. He can create such a force. That is normal, that is something
3 that he can do.

4 Q. [15:58:37] During this period -- or, we spoke about different deployments in
5 the month of October, do you remember if the FPLC was engaged in operations
6 during that period?

7 A. [15:58:55] There were state defensive operations aiming to react against enemy
8 attacks. Among the operations that there were in November, the Mongbwalu
9 operation, and it was during that operation that we launched an attack against the
10 APC.

11 Q. [15:59:41] Before going to Mongbwalu I would like to have a bit more
12 information concerning -- in French what you state is that there were state defensive
13 operations. Are those the words that you used?

14 A. [16:00:07] Yes.

15 Q. [16:00:12] You mentioned -- well, you pointed to on the map Zumbe, another
16 place called Komanda. Were there other operations in those places in the month of
17 October or during this period?

18 A. [16:00:31] Yes. The operation that followed took place when people had
19 come and stolen cows in Zumbe in October. They were chased down. And access
20 to water for the Bunia people had been blocked and so the people of Bunia were
21 suffering, had begun to be suffering from cholera. So when they went to steal the
22 cows they released the water source that had been previously shut down by the
23 combatants and the APC forces.

24 Q. [16:01:33] Which forces on your side were involved in that operation?

25 A. [16:01:41] In Zumbe it was the forces that were in Mandro, but I don't

1 remember which commander was there. I was not there myself, but I do recall only
2 that Jacques was there. But as to his subordinates and the troops that were there
3 with him, I don't know.

4 Q. [16:02:10] Do you know who ordered that operation?

5 A. [16:02:21] When he tried to recover the cows, although they had all been killed,
6 and to open up the water and provide water to the people again, that was the time
7 when they were chasing down the enemies who had come to steal those cows. He
8 himself ran that operation.

9 Q. [16:02:55] Where were you at that time? Were you involved in that
10 operation?

11 A. [16:03:04] No. I was in Bunia.

12 Q. [16:03:15] A short while ago I talked about Komanda. Now, were there any
13 other operations in Komanda, as far as you know, during that period?

14 A. [16:03:27] Yes. Some of our troops remained in Komanda. The enemy
15 attacked them. Jacques went there and a few days later Jacques was attacked, he
16 was wounded, but he received treatment and he spent the nights at my place. One
17 day the enemy came close to Chai but we struck them and sent them back all the way
18 to Malabo.

19 Q. [16:04:14] I was going to get to Chai because you had mentioned that name
20 earlier on, indicating that something had happened in Chai. Now to begin with,
21 where is Chai located?

22 A. [16:04:32] Chai is a village on the outskirts of Bunia on the road to Komanda.
23 It is a village which lies immediately after Bunia as one gets out of Bunia on the
24 Komanda road.

25 Q. [16:05:04] What information did you obtain in relation to what was happening

1 in Chai?

2 A. [16:05:17] I was in Bunia. Some forces had been deployed to that area and
3 those forces came under attack and we immediately realised that smoke was rising
4 from the buildings Because, you see, once the APC troops attacked, they would burn
5 houses. And that is how Kisémbé called on me and then I went to his place and he
6 told me to use David's battalion and the one in camp Ndromo to stop the enemy from
7 reaching Bunia. So I complied and we defeated the enemy. I called on David and
8 the forces in camp Ndromo to fight back the enemy.

9 The prisoners of war who were captured at that time were taken to Mandro for
10 training in ideology. I was in camp Ndromo when I was dealing with that, that
11 issue.

12 Q. [16:06:44] In the French transcript I am looking for where you said that, but I
13 heard the word "Malabo". Did you say "Malabo"?

14 A. [16:07:02] I mentioned Malabo because I was saying that our forces struck the
15 enemy and drove them all the way back to Malabo.

16 Q. [16:07:13] Mr Ntaganda, listen carefully, did you say Malabo or Marabo?

17 A. [16:07:24] Well, you know, there's not much difference between those two
18 words.

19 Q. [16:07:32] So when that operation took place, were you with the troops that
20 went or that advanced to Chai?

21 A. [16:07:49] No. I sent David Kasaki (phon) and he went on the road to Chai
22 while I went to camp Ndromo and I asked the other battalion to take the other road
23 from behind and strike the enemy while I remained on the hill in camp Ndromo.
24 I was commanding the battalion using the Motorola, but I did not get to Chai myself.

25 Q. [16:08:25] Who was the commander of that operation?

1 A. [16:08:33] I myself coordinated the activities of the troops, Kaswara's troops
2 and David's troops.

3 Q. [16:08:47] What orders did you give your two commanders?

4 A. [16:08:52] I asked them to strike the enemy and cause them to retreat so that
5 they would not capture Bunia. So I coordinated this to ensure that the attack was
6 carried out smoothly.

7 Q. [16:09:11] Your two commanders were supposed to ward off the enemy.
8 How far?

9 A. [16:09:23] They struck the enemy and, at some point, they got to a location
10 where I was no longer able to communicate with them. I could not receive them any
11 longer. So after they attacked the enemy in Chai David's troops took war, prisoners
12 of war and then all the way to Mandro they were in the company of other troops.
13 Then they said that when they will get to Malabo they would have to kneel down -- or,
14 rather, have to stop there.

15 THE INTERPRETER: [16:10:02] Message from the Swahili booth: Could the
16 witness be kindly asked to repeat the last part of his answer.

17 PRESIDING JUDGE FREMR: [16:10:11] Mr Ntaganda, could you please repeat the
18 last part of your answer since it hasn't been captured by the interpreters.

19 THE WITNESS: [16:10:22] (Interpretation) Yes. This is what I was saying: The
20 two forces continued to -- all the way to Malabo and I told them that must stopped
21 when they get to Malabo. Two or three days later I joined them at that location. I
22 went to visit them in Malabo. I went there myself.

23 MR BOURGON: [16:10:56] Mr President, I would just like to note for the transcript,
24 and you may have noticed since the beginning of Mr Ntaganda's testimony that L,
25 Lima are being replaced by R, Romeo, and vice-versa. So I just want to note this for

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 the record. So that's why -- that was the aim of my question between Malabo and
2 Marabo.

3 PRESIDING JUDGE FREMR: [16:11:24] Well noted.

4 MR BOURGON: [16:11:25] There is no difference for Mr Ntaganda in these two
5 letters.

6 PRESIDING JUDGE FREMR: [16:11:29] I can confirm.

7 MR BOURGON: [16:11:31] (Interpretation)

8 Q. [16:11:33] Mr Ntaganda, can you talk to us a little bit about what you said,
9 namely, that you lost contact on your communication network with your two
10 commanders. What is the range of a Motorola?

11 A. [16:12:00] The Motorola devices that we used, now, if one had a hill between
12 the person with whom they were communicating, it would not go beyond 2
13 kilometres, but on level land the range could be 4 to 5 kilometres.

14 Q. [16:12:27] Can you give us an example, was it possible for the Motorola to be
15 used in communicating between Bunia and Mandro?

16 A. [16:12:38] No, it was not possible, except there was a relay station between the
17 two stations.

18 Q. [16:12:49] How then did you manage to talk to Kisembo while you were in
19 Mandro and he was in Bunia?

20 A. [16:13:03] Most of the time I went to his place. However, whenever there was
21 a message that was not extremely confidential which could be sent to me without my
22 going there, he could do so by sending it through someone who would then meet me
23 halfway and hand over the message to me. Or, rather, he could send someone with
24 the radio who would come halfway through and then communicate with me over the
25 radio.

1 Q. [16:13:42] Now, Mr Ntaganda, explain to us, some of us don't know these
2 things very well. What is a relay and how does it work?

3 A. [16:13:57] The person who is in the middle receives the message and then
4 passes it on. So what happens is you send a message to someone who receives the
5 message, and then that person sends the same message forward to the addressee.

6 Q. [16:14:18] Let us now go back to Marabo. You said that a few days later you
7 went to Marabo. What did you discover in Marabo?

8 A. [16:14:35] At that time we were involved in battle and the young people who
9 had gone for training had come back. But I was so busy I was not even aware of
10 their return, so I contacted Kisembo to tell him we had warded off the enemy and he
11 answered me saying that the youth had come back and that he was going to take on
12 those young people who had been trained in handling heavy weapons. And then he
13 told me that if I needed any of them he could also make them available to me. So I
14 went to that area and there were some young men there who had been trained in
15 heavy weapons handling. There was David and Kaswara. They had taken two
16 lorries from the APC and I took those lorries with me back to Bunia.

17 So the two young people who had been trained in the handling of support
18 weapons -- support weapons, rather, the two who had been trained --

19 Q. [16:15:56] Mr Ntaganda, were you present when those who had gone for
20 training returned to Bunia?

21 A. [16:16:12] No, I was not there.

22 Q. [16:16:15] What was the name of the two people whom you took along with
23 you from Marabo?

24 A. [16:16:34] The first one was called Nduru and the second Gege.

25 Q. [16:16:44] Did you return to Bunia at the same time as them, as those two?

1 A. [16:16:49] Yes, I took them with me back to Bunia.

2 Q. [16:16:58] What tasks did you assign them?

3 A. [16:17:08] I came back with them and the B-10, which was with David, and
4 they stayed in my compound. There was a place where they could spend the night
5 and guard their weapon, but I wanted them to be able to use the weapon that -- the
6 weapons that I had and also to guard their weapon for which they had been trained.
7 They had to ensure that the support weapon was secure and safe and that if there was
8 any problem, they could be able to use it.

9 Q. [16:17:54] Mr Ntaganda, when you say that, the weapons which you had, how
10 many weapons did you have, you and your company of escorts?

11 A. [16:18:14] The support weapons that I had were the 12, grenade launchers and
12 the B-10.

13 Q. [16:18:27] Where were those weapons? Where were they kept?

14 A. [16:18:39] The 12 and the grenade launcher, well, you see, behind the
15 headquarters there was a huge space with some buildings there belonging to a
16 company, and the grenade launcher and the 12 were held -- or kept there. Now, the
17 B-10 was in Gege's keeping. This weapon is not too long, it's not too big. It has a
18 base on which it is mounted and there was a special location at which the weapon
19 was kept.

20 Q. [16:19:42] You say the grenade launcher and the 12 was at the headquarters.
21 Where was the B-10?

22 A. [16:19:48] As far as I know -- rather, within my compound there were some
23 annexes with three doors. One, the first, by Gege, the second by the signaller, and
24 the third door or third room was occupied by people who -- rather, by spare parts,
25 tyres and other old spare parts for vehicles that were no longer in use. So the B-10

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 was in the first door or first room of the annex.

2 Q. [16:20:37] Gege and Nduru, were they involved in the escort or were they a
3 reserve, as for Kisembo?

4 A. [16:20:57] No, they weren't my bodyguards. They were troops who were
5 there to ensure the security of those weapons. Those were reserves.

6 Q. [16:21:12] Well, I've got two words that I'd like you to spell. Nduru is one.
7 Please could you spell the name of that person?

8 A. [16:21:27] N-D-U-R-U.

9 Q. [16:21:38] And the second word, you mentioned "signora" (phon). Could you
10 spell that, please?

11 A. [16:21:52] S-I-G-N-A-L-E-R. That's the person who is trained in using the
12 Manpack.

13 Q. [16:22:31] What is a Manpack?

14 THE INTERPRETER: [16:22:37] Overlapping speakers.

15 THE WITNESS: [16:22:41] (Interpretation) He followed training to wear a
16 Manpack. A Manpack is a device for communication that's used in the army in
17 order to communicate at a long distance, and the communications are encoded. So
18 with this device, it's used to receive and to transmit messages which are highly
19 confidential.

20 MR BOURGON: [16:23:16] (Interpretation)

21 Q. [16:23:18] Did you have a signaller at that time?

22 A. [16:23:21] Yes. Before going to Aru, the signaller arrived among those who
23 were to be exchanged. There I'm speaking about the troops because Kisembo had
24 asked Jérôme to send me them in order to be able to build up a well-structured army,
25 an army that had a signaller which could use encoded military systems. So before

1 going to Aru, the signaller was already there.

2 Q. [16:24:14] Well, do you remember the name of your signaller?

3 A. [16:24:20] Kinkita was his name. I no longer remember his other name. I
4 don't really know how to pronounce it. His second name ends in "fou" but I only
5 remember Kinkita.

6 Q. [16:24:51] Mr Ntaganda, with all these deployments that were going on, these
7 activities in the month of October, how many troops were left in Mandro?

8 A. [16:25:09] In Mandro there was a group that stayed. Afterwards myself, the
9 minister and the deputy secretary for defence went to visit. I think there were a
10 hundred of them, and later there were a thousand of them. And later they were
11 entrusted to Salumu. They composed a brigade.

12 Q. [16:25:56] You've just said that you yourself and the minister and the deputy
13 secretary for defence went to visit the group. Can you speak to us about this visit?
14 What are we talking about here? What exactly is that?

15 A. [16:26:15] I remember that every time I deployed the troops, I always spoke to
16 them about what I spoke about before, the ideology, what they must do when they
17 arrived in the field. They had to ensure security, the civilian population, attack the
18 enemy, and respect morals and have a high morale. They had to follow what the
19 army said, a well-disciplined army, a well-organised army, which did not accept
20 discrimination.

21 I gave them that message before deploying them and I would add -- and I would add
22 to it by saying that Kisembo -- that all those in charge must say that to all troops in
23 general. For example, beating somebody or taking measures that we took before,
24 that doesn't come from one person; that comes from the highest command to the most
25 simple soldier, and I told Kisembo, who was in agreement.

1 We also spoke with Chef Kahwa. Chef Kahwa went to see the president and he said
2 that it was necessary to go to Mandro, and Chef Kahwa gave this message to all the
3 troops, and that's what I just said.

4 Q. [16:28:15] Thank you, Mr Ntaganda.

5 MR BOURGON: [16:28:16] Mr President, I believe we can stop here. Tomorrow
6 we will look at this event.

7 PRESIDING JUDGE FREMR: [16:28:24] All right.

8 So we are -- we will adjourn now and we will continue tomorrow 9.30.

9 THE COURT USHER: [16:28:32] All rise.

10 (The hearing ends in open session at 4.28 p.m.)

11 CORRECTIONS REPORT

12 The Language Services Section has made the following corrections in the transcript:

13 *Page 47, lines 18-19:

14 "he was shot in Songolo, and then this happened on 5 September." is corrected to

15 "he was shot in Songolo, but Kisembo was hit in Nyankunde. It happened on 5

16 September."