

Trial Hearing
VICTIM: V3

(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 3
8 Wednesday, 12 April 2017
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: [9:30:34] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:31:17] Good morning, everyone.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:31:21] 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 And for the record we are in open session.
19 PRESIDING JUDGE FREMR: [9:31:39] Thank you, court officer.
20 Now appearances please in usual order.
21 MS SAMSON: [9:31:43] Good morning, Mr President, your Honours. For
22 the Prosecution today are Ms Kristy Sim, Ms Selam Yirgou, Mr Alexandre Gargam
23 and myself, Nicole Samson.
24 PRESIDING JUDGE FREMR: [9:31:56] Thank you, Ms Samson.
25 Defence, please.

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1 MR BOURGON: [9:31:59] (Interpretation) Good morning, Mr President.

2 Representing Bosco Ntaganda this morning with us, Madam Sandrine De Sena and
3 myself, Stéphane Bourgon.

4 Thank you, Mr President.

5 PRESIDING JUDGE FREMR: [9:32:11] Thank you, Mr Bourgon.

6 And Mr Bourgon, I see your colleague has some problem with the computer. It's
7 okay, fine.

8 Now Legal Representatives of Victims, please.

9 MS PELLET: [9:32:23] (Interpretation) Thank you, Mr President. There are no
10 changes for the former child soldiers compared to yesterday and the day before.

11 MR SUPRUN: [9:32:34] (Interpretation) Good morning, Mr President, good morning,
12 your Honours. For the victims of the attacks, there is no change since yesterday
13 either.

14 PRESIDING JUDGE FREMR: [9:32:44] Thank you, Ms Pellet.

15 Thank you, Mr Suprun.

16 Today we will hear the testimony of the third and last victim who is represented by
17 the Legal Representative of the Victims of the attacks and who is authorised to
18 present evidence by virtue of the Chamber's decision with filing number 1780. And I
19 will first address some procedural matters relevant to this testimony.

20 I recall that this witness shall be referred to as "Mr Witness" or as "Witness V3".

21 I further recall that in its decision with filing number 1780, the Chamber instructed
22 the Legal Representative in this decision to focus his examination of the witness on
23 the conduct of Mr Ntaganda and Mr Kisembo in the period between end of 2002 and
24 beginning of 2003. As indicated in the Chamber's email of 6 April about timing, the
25 Legal Representative shall have two hours to examine the witness. The rest of the

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1 procedure remains the same as for the previous two witnesses.

2 Finally, I recall that pursuant to its decision with filing number 1853, this witness will
3 testify with protective measures, specifically the use of a pseudonym and voice and
4 face distortion.

5 We can now proceed with the witness testimony.

6 So, Mr Witness, good morning. Can you hear me?

7 VICTIM: V3

8 (The victim speaks Swahili)

9 THE VICTIM: [9:34:35] (Interpretation) Good morning. I can hear you very well.

10 PRESIDING JUDGE FREMR: [9:34:42] All right. So, Mr Witness, on behalf of the
11 Chamber I would like to welcome you. You are going to testify before the
12 International Criminal Court. You will be soon asked questions both by the judges
13 and lawyers over here in the courtroom. In this connection, I would like to guide
14 you as follows: Please listen carefully to those questions. If you do not understand,
15 feel free to ask for the question to be repeated. We want you to tell the truth and tell
16 us what you saw, heard or sensed yourself. If you didn't see or hear it yourself but
17 you found out some other way then you should explain how. Please testify just on
18 that which you remember, don't guess, don't make things up. There is nothing
19 wrong in saying, "I don't know" or "I don't remember".

20 Do you understand all this, Mr Witness?

21 THE VICTIM: [9:35:51] (Interpretation) I understand you very well.

22 PRESIDING JUDGE FREMR: [9:35:53] Good.

23 Mr Witness, protective measures -- sorry, protective measures are put in place to
24 ensure that your identity is not revealed to the public. This means that the public
25 cannot see your face today and that your voice is being disguised so that the public

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1 cannot recognise it.

2 We will refer to you as "Mr Witness" only and ensure that your name and any other
3 information that risk revealing who you are is not broadcast to the public. Therefore,
4 whenever you need to describe anything that might reveal your identity, we will do
5 so in private session so that no one apart from us here in the courtroom can hear your
6 answer.

7 Do you understand that, Mr Witness?

8 THE VICTIM: [9:36:55] (Interpretation) I understand you very well.

9 PRESIDING JUDGE FREMR: [9:37:05] All right.

10 So now, Mr Witness, I would like you to read out the text you should have now in
11 front of you, which is text of the solemn undertaking.

12 So please go ahead.

13 THE VICTIM: [9:37:16] (Interpretation) I solemnly declare that I shall speak the
14 truth, the whole truth and nothing but the truth.

15 PRESIDING JUDGE FREMR: [9:37:34] Thank you, Mr Witness. You are now under
16 oath, so you need to be aware that it is an offence within the jurisdiction of this court
17 to give false testimony. Do you understand that?

18 THE VICTIM: [9:37:50] (Interpretation) Yes, I follow you very well.

19 PRESIDING JUDGE FREMR: [9:37:58] Fine. And finally a few practical matters
20 you should have in mind when giving your testimony: It's important to speak into
21 the microphone, to speak clearly and to speak at a slow pace to allow the interpreters
22 to translate everything precisely. You should only start speaking when the person
23 asking you the question has finished. When a question is asked, please do not
24 respond immediately -- it's important -- but rather count in your head to three and
25 only then give your answer, because this pause of at least three seconds is essential

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1 for us to properly hear and record what you are saying.

2 If you have any questions during your testimony, do not hesitate to let us know by
3 raising your hand and we will then give you the opportunity to speak.

4 Have you understood all that, Mr Witness?

5 THE VICTIM: [9:38:56] (Interpretation) I am following what you are saying very
6 closely.

7 PRESIDING JUDGE FREMR: [9:39:05] Very well. Then I can hand over the floor to
8 Mr Suprun, Legal Representative of the Victims of the attacks, who will start with
9 your examination.

10 Mr Suprun, you have the floor and we are in open session.

11 MR SUPRUN: [9:39:37] (Interpretation) Thank you, Mr President.

12 QUESTIONED BY MR SUPRUN: (Interpretation)

13 Q. [9:39:42] Good morning, Mr Witness.

14 A. [9:39:44] Good morning.

15 Q. [9:39:47] We already know each other but I shall introduce myself again for the
16 record. My name is Dmytro Suprun and I represent the victims of the attacks upon
17 the civilian population who are participating in this case against Bosco Ntaganda.

18 This morning I'm going to be putting questions to you with regard to the events that
19 occurred between the end of 2002 and the beginning of 2003 on behalf of the victims
20 whom I represent.

21 MR SUPRUN: [9:40:18] (Interpretation) Mr President, for my first questions, I would
22 please like for us to go into private session.

23 PRESIDING JUDGE FREMR: [9:40:26] Certainly.

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

25 (Private session at 9.40 a.m.) *(Reclassified partially in public)

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1 THE COURT OFFICER: [9:40:42] We're in private session, Mr President.

2 PRESIDING JUDGE FREMR: [9:40:45] Thank you, court officer.

3 Mr Suprun, please proceed.

4 MR SUPRUN: [9:40:49] (Interpretation) Thank you.

5 Q. [9:40:55] Mr Witness, we are now in private session, so you can provide us with

6 information and names without having any fear that anybody outside of the

7 courtroom will be in a position to hear what you are saying. My first question to

8 you, Mr Witness, is: Can you provide us, please, with your full name?

9 A. [9:41:17] My name, my last name is (Redacted) and my first name is

10 (Redacted).

11 Q. [9:41:33] Do you have any other names or do you go by any other name?

12 A. [9:41:47] Often my name is put in a brief form and I am called (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. [9:42:03] What is the place and date of your birth, Mr Witness?

16 A. [9:42:07] I was born on (Redacted)

17 Q. [9:42:17] What is your ethnic origin, sir?

18 A. [9:42:24] I am from the Nyali ethnic group.

19 Q. [9:42:37] Are you married?

20 A. [9:42:40] Yes, I am married to a lady. Just the one.

21 Q. [9:42:46] Do you have any children?

22 A. [9:42:50] Yes, I have (Redacted) children.

23 Q. [9:42:59] What is your occupation, your profession? What do you do?

24 A. [9:43:16] I am a (Redacted). That is the work that (Redacted). I do

25 this to meet the needs of my family.

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1 (Redacted)

2 (Redacted)

3 Q. [9:43:52] I would now like to ask you to concentrate upon the events that
4 occurred at the end of 2002, and specifically the manner in which these events
5 affected you and members of your family. My first question to you is: Towards the
6 end of 2002, where were you living at the time?

7 A. [9:44:17] Towards the end of 2002, I was living in (Redacted).

8 Q. [9:44:27] And who were you living with or who was living with you?

9 A. [9:44:35] As the war affected where we were living, I was living together with all
10 of the family.

11 Q. [9:44:42] When you talk about the war, which war are you talking about?

12 A. [9:44:53] It was the inter-ethnic war between the Lendu and the Gegere-Hema,
13 and it was in (Redacted), that is where we were living.

14 Q. [9:45:09] Do you remember when that war reached your village?

15 A. [9:45:25] It was towards the end of 2002, the beginning of 2003. At that
16 moment I was still (Redacted) years of age and I was (Redacted) but I was old enough
17 to know what was going on.

18 Q. [9:45:40] Before we touch on that event, the war, I would like to have some
19 clarification. You said that you were living with your entire family. Could you tell
20 us more specifically with whom you were living?

21 A. [9:46:03] I was living with my (Redacted)

22 (Redacted)

23 THE INTERPRETER: [9:46:23] With (Redacted) -- correction from the Swahili
24 booth -- and (Redacted)

25 MR SUPRUN: [9:46:28] (Interpretation)

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1 Q. [9:46:29] Mr Witness, could you provide us with the name of your father?

2 (Redacted)

3 Q. [9:46:51] What was his ethnic origin?

4 A. [9:46:55] He was a Nyali from (Redacted).

5 Q. [9:47:16] Do you remember how old your father was towards the end of 2002?

6 (Redacted)

7 (Redacted)

8 Q. [9:47:40] Sir, can you explain what your father's status was within the

9 community?

10 A. [9:48:00] He was a personality. He was somebody who was well known.

11 (Redacted)

12 (Redacted)

13 Q. [9:48:20] What was your father's occupation towards the end of 2002?

14 A. [9:48:32] Towards the end of 2002, (Redacted)

15 (Redacted)

16 Q. [9:48:49] In view of the fact that your father's name has not been correctly

17 transcribed, could I please ask you, Mr Witness, to spell the complete name of your

18 father?

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [9:50:03] Thank you, Mr Witness.

24 Mr Witness, I am going to now request that we move into open session, but I would

25 like to ask you during this open session not to provide any names, and when you

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1 make mention or refer to (Redacted), I would ask you to just say "my village". Do you
2 understand?

3 A. [9:51:03] Yes, that's fine. I understand what you are saying.

4 MR SUPRUN: [9:51:07] (Interpretation) Mr President, could we please move into
5 open session.

6 PRESIDING JUDGE FREMR: [9:51:11] Yes, but before doing that, I would like
7 maybe to correct you slightly, Mr Suprun, because I see that according to the English
8 transcript, you said that you shouldn't provide any names. So I believe that you
9 could provide some names but not those who could reveal your identity. So, for
10 example, if he would speak about Mr Kisembo, it is no problem to mention his name.
11 So just I would like to make this clarification. Now let's move into private
12 session -- sorry, open session.

13 (Open session at 9.51 a.m.)

14 THE COURT OFFICER: [9:51:52] We are back in open session.

15 PRESIDING JUDGE FREMR: [9:51:55] Thank you, court officer.

16 Mr Suprun, please proceed.

17 MR SUPRUN: [9:52:00] (Interpretation) Thank you, Mr President.

18 Q. [9:52:04] Mr Witness, I would like us to come back to the event towards the end
19 of 2002. You spoke of the war. Could you explain in detail what war you were
20 talking about and when this war came to your village?

21 A. [9:52:30] Yes, thank you. Thank you for allowing me to address the Court.
22 I believe that I have introduced myself to you. I told you that I come from the
23 Democratic Republic of the Congo in the Djugu territory of Ituri. I think everybody
24 heard of name of our collectivité. This war was an inter-ethnic war. And the ethnic
25 groups that were pitted against each other -- well, it didn't involve all ethnic groups,

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1 because a number of collectivité were involved and a number of ethnic groups, the
2 Hema, the Lendu, the Nyali, and in our ethnic group we were not --

3 PRESIDING JUDGE FREMR: [9:53:18] Sorry, Mr Witness. I have to interrupt you.

4 Mr Suprun, I understand that you need some introductory passage before you reach
5 the core of the testimony, but as we, as a Chamber, several times emphasised this.

6 Those witnesses, three witnesses you proposed have been invited to come because
7 their testimony is somewhat unique. But the history of the conflict, you know, we
8 have listened to many witnesses on that topic. So I would like to skip this topic and
9 focus on those parts of the testimony which are unique to this witness, please.

10 MR SUPRUN: [9:54:14] (Interpretation)

11 Q. [9:54:15] Mr Witness, you heard what the Presiding Judge just said, and I would
12 like indeed to ask you to avoid talking about the history of the conflict but rather
13 concentrate on the time when the war came to your village, and on that basis and
14 from that moment forward I am going to be putting more specific questions to you;
15 do you understand that?

16 A. [9:54:36] Yes, I do understand.

17 Q. [9:54:40] Mr Witness, could you please explain to us when the war reached your
18 village and what happened at that moment in time.

19 A. [9:54:55] This war reached our area at the end of 2002, during Christmas
20 festivities. You know, during -- in our collectivity, there were personalities, and the
21 chiefs wanted to understand who these personalities heading up our village were.
22 And as you are asking me, do you want me to provide you with any names, the
23 names of the commanders who were there where we were?

24 Q. [9:55:35] Yes, indeed, Mr Witness. I would like to ask you not to provide us
25 with names of the people within your family or your own identity, but when you

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1 want to talk to those people outside of your family, you can indeed and should
2 indeed provide names so that the Court understands what happened at that moment
3 in time.

4 A. [9:56:00] Very well. I was living with my entire family because my father did
5 not want us to go far afield. There was insecurity in the area. There were no roads
6 and it was difficult to go and find food. The UPC party was present, and it was
7 controlling the village at the time when we were in our village. And on occasion
8 when my father remained there, General Kisémbó called my father his uncle, and on
9 occasion he would arrive at our house in the company of other commanders, and he
10 would talk to my father with regard to what was happening in our village. And he
11 wanted to know about the climate, the area, the ethnic groups there. He wanted to
12 know how my father was behaving, and he would say, "Well, I am not a political
13 person. I, of course, welcome you when you arrive because our ethnic group will
14 welcome anybody." And on occasion, I was also present when they were talking.
15 My father was very close to me, and my father wanted me to be there for me to be
16 able to listen to everything that they were saying during their discussions. And as
17 my father was one of the leaders of the village, there were also other people who were
18 present who were following what was going on and how the situation was evolving.
19 And the soldiers arrived, they installed themselves, and they even installed some
20 commanders to take control of that area where we were living. The first day when
21 Kisémbó arrived, he introduced another commander to my father, and he said, "This
22 gentleman has such-and-such a position within this area, and you, the youth of our
23 movement, you must also pay your contribution in order to support the movement."
24 And my father said on occasion that I am not going to be getting involved in politics.
25 I know that the war is here, but the war will come to an end. And my father talked

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1 to him what happened during the war in 1964, and my father said that after that war,
2 there were many things that happened, and all those people who were involved were
3 arrested.

4 Q. [9:58:35] I am going to interrupt you, sir. I would first like to ask you to talk
5 a little more slowly because the interpreters are not managing to follow you. So
6 could you slow down somewhat, please. That's the first thing. Secondly, since you
7 have already furnished us with a certain amount of information, and before allowing
8 you to continue, I would like to put some clarification questions to you, all right?

9 A. [9:59:07] Yes.

10 Q. [9:59:08] My first question, sir: You and your family, the Nyali family, were
11 you affected in any way whatsoever by the fact that the war arrived or reached your
12 village?

13 A. [9:59:34] Yes, this war affected us. We were living in a mining area and the
14 party wanted to take control of the village where we were.

15 Q. [9:59:48] And in view of the fact that you talked about this conflict and the fact
16 that it pitted the Hema against the Lendu, I would like to ask you whether the Nyali
17 were considered to be close to the Hemas or, rather, close to the Lendus.

18 A. [10:00:17] In the territory of in Djugu, the collectivity of Nyali contains all these
19 different ethnic groups. In our territory, it's a mining area and there is gold there.

20 Q. [10:00:41] What I wanted to ask you, Witness, what place did the Nyali have in
21 the conflict between the Hema and the Lendu?

22 PRESIDING JUDGE FREMR: [10:00:58] Hold on, Mr Witness.

23 Mr Bourgon.

24 MR BOURGON: [10:01:01] Thank you, Mr President.

25 On two occasions the witness responded that the conflict involved many ethnic

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1 groups, but my colleague keeps directing the witness to a conflict between the Hema
2 and the Lendus. The witness said this on two occasions, one of these occasions being
3 on page 12, lines 20 -- sorry, on page, on page 10, lines 18 to 23. I'd just like to leave
4 the witness describe the situation and not to direct him into something that he did not
5 say. Now we're asking a question as to what is the place of Nyali, a conflict between
6 two people, when this is not what the witness said.

7 Thank you.

8 PRESIDING JUDGE FREMR: [10:01:49] But, Mr Bourgon, is this for you, as
9 a Defence, disputable there was a conflict between Hema and Lendu?

10 MR BOURGON: [10:01:59] Conflict is much more complicated than this,
11 Mr President.

12 PRESIDING JUDGE FREMR: [10:02:05] Mr Suprun.

13 MR SUPRUN: [10:02:08] (Interpretation) Thank you, your Honour. I'd like to draw
14 the attention of the Chamber to the fact that on page 9 of the French transcript, line 10,
15 the witness says it's an inter-ethnic war between the Lendu and the Hema-Gegere.
16 He clearly states who were the participants in the conflict.

17 PRESIDING JUDGE FREMR: [10:02:41] Objection overruled.
18 Please proceed, Mr Suprun.

19 MR SUPRUN: [10:02:46] (Interpretation)

20 Q. [10:02:49] Witness, I'm going to repeat my question. To the best of your
21 knowledge, what place did the Nyali ethnic group have in this conflict between the
22 Hema and the Lendu?

23 A. [10:03:13] What I know is that this war took place more in the Nyali villages
24 from Kobu. It was in this region that the Nyali live, because this region had a lot of
25 mines and that is when -- where the Nyali lived.

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1 Q. [10:03:39] You mentioned that the UPC troops came to your village. Could you
2 explain how you know that it was UPC troops?

3 A. [10:03:58] I recognised them because they were wearing uniforms and they had
4 heavy weapons. And often they came to where we lived in order to speak with my
5 father.

6 Q. [10:04:17] What type of uniform did they wear, if you remember?

7 A. [10:04:27] They wore tache-tache uniforms. They said that the uniforms came
8 from Rwanda, Rwanda was assisting them.

9 Q. [10:04:48] Were these soldiers bearing arms, sir?

10 A. [10:04:55] Yes, they had heavy weapons, because at Bunia airport there were the
11 Ugandans and they were the ones who were providing them with these weapons.

12 Q. [10:05:12] Can you state what type of heavy weapons they had, if you
13 remember?

14 A. [10:05:24] Often they had SMGs, MAGs, 12s, mortars, and other weapons were
15 carried on vehicles. These weapons had ammunition belts. They had weapons
16 with ammunition belts which they would carry on their bodies.

17 Q. [10:05:51] When the UPC troops arrived in your village did all the inhabitants of
18 the village stay there or did some people leave?

19 A. [10:06:03] Many took refuge in the forest and some stayed in the village.

20 Q. [10:06:19] Could you state who these people were who left the village?

21 A. [10:06:32] They were Nyali and Lendu who fled. Because everywhere where
22 the UPC went, they drove out the Lendu. Other was -- others were afraid of seeing
23 the soldiers.

24 Q. [10:06:59] And as a member of the ethnic group, why didn't you leave the
25 village? Why did you stay?

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE FREMR: [10:09:11] Hold on, Mr Witness.

16 Mr Bourgon.

17 MR BOURGON: [10:09:14] Thank you, Mr President. I am sorry to interrupt my

18 colleague but (Redacted)

19 (Redacted)

20 PRESIDING JUDGE FREMR: [10:09:23] Yes, yes, you are right.

21 And at this connection we first of all have to move into private session, but we also

22 have to redact the previous part, (Redacted)

23 (Redacted)

24 And then, please, let's move into private.

25 And thank you, Mr Bourgon.

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1 (Private session at 10.10 a.m.) * Reclassified partially in public

2 THE COURT OFFICER: [10:10:03] We are in private session.

3 PRESIDING JUDGE FREMR: [10:10:09] Thank you, court officer.

4 Mr Suprun, please proceed.

5 MR SUPRUN: [10:10:13] (Interpretation) Thank you, your Honour. And I'd like to
6 thank my colleague from the Defence for this intervention.

7 Q. [10:10:23] Witness, we are in private session. Could you give us some details,
8 if you knew Kisembo, who was from your village. Did you know him when you
9 were younger? Did you grow up together?

10 A. [10:10:51] Well, I didn't say that he was from my village. He is from the Gegere
11 ethnic group. His mother is Nyali (Redacted) and
12 sometimes he would go and live in the village of his father.

13 Q. [10:11:14] Thank you, Witness, for that correction.

14 I think we can go back into open session, your Honour.

15 PRESIDING JUDGE FREMR: [10:11:23] All right.

16 Court officer, let's return back into open session.

17 (Open session at 10.11 a.m.)

18 THE COURT OFFICER: [10:11:35] We are back in open session, Mr President.

19 PRESIDING JUDGE FREMR: [10:11:39] Thank you, court officer.

20 Mr Suprun, please proceed.

21 MR SUPRUN: [10:11:46] (Interpretation)

22 Q. [10:11:48] Witness, you mentioned that your father was a notable, an elder or
23 a figurehead in the community. Could you tell us what that means exactly?

24 A. [10:12:10] A notable is somebody who lives with the chief, who exchanges with
25 the chief. And as he was a gold commercant he would collaborate with the chief in

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1 order to discuss development within the village.

2 Q. [10:12:30] I would now like you to focus on the first visit of Kisembo to your
3 house in order to speak with your father.

4 A. [10:12:55] He was a general and for his first visit he introduced his colleague.
5 He met me there because my father would -- had a seat there where he would
6 normally sit.

7 Q. [10:13:10] Who came with Kisembo? Could you give clarification in that
8 regard?

9 A. [10:13:25] Do you want me to give the name?

10 Q. [10:13:30] Unless among these people there was somebody from your family
11 whose name would identify you, you can give the other names.

12 A. [10:13:49] There are names of members of the delegation with whom he came.
13 Do I have to mention them?

14 Q. [10:14:04] Definitely, Witness, please give these names.

15 A. [10:14:09] When he came to our house, he introduced himself. He was with
16 Papa Keino. He said that he wanted to take the town in collaboration with Papy so
17 that he could eliminate the Lendu, and he said that the president of the political party
18 was Thomas Lubanga and that he was a general, he was responsible for operations on
19 the Mongbwalu road. That was Bosco. And Mangaylou (phon) was the person
20 who was responsible for our village. That was the first introduction that he made.

21 Q. [10:15:01] As you just mentioned Bosco, could you tell us if Bosco came with
22 Kisembo that first time in order to meet with your father?

23 A. [10:15:19] Yes, they were together. He was responsible for the whole army in
24 that operation. It was important to introduce him to the community leaders or
25 notables.

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1 Q. [10:15:38] When you speak about Bosco, do you know another name that he
2 had?

3 A. [10:15:54] He was called Bosco Ntaganda. In north Kivu they changed his
4 name. For us he was chargé des opérations, responsible for operations, and he was
5 called Bosco Ntaganda.

6 Q. [10:16:05] What role did he have within the UPC, or among the UPC troops?

7 A. [10:16:24] According to the introduction made by the general, he was
8 responsible for operations along the Mongbwalu road.

9 Q. [10:16:35] I would like to ask you, sir, when you -- when was the first time you
10 heard somebody speak of Bosco Ntaganda, was it during this visit or prior thereto?

11 A. [10:16:53] I heard people speak of Bosco Ntaganda after the inter-ethnic war,
12 and that was when people said there were Rwandans who supported the UPC, and it
13 was that time that I heard the name of Bosco Ntaganda for the first time.

14 Q. [10:17:16] And to understand that better, in what context did you first hear the
15 name Bosco Ntaganda?

16 A. [10:17:36] Firstly, when the general arrived, because he had occupied village
17 after village. He came to occupy our village. They had to present their programme
18 and the situation in which they were. Now, often I was with my father to hear what
19 they were speaking about, and they had guards; they started to present their
20 programme, how things were going to work from Bunia to Mongbwalu, and that's
21 how they started with the presentation. They spoke about the programme. They
22 said that their primary concern was to drive out the Lendu because the Lendu were
23 resisting them, and they wanted to train leaders in order to continue with that
24 movement.

25 Q. [10:18:21] Do you remember who exactly among the members of this group said

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1 that their objective was to drive out the Lendu? Do you remember who said that?

2 A. [10:18:33] I don't remember. It was the general in person who said that when
3 he made his presentation. He had just presented the person responsible for
4 operations, the location commander, and then he spoke about their programme to
5 advance towards Mongbwalu road.

6 Q. [10:18:52] Do you remember if Bosco Ntaganda had said anything during that
7 first visit?

8 A. [10:19:06] On that day he didn't speak much. He just said that he had come to
9 work as he should and as the political party wished. He also wanted there to be
10 talks with the leaders.

11 Q. [10:19:27] When this delegation came to see your father for the first time, how
12 was the objective explained to your father? Why did they come to see your father?

13 A. [10:19:47] Firstly, as it was the first time that they had come to the village, they
14 wanted to have contact with the community leaders or elders, and they wanted to
15 discuss matters with my father as to -- about their programme, their objectives, which
16 was to reach Mongbwalu.

17 Q. [10:20:14] Yes, I understand that. But how did they explain what they were
18 doing? What were they looking for? What did they want from your father? What
19 did they want him to do for them?

20 A. [10:20:29] Firstly, as I stated, the general said that as the leaders, such as the
21 traders and the mining companies, had to come together in order to make payments
22 such that the political party could make progress.

23 Q. [10:20:57] This delegation, did it explain to your father how their party wanted
24 to attain or reach its objectives?

25 A. [10:21:18] They firstly started by explaining the programme, and then they

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1 insisted, saying that if there weren't Lendu who had gone through there. And my
2 father started to say that he wasn't interested in this problem because he was looking
3 after his children. According to my father, he knew that this movement would end
4 and that life would continue afterwards. Afterwards, somebody could be arrested.

5 Q. [10:21:57] During this visit, what did your father say? What did he answer to
6 the delegation by way of response to their proposal for collaboration?

7 A. [10:22:11] My father told them that he wanted to look after his children so that
8 they could study. And he recalled that within his family there were a lot of people
9 who had died because they were -- had been members of other groups in the past.
10 He wanted to point out that he didn't want to be associated with them.

11 Q. [10:22:42] Do you remember how many people in total came to see your father
12 among the delegation?

13 A. [10:22:54] I can remember because the general was there, Bosco was there, and
14 the -- Mangaino, responsible for security was there. There were three bodyguards.
15 They were all there on that day.

16 Q. [10:23:12] What uniform did General Kisémbó and Bosco Ntaganda -- what
17 uniform were they wearing?

18 A. [10:23:25] They were wearing tache-tache uniforms.
19 On that day, Kisémbó was wearing a tee shirt and tache-tache well. A tee shirt, not
20 a uniform, but it was a tache-tache tee shirt.

21 THE INTERPRETER: [10:23:50] And the interpreter adds in the previous answer the
22 name Mangaino was mentioned.

23 MR SUPRUN: [10:23:59] (Interpretation)

24 Q. [10:24:01] Witness, can you repeat the name of the commander you mentioned?
25 Could you spell that name, please?

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1 A. [10:24:06] There was General Kisembo. He was responsible for the operations
2 with Bosco, and the commander at that location who was called Mangaino.

3 Q. [10:24:28] Were the members of the delegation bearing arms, were they carrying
4 weapons?

5 A. [10:24:34] The officers had revolvers and their bodyguards had rifles.

6 Q. [10:24:43] And, in particular, Kisembo and Ntaganda, what weapons were they
7 carrying?

8 A. [10:24:53] They had revolvers.

9 Q. [10:24:57] Did this delegation come on foot or did they arrive by vehicle?

10 A. [10:25:05] When they came, they were on foot. They didn't have a vehicle.
11 They were, well escorted because it wasn't far from their camp.

12 Q. [10:25:18] Do you remember how much time passed during that first meeting?

13 A. [10:25:31] During the meeting, as they wanted to set themselves up in the village,
14 well, the talks lasted for about an hour.

15 Q. [10:25:53] Following this meeting, did your father give the delegation money or
16 gold?

17 A. [10:26:07] No. When they arrived, he offered them sweet drinks, tea; it wasn't
18 the time to show them gold or money. This was a period with tension. He just
19 offered them something to drink, sweet drinks.

20 Q. [10:26:36] Was this meeting the first and last meeting between your father and
21 UPC representatives, or did they come back to see your father on another occasion?

22 A. [10:26:52] They came on three occasions. The first time they came; they had
23 talks. Second time as well, and then they came back a third time.

24 Q. [10:27:04] Could you give us more details about the second visit of the
25 delegation. So how much time did they spend with your father when they came to

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1 see him the second time?

2 A. [10:27:24] Well, the first time they were there for an hour. The second time, we
3 heard the soldiers say that there was a top secret where all the leaders would be
4 participating. We didn't know what a top secret was. And the second time they
5 came, they discussed the same subject. That's to say that they were asking for
6 support, and they were asking where the Lendu commanders were, and he asked
7 them to support them and to pay.

8 Q. [10:28:05] You talk about top secret. By way of clarification, could you explain
9 what you are talking about.

10 A. [10:28:15] Top secret, that's to say, there was a list of leaders from the village
11 who were targeted by the UPC. The UPC considered that these people had financial
12 means and that they supported the Lendu. So they had a list of these people who
13 were targets; they were targets of the UPC party.

14 Q. [10:28:49] Who had this top-secret list within the UPC?

15 A. [10:28:56] Within the UPC, it was said that it was just the general that had the
16 list as well as the chargé des opérations, person responsible for operations, because
17 they had an intelligence service.

18 Q. [10:29:17] How did you find out about this top-secret list?

19 A. [10:29:24] Among the soldiers, there were miners who spoke to us. You just
20 had to give them something to eat, some tea, and they would tell you all the secrets.
21 And we would speak to them and they told us everything.

22 Q. [10:29:45] Do you know how many people were on this top-secret list?

23 A. [10:29:54] Well, they didn't give us the exact number of people who were on the
24 list, but they spoke about the category, traders, leaders. As the Lendu had gone
25 through there, they considered that they must have cooperated with these people.

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1 I can't know the exact number, but I do know the category of people who were on the
2 hit-list.

3 Q. [10:30:22] What about the second visit by the UPC delegation made to your
4 father's house? Could you, first of all, tell me how many weeks went by between the
5 first and the second visit?

6 A. [10:30:44] When they -- well, they came for the third time because they went to
7 Mongbwalu because they wanted to occupy other villages.

8 Q. [10:31:00] Do forgive me, perhaps I put my question badly. I was seeking
9 greater detail about the second visit before moving on to the third visit, Mr Witness.

10 A. [10:31:18] I am talking about the second visit. It was three days later. They
11 came, they last -- well, the meeting lasted an hour, and they started talking about their
12 plans, their programme, their manifesto, and they asked him whether he was in
13 agreement with the manifesto. And they talked about 45 minutes. So it didn't last
14 very long.

15 THE INTERPRETER: [10:31:46] Microphone please. Counsel needs to turn on the
16 microphone.

17 MR SUPRUN: [10:31:57] (Interpretation)

18 Q. [10:31:57] Mr Witness, if you recall, who was part of that delegation? How
19 many people made up that delegation? In other words, how many people came to
20 see your father at that second visit?

21 A. [10:32:12] Three people only. Because they were the commanders, three people:
22 The general himself, and the operations leader, and the person responsible for that
23 particular location, and their bodyguards.

24 Q. [10:32:30] Could you give me their names, please?

25 A. [10:32:35] The first one was the general because he made the presentation; the

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1 second was the operations leader, Bosco Ntaganda; and the third one was the local
2 commander, Mangaino, and he was the person who set up shop, if you will, in our
3 village.

4 Q. [10:32:56] And who spoke on behalf of the UPC delegation particularly, or did
5 all three fulfil that role?

6 A. [10:33:07] First, it was the general himself. He spoke, and then it was the
7 operations leader, his turn; and then finally it was the village commander who spoke.

8 Q. [10:33:22] And do you remember what exactly Bosco Ntaganda said during that
9 meeting?

10 A. [10:33:30] Bosco Ntaganda said that he knew where the Lendu was and their
11 army was located. My father knew where they were, so he had to reveal that
12 information, and this situation had to be put to bed, if you will, and settled before
13 going off to Mongbwalu.

14 Q. [10:33:55] First, Mr Witness, I must ask you to slow down when you provide
15 your answers to enable the interpreters to interpret accurately. Thank you. Here's
16 my next question: Do you remember what these three commanders were wearing
17 during that second visit? Do you remember?

18 A. [10:34:28] Tache-tache fatigues; even though there were slight modifications.
19 Sometimes they wore woolen clothing, sometimes jackets, but basically it really boiled
20 down to tache-tache.

21 Q. [10:34:49] Were they armed when they came to see your father for the second
22 time?

23 A. [10:34:54] In the second visit they had revolvers, but their bodyguards had
24 weapons.

25 Q. [10:35:09] And how many bodyguards accompanied the commanders during

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1 that second visit?

2 A. [10:35:14] For that second visit, there were three guards; the first one for the
3 general, the second for the operations commander, and the third one for the local
4 commander, so three bodyguards in total, as previously.

5 Q. [10:35:32] And the bodyguards, what weapons were they carrying, if you recall?

6 A. [10:35:40] They were carrying SMGs and AKs as well. But they had SMGs.
7 Anyway, we heard a lot about that in fact.

8 Q. [10:35:56] And upon this occasion, did they come by foot as well like the first
9 time or did they come by vehicle?

10 A. [10:36:06] They came by foot. It's a small village. And it wouldn't have been
11 possible to come by vehicle because where we were wasn't far at all from the camp
12 itself.

13 Q. [10:36:20] And during that second visit, did Kisembo or Bosco threaten your
14 father in the event he refused to collaborate with them?

15 A. [10:36:35] At a number of times Bosco said that he was the operations
16 commander, so if he met with any problems he knew -- he would know what to do.
17 He didn't know where the Lendu was and he didn't want to reveal all his cards.

18 Q. [10:37:07] After that second meeting, did your father contribute or did he
19 provide any support or assistance?

20 A. [10:37:25] Papa categorically refused. He said he -- he didn't want to do that,
21 and Kisembo said, "You are disappointing us," and my father said, "No, stop this. I
22 need to look after my family, my children, and there is nothing more to say."

23 Q. [10:38:12] Mr Witness, let's now look at the third visit in some detail, the UPC
24 delegation's visit made to your father.

25 A. [10:38:29] The third visit. This was somewhat complicated because we had at

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1 that point information or we -- it was asked that Papa should stay in the village
2 because they said the leaders refused to help the village, and because there was
3 a refusal to help, he had to do the work he was asked to do. And that was what he
4 said. But these are things that Papa didn't like because he was trying to find out how
5 to actually escape.

6 Q. [10:39:13] Mr Witness, could you give us more detail, please, about this third
7 visit. What's of interest to me primarily is this: How many days?

8 PRESIDING JUDGE FREMR: [10:39:24] Hold on, Mr Witness.

9 Mr Bourgon.

10 MR BOURGON: [10:39:26] Thank you, Mr President. I would like to address the
11 Court in the absence of the witness, please.

12 PRESIDING JUDGE FREMR: [10:39:56] All right.

13 So court officer, please escort Mr Witness out of the courtroom.

14 Mr Witness, you will leave us for a short while but we will invite you back shortly.

15 (The victim stands down)

16 PRESIDING JUDGE FREMR: [10:40:16] Mr Bourgon, and I am reminding you that
17 we are in open session.

18 MR BOURGON: [10:40:27] Well, then it is better to go into private session.

19 PRESIDING JUDGE FREMR: [10:40:30] All right.

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

21 (Private session at 10.40 a.m.) * Reclassified partially in public

22 THE COURT OFFICER: [10:40:44] We are in private session, Mr President.

23 PRESIDING JUDGE FREMR: [10:40:48] Thank you.

24 Mr Bourgon.

25 MR BOURGON: [10:40:50] Thank you, Mr President. I would like to bring to the

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1 Court's attention that once again -- it happened yesterday and it is happening again
2 today, the examination-in-chief of this witness is going way beyond any information
3 that was disclosed to the Defence. I draw the Chamber's attention to the document
4 that was disclosed -- that was distributed to the Chamber this morning by the legal
5 representative. This is a statement that was provided by the witness. The
6 statement is dated on (Redacted) and there is also a victim application form.
7 These are the two documents that we have concerning this witness. In the second
8 document in the statement, I draw the Chamber's attention to paragraphs 20 -- or, 20
9 to 23 where we -- or to 24. This is the information that we have on the meetings that
10 would have taken place between the father of the witness and the participants
11 Kisembo and Bosco Ntaganda. The information that this elicits now goes way
12 beyond in terms of what was discussed in these meetings. We don't have a clue in
13 the statement as to what was discussed. We have a topic. There was a topic
14 mentioned. That topic was not even raised by the witness this morning, and that
15 would have been the recruiting or asking people to join the movement. That's what
16 is in the statement. Everything we hear today now is going way beyond this
17 information during these events.
18 Now, in this case, Mr President, I am not going to ask to postpone cross-examination,
19 because we did have time to investigate the existence of the meetings and whether
20 these meetings took place. However, by not disclosing this information to
21 the Defence, the legal representative is in violation of the disclosure obligation. It's
22 not to give a few topics and then -- he is playing the role of a Prosecutor. He has to
23 understand that, and he doesn't. When you lead evidence à charge, you have to
24 disclose that the Defence can respond and can challenge the evidence. Right now we
25 are not in a position to challenge anything that happened in those meetings, which is

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1 just coming out today. And it is not, Mr President, coming out spontaneously; it is
2 coming out through questions, and it is clear that there is a relationship between the
3 witness and the person asking the questions in terms of what information will be
4 elicited.

5 This is unfair to the Defence and it is prejudicial to Mr Ntaganda.

6 Thank you, Mr President.

7 PRESIDING JUDGE FREMR: [10:43:45] Mr Suprun.

8 MR SUPRUN: [10:43:48] (Interpretation) Your Honour, once again, I can only
9 reiterate what I said yesterday by saying that we cannot foresee all the details that the
10 witness may raise during his testimony.

11 The witness's statement that has been served to the Defence is sufficiently detailed,
12 and despite the fact that Defence says that there is no mention of the topics that were
13 broached during the meetings between the witness's father and Kisembo and Bosco, I
14 would draw the Chamber's attention to the 20th paragraph in his statement, which
15 says unambiguously that they came to see the witness's father to seek information
16 and their financial and ideological support. So I think that what the witness is
17 saying in his testimony meets those particular points. So I don't think we can ask an
18 LRV in particular to provide exhaustive witness statements, which is by no
19 means -- which is by no means feasible. And I would draw your attention to the fact
20 that everything that has been served has actually -- is actually going over and beyond
21 what is normally the case, and we have fulfilled our disclosure obligations entirely.

22 Thank you, your Honour.

23 PRESIDING JUDGE FREMR: [10:45:33] Please, briefly. Sorry, so Prosecution, first.

24 MS SAMSON: [10:45:39] Thank you, Mr President. I just raise two points very
25 briefly. The first is that these meetings were held in the presence of Mr Ntaganda, so

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1 Mr Ntaganda actually has more information than the parties -- well, than
2 the Prosecution, the Legal Representative in this case, that he can convey to his
3 counsel about what did or did not take place during meetings that he himself
4 attended. So that is a very critical element, I think, to this particular discussion.
5 And the second point is to address -- it has been addressed by Mr Suprun, but I count
6 eight detail -- eight areas of detail in paragraphs -- in five paragraphs, in fact, of the
7 statement, paragraphs 20, 21, 22, 23 and 24, which discuss elements about those
8 meetings. So, for instance, that there were several; that there was -- that Mr Kisembo
9 and Mr Ntaganda came to discuss ideological and financial support from the
10 witness's father; that they wanted indeed to have the father assist with recruitment for
11 the UPC; that these meetings took place, for the most part, in the presence of this
12 witness; that they wanted in addition to have the witness indicate where Lendu were
13 hiding; that his father maintained his neutral position; that indeed the father received
14 threats in relation to his security during these meetings, in particular that
15 Mr Ntaganda had said that there may be repercussions if the father didn't cooperate;
16 and again, this top secret list. So there's a sufficient amount of detail.
17 But the core, the core point that needs to be raised is that Mr Ntaganda was present,
18 so he's fully capable of challenging any part of this account that he claims is
19 inaccurate.

20 Thank you.

21 PRESIDING JUDGE FREMR: [10:47:52] Thank you, Ms Samson.

22 And now Mr Bourgon.

23 MR BOURGON: [10:47:56] If we can move in public session, Mr President.

24 PRESIDING JUDGE FREMR: [10:48:04] All right, let's move into public session.

25 (Open session at 10.48 a.m.)

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1 THE COURT OFFICER: [10:48:13] We are in open session, Mr President.

2 PRESIDING JUDGE FREMR: [10:48:16] Thank you, court officer.

3 Mr Bourgon, please proceed.

4 MR BOURGON: [10:48:20] Mr President, first in reply to the arguments put forward

5 by my colleague, the Legal Representative, there are two issues. The first issue is he

6 says you cannot expect an LRV to provide a detailed statement. Well, I respectfully

7 submit, Mr President, he is entirely wrong. When he is playing the role of

8 a Prosecutor as he is, he must comply and give detailed statements.

9 Secondly, Mr President, it's up to the Chamber to look at the questions and the

10 manner in which they were put. On one hand, you have information that could

11 come out spontaneously by a witness. But when this information is being sought

12 and is being elicited from the witness, there's a whole difference. If you are going to

13 elicit information and to dig with the witness, then due process requires that

14 the Defence be informed.

15 Now I need to address the arguments put by my colleague from the Prosecution.

16 I'm not going to discuss here her understanding of due process, but of course we are

17 not on the same page.

18 We have heard this before; the accused knows what he did, so we don't need to

19 disclose anything because the accused is in a position to know. Well, that is not due

20 process, Mr President. Whether Mr Ntaganda was there or not, we say he wasn't

21 and we will prove that he wasn't, although we are not supposed to do this, but we

22 know that here we have to prove our case. So we will prove that he was not there.

23 But now we have allegations being raised by the Legal Representatives of the contents

24 of a meeting. What the -- the answer that will come out, I cannot challenge this and

25 use this to show that the conversations never took place if I don't hear the contents.

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1 But the contents are being elicited without me knowing in the first place. This is
2 entirely wrong, the argument that because the accused would have been
3 present -- now, she didn't say "would have been present", she said "was
4 present" -- because he would have been present, you don't need to disclose and you
5 don't need the details. This is entirely wrong, Mr President.

6 As far as the details go, I leave it up to the Chamber to assess what -- the questions
7 that were put and those four paragraphs that are there, and the Chamber can see for
8 itself. If I'm wrong, I then, please by all means, Mr President, let me know and I will
9 adjust accordingly.

10 Thank you.

11 PRESIDING JUDGE FREMR: [10:50:59] Thank you, Mr Bourgon.

12 Allow me to briefly deliberate with my colleagues.

13 (Trial Chamber confers)

14 PRESIDING JUDGE FREMR: [10:52:50] So there was no request, but still after
15 deliberation I will clarify the position of the Chamber.

16 First of all, as concerns disclosure obligation for LRV for those three witnesses,
17 again -- and we, I think, said it already yesterday. Indeed, as Mr Bourgon said, his
18 obligations regarding those three witnesses are completely same as obligations of
19 Prosecutor. So if possible, he should disclose everything. These summaries or
20 statement should be as detailed as possible, but at the same time -- and again I am
21 repeating our opinion from yesterday, that according us, we haven't found any clear
22 evidence or clue that Mr Suprun would intentionally omit some topics or
23 intentionally hide -- hid everything -- anything that could be really covered by
24 disclosure, disclosure obligation.

25 He asked Mr Witness about the topics discussed during those meetings. Witness

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1 listed those topics, according us today, yeah, it's right. He provided more details,
2 but maybe it's not ideal situation for the case and not ideal situation for the Defence,
3 but still at the moment we don't see clear evidence of any, any prejudice caused,
4 caused by, by the LRV.

5 And the last issue, yeah, indicate that it would be really proof that Mr Ntaganda had
6 been present, then the argument of the Prosecution would be valid. But
7 because -- and again, at that point, we have to agree with Prosecution. So far it's not
8 100 per cent clear, so we can't include this argument presented by Prosecution.

9 Now, court usher, please bring Mr Witness back.

10 (The victim enters the courtroom)

11 PRESIDING JUDGE FREMR: [10:55:52] All right, so we still have last five minutes
12 before the break.

13 Mr Suprun, please proceed.

14 MR SUPRUN: [10:56:00] (Interpretation) Thank you very much, your Honour.

15 Q. [10:56:10] Before you left the courtroom, Mr Witness, I was putting a question to
16 you with a view to eliciting details of the third UPC delegation's visit to your father's
17 house. Could you provide those details, please.

18 A. [10:56:36] The third visit, you're referring to the third visit?

19 Q. [10:56:47] Yes, initially you said that the UPC delegation came to see your father
20 on three occasions, hence my question to try and elicit the circumstances surrounding
21 the third visit.

22 A. [10:57:06] Yes, the UPC was already in the Kilo area and they wanted to do what
23 they called cleansing. In other words, to take Lendus that they found there, to take
24 them to the camp, and then they were tracking their movements, basically to see
25 where they were going.

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1 Third, they wanted to talk to Papa so that he could tell them how to track the Lendu
2 combatants and find them, because (Redacted)
3 (Redacted) They were talking about that and, and
4 everything that had happened there. They said he had to help by providing
5 financial contribution and also to say where the combatants had gone and help them
6 to arrest them, and those arrested had to be killed. They were to be taken to the
7 camp, where they would be asked to dig their own grave, and then they were killed
8 and buried.

9 So Papa, or Dad, was very frightened about that, he had no explanations to provide
10 about the Lendu problem. And that's why he said, "Look, if you want to find the
11 Lendus, you've got your intelligence units, go and find them for yourselves. But for
12 my part, I can't give you any information because we're not involved in the war."
13 And there it is, and that's what he said in that regard. Even beyond that, they said
14 that Dad should provide his support and financial contribution, and apart from that,
15 there was nothing further.

16 Q. [10:59:19] How many people made up that delegation during that third visit?

17 A. [10:59:30] At the third visit, there were more bodyguards, but there were the
18 three same people, the general and then the operations commander and the local
19 commander. And the number of bodyguards had been upped to six. There was
20 even a female soldier who featured among the bodyguards.

21 MR SUPRUN: [10:59:58] (Interpretation) Your Honour, perhaps we can rise at this
22 juncture with a view to continuing after the lunch break. Oh, do forgive me, it's not
23 the lunch break yet, the mid-morning break.

24 PRESIDING JUDGE FREMR: [11:00:16] Yes, it's not yet lunch break. Just to get
25 update on timing at the moment. Court officer, how much time Mr Suprun has used?

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1 So one hour, four minutes. So Mr Suprun, you still have at your disposal 56 minutes.

2 Just for the sake of planning, do you think you will need all that time to complete
3 your examination?

4 MR SUPRUN: [11:00:39] (Interpretation) Yes, your Honour, I do think so. I think
5 I'll be using the entirety of the allotted time.

6 PRESIDING JUDGE FREMR: [11:00:46] All right, well noted.

7 Now we break and we will resume half past 11.

8 THE COURT USHER: [11:00:54] All rise.

9 (Recess taken at 11.00 a.m.)

10 (Upon resuming in open session at 11.33 a.m.)

11 THE COURT USHER: [11:33:09] All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [11:33:37] We will now directly continue with
14 examination-in-chief by LRV. But before doing that, as we indicated yesterday, since
15 the aim of the Chamber is to complete this testimony today, we will have to sit in
16 extended hours, so this session will last two hours. Then we will have 75-minute
17 break and then, if necessary, we will sit for another two hours in the afternoon.

18 Now, Mr Suprun, you have the floor and we are in open session.

19 MR SUPRUN: [11:34:19] (Interpretation) Thank you, your Honour.

20 Q. [11:34:25] Witness, before the break we spoke about the third visit of the UPC
21 delegation to your father's house. You gave information as to the content of the
22 conversation. I would just like to have some clarification. Do you remember what
23 Bosco Ntaganda said during this meeting?

24 A. [11:34:52] I remember. At that time during the third meeting --

25 PRESIDING JUDGE FREMR: [11:35:00] Mr Witness.

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1 Mr Bourgon.

2 MR BOURGON: [11:35:03] Thank you, Mr President. I raise the same objection
3 again. The question that is put to the witness is what did Mr Ntaganda say during
4 this meeting. There was no information whatsoever that Mr Ntaganda spoke in any
5 of the meetings, and this kind of information is information à charge against the
6 accused, and we need to know that in advance in order to prepare. This question
7 should not be permitted, Mr President. Thank you.

8 PRESIDING JUDGE FREMR: [11:35:32] Mr Bourgon, I find this objection repetitive
9 so I overrule the objection.

10 Mr Suprun, please proceed.

11 MR SUPRUN: [11:35:47] (Interpretation)

12 Q. [11:35:48] Witness, did you hear the question?

13 A. [11:35:55] Yes.

14 THE INTERPRETER: [11:35:58] Overlapping speakers.

15 MR SUPRUN: [11:36:01] (Interpretation)

16 Q. [11:36:02] Could you answer this question.

17 A. [11:36:08] Could you ask the question again, please, so I may better understand
18 it.

19 Q. [11:36:12] Yes. This third visit of the UPC delegation to your father, you spoke
20 about the content of the conversation, but did Mr Ntaganda say anything during that
21 meeting? And if he did, what exactly did he say?

22 A. [11:36:33] Yes, after the third visit, it was when tension had increased, people
23 had died, the soldiers were killing Lendu, the atmosphere in the village wasn't good.
24 He said the following. He said that the programme -- he said what the programme
25 with the movement was because the leaders of the village didn't want to say the truth.

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1 And at that time they were arresting people who were considered as suspects, and
2 they were being taken to the camp because they were working with intelligence.

3 Q. [11:37:21] After this third visit, did the UPC commanders, particularly Kisembo
4 and Bosco, did they try again to contact your father?

5 A. [11:37:36] Yes. At that time tension had increased, and they were no longer
6 coming because they were arrested. And on the third meeting, they spoke with my
7 father, and they said that we were now going to carry out the work which the
8 movement has asked us to carry out, and he said that he was responsible for the
9 operations, and he was going to carry out what the movement asked him to do.

10 Q. [11:38:05] During this third meeting, either Kisembo or Bosco, did they threaten
11 your father?

12 A. [11:38:17] The situation was bad. They arrived accompanied by the bodyguard,
13 and among them there was a woman, a bodyguard, and at that time tension really
14 increased. They were arresting people and they were taking them to the camp.

15 Q. [11:38:46] Could you speak about the events that occurred after the third
16 meeting between the UPC delegation and your father? Could you explain to us
17 what happened afterwards?

18 A. [11:39:10] After the third meeting, Kisembo, Bosco and the location commander
19 no longer came to visit my father, and the situation in the village was very bad.
20 People were being abducted from the village. The intelligence services said that they
21 suspected certain people and those people were being abducted. My father received
22 information according to which his younger brother had been arrested, and he had
23 been taken to the military camp. My father said that he had to go to the camp in
24 order to see if he could get his younger brother freed. He went to the camp, and he
25 found Kisembo and Bosco Ntaganda, and he told them, "This is my younger brother

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1 who you have arrested." Bosco Ntaganda told him that "I am responsible for
2 operations. I have intelligence to say that this person has cooperated with the Lendu,
3 and he continued to cooperate with the Lendu. As you don't want to help us, I am
4 going to do the work which the parties asked me to carry out." And as such, while
5 my paternal uncle was freed, several people arrived to see my father in order to ask
6 him to leave the area because the situation was getting worse in the village.

7 Q. [11:40:48] Thank you, Witness. I just have a question by way of clarification.
8 Could we go into private session, so that I may put that to the witness and not in
9 public session.

10 PRESIDING JUDGE FREMR: [11:41:00] For sure.

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

12 (Private session at 11.41 a.m.) *(Reclassified partially in public)

13 THE COURT OFFICER: [11:41:16] We are in private session, Mr President.

14 PRESIDING JUDGE FREMR: [11:41:21] Thank you.

15 Mr Suprun, please proceed.

16 MR SUPRUN: [11:41:25] (Interpretation)

17 Q. [11:41:26] Witness, you mentioned the younger brother of your father. Could
18 you give his name?

19 A. [11:41:37] Yes. The name of my paternal uncle was (Redacted).

20 Q. [11:41:46] Could you give some more details as to what happened with your
21 paternal uncle when he was arrested by the UPC soldiers.

22 A. [11:42:05] As they had an office which was called bureau 2. This was an office
23 responsible for intelligence. It tried to identify the suspects who were working with
24 the Lendu combatants. And when these intelligence officers were looking for those
25 people, they arrested my paternal uncle, and they thought that he was in contact with

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1 the Lendu combatants. They took him to the camp. The camp wasn't far from the
2 village. And afterwards we received the information. We said to my father, "Your
3 younger brother has been arrested. It is said that he cooperates with the Lendu, and
4 the people who have been arrested are at the UPC camp." That's how things went.

5 Q. [11:43:01] After he was arrested, was your paternal uncle mistreated? What
6 happened?

7 A. [11:43:15] There were a lot of them, a lot of people were arrested. They were
8 Lendu. Most of the people were killed because the order was given that each person
9 had to dig their own graves, and then they were going to be killed and thrown into
10 the graves. And when my uncle arrived, he was digging his own grave at that time.
11 And he started to -- my father started to speak to the commander and said that "We
12 have had good collaboration; how can you treat me in that way?" Now, my uncle
13 had already dug his own grave but he hadn't been killed on that day. My father was
14 told, "You are a civilian. You don't want to help us; you don't want to contribute to
15 our movement and you don't even want to help our party. So we are going to do the
16 work that our movement have asked us to carry out." And afterwards they freed my
17 paternal uncle, but the tension was still very heavy in the area.

18 Q. [11:44:19] Witness, unfortunately, the name that you just gave isn't well written
19 in the record. Please, could you write the name of your paternal uncle.

20 (Redacted)

21 Q. [11:45:01] Thank you very much, Witness.

22 Could you explain what happened afterwards. With regards to relations between
23 UPC and your father, did those relations change at one time or another?

24 A. [11:45:25] Afterwards things changed. At home, they no longer came.
25 Kisembo no longer came, neither did Bosco.

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1 Q. [11:45:32] Can I interrupt you.

2 I think for this part of the testimony we can go into open session, I believe,
3 your Honour.

4 PRESIDING JUDGE FREMR: [11:45:41] Then, court officer, let's return back into
5 open session.

6 (Open session at 11.45 a.m.)

7 THE COURT OFFICER: [11:45:59] We are back in open session, Mr President.

8 PRESIDING JUDGE FREMR: [11:46:03] Thank you, court officer.

9 Mr Suprun, please proceed.

10 MR SUPRUN: [11:46:07] (Interpretation)

11 Q. [11:46:07] Witness, we are now in open session. I'd like to remind you not to
12 mention names of members of your family. And the questions that I put to you was
13 with regards to relations with the -- between the UPC and your father, did they
14 change after the arrest of your paternal uncle?

15 A. [11:46:37] From that day on after the third meeting, even the way they spoke
16 changed. They didn't come to see my uncle anymore.

17 THE INTERPRETER: [11:46:49] My father anymore, corrects the interpreter.

18 A. [11:46:51] And then we heard that my paternal uncle had been arrested. There
19 was a lot of tension. People came to tell my father to leave the area because the
20 situation in the village was not good. There were people being abducted here and
21 there and my father was trying to see how to leave the area, but all the roads were
22 blocked. My father didn't know what to do.

23 Q. [11:47:17] Witness, can you continue to explain what happened to you and other
24 members of your family, including what happened to your father?

25 A. [11:47:33] Yes. As things got worse, on 28 November -- it was after Christmas

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1 2002. It was a Friday at 1 o'clock in the morning, because I was sleeping in the same
2 bed as my father. Now, as there was a lot of insecurity, we didn't want to be far
3 from each other. The women were in the lounge and we were sleeping in the
4 bedroom, and we had a dog in our compound and every time it was barking, we
5 understood that soldiers were coming via the road.

6 And on that day at 1 o'clock in the morning, we heard our dog barking. And we
7 said to each other, "Well, what's happening now?" At 1 o'clock in the morning, the
8 dog was barking. I got up and I was next to the window. I looked outside and I
9 saw the soldiers who surrounded our compound, our house. And I said to my
10 father, "We are already in a situation of insecurity, the soldiers are already in our
11 compound."

12 And I saw somebody who had a hammer. Well, there were people who were
13 coming to our house from time to time. And I was looking and I saw people, and I
14 said, "There's a problem", and I saw the chief of operations.

15 Do you want me to give the names?

16 Q. [11:49:26] Witness, yes, indeed you can give the names, but once again do not
17 mention names of members of your family which could identify you.

18 A. [11:49:38] Very well. Well, I looked with attention because my father asked me,
19 "Look, see if you can identify who these people are." At the time I was 22 years old.
20 And I saw the person responsible for operations who was introduced by the general,
21 and he had a hammer in his hand and he also had soldiers with him and there were
22 three vehicles there. Now we heard Bosco Ntaganda himself give the order to go
23 and open the door. And on our door there was a window, so they started by
24 hammering on the door. And the women were sleeping in the lounge, and they
25 tried to smash the door down, the glass was smashed. (Redacted)

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- 1 (Redacted) And my mother arrived,
2 and there was already a rifle in our house. And they entered, and they smashed the
3 door down, and then they entered into the house.
4 Do you want me to continue?
- 5 Q. [11:50:52] Yes. We'll continue later but I have a question to put to you by way
6 of clarification. Now, you mentioned a moment ago that the UPC came into your
7 house on 28 November and you said that it was after Christmas. Now, could you
8 clarify that, please. When or what date did the UPC soldiers enter your house?
- 9 A. [11:51:22] It was, I think, the 28th, because it was after November. No, it was
10 after Christmas. I still remember this event. Because you know that you have
11 November on the 25th and it happened on the 28th.
- 12 Q. [11:51:44] But the 28th of what month? You say after Christmas. The 28th of
13 what month?
- 14 A. [11:51:52] We were almost at the end of the year 2002.
- 15 Q. [11:52:05] So that's the reason why I ask to clarify. You said 28 November. So
16 was it 28 November or was it 28 December?
- 17 A. [11:52:21] December's the end of the year. I think it was the month of
18 November. Because we celebrate Christmas on the 25th. It was after Christmas.
- 19 Q. [11:52:59] Yes, but you celebrate Christmas on the 25th of what month? Could
20 you state when you celebrate Christmas, the 25th of what month?
- 21 A. [11:53:04] No, I made a mistake in Swahili. Yes, it was the month in Swahili. I
22 confused them. It was 25 December, that's when we have Christmas. Yes, the
23 month of December. The 25th is Christmas and New Year is the 31st. That's the
24 end of the year. Please excuse me, I apologise.
- 25 Q. [11:53:33] No problem, Witness. So now we can continue with your account.

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1 A. [11:53:42] Very well. So on that day we weren't expecting to have a visit at
2 night. There was a lot of tension. And soldiers who came, they were passing and
3 they didn't come to our aid, the white soldiers. They -- people were going into the
4 houses and arresting people.

5 At 1 o'clock in the morning we were visited. We heard the dog barking, and I said to
6 my father, "I'm going to look out through the window", and I had a look through the
7 window. It was a large window. And we couldn't switch the lights on because we
8 wanted to see what was happening outside, and when I looked outside, I saw soldiers
9 who were surrounding our house. And there was a soldier who was at our door.
10 He had a hammer in his hand and he had a revolver, and he (Redacted)
11 (Redacted) Open the door."

12 And as he was trying to open the door, the women who were sleeping in the lounge
13 didn't know what to do, because (Redacted)
14 (Redacted). She arrived at the door and at the moment
15 of trying -- they tried to open the door, well, it had already been broken through, the
16 window had already been smashed.

17 Q. [11:55:06] Excuse me for interrupting. I would ask you during your account if
18 you would kindly not mention names because we are in open session. Thank you.
19 And also because you just repeated what you said a moment ago, so could you focus
20 on what happened after they -- after the UPC soldiers smashed the door down.
21 Please could you focus on what happened afterwards. Thank you.

22 A. [11:55:40] Very well. When they entered the house, they were looking for my
23 father. They were saying, "Where's your father?" or "Where have you hidden gold?"
24 because they knew that my father was somebody who was responsible for the gold
25 miners who mine gold, and they wanted to open the door of the bedroom.

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1 My father came out of that room where we had spent the night. He came out and
2 they said, "Well, that's the person that we are looking for", and they left. I was there.
3 I was behind the door but I was looking at what was happening. I thought that they
4 were going to take my father to discuss matters with him and free him. But when
5 they left with my father, there were three vehicles outside and there were lots of
6 people who were in the vehicles.
7 Now my mother said, "What's happening now?" And I was curious to know what
8 was going to happen. There was gold in the house, they took everything. We
9 thought that that would save my father's life, but there was a kilo of gold and there
10 was a hundred dollars that we had in the house, and they wanted -- or we wanted to
11 use it for construction, and they said that they would free him. And they put my
12 father on one of the vehicles and then they left and they went to an unknown
13 destination.
14 I wanted to follow, but the bodyguards told me to go back into the house. They said
15 that I was too young. I went to see the chef de quartier to say that my father had
16 been abducted and I didn't know where he had been taken. And they left.
17 Now, the next day we, with the chef de quartier, went to see General Kisembo.
18 Sorry for saying his name. When we went there, I wanted to explain what
19 happened -- well, I explained what happened during the night when my father had
20 been abducted. And he listened to us and he said, "Don't worry. Go back home.
21 We're going to come back at midday. I'm going to try and call these people so that
22 your father is freed."
23 Now, we came back at midday. Kisembo was no longer there. We heard that he
24 had gone towards Centrale and we were disappointed. We didn't know what to do.
25 And personally I was at school. I had to leave school. And the wives of my father,

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1 as well as the children, everybody is under my responsibility still to this day.

2 Q. [11:58:33] Thank you, sir. I have a few questions by way of clarification to put
3 to you. First of all, I'd like to ask you when you said that your father went to the
4 military camp in order to free his younger brother. Did you go with him on -- at that
5 time?

6 A. [11:58:52] No, he left alone. I was at the military camp on another occasion,
7 because sometimes young people were used to dig gold, and I was with my young
8 brother who was at school. I wanted to see what was happening in that camp, but
9 on that day when my father went for his younger brother, he went alone. And then
10 people said what had happened there. They said that the situation had changed,
11 even the talk of these commanders had completely changed.

12 Q. [11:59:25] Thank you very much for this clarification.
13 Now I have some questions concerning the arrest of your father, and in particular did
14 Bosco Ntaganda enter the house when your father was arrested?

15 A. [11:59:51] Bosco Ntaganda was speaking but he was standing in the doorway.
16 There were many people there, wearing -- and there was this man with the hammer
17 who was told to break down the door. And when the soldiers entered the house,
18 there were six soldiers in the house in addition to him, who then at that point entered
19 himself. They took gold and money and that particular person said "Go away." He
20 said that to my mother. And then my father was put into a vehicle. He got into
21 another vehicle and off they went. This was somebody who came off into our house.
22 I wouldn't lie about this. I was 22. I was old enough to understand what was going
23 on.

24 Q. [12:00:40] But when Bosco Ntaganda went into your home, did he say anything,
25 do you recall?

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [12:01:17] Thank you very much for that clarification.

6 Can I please ask you to slow down in your response because you are speaking way
7 too fast.

8 My next question: Do you know where your father was taken following his arrest?

9 A. [12:01:44] Yes, they went with him and we tried to find out. It was the Shari
10 river, and everybody knows that river. And it is at Shari, there is a slaughterhouse.
11 People were taken there, and they were shot at, these people, and then the person
12 would die. And so somebody tried to find out what went on, and he found that my
13 father had been killed at night.

14 Q. [12:02:17] Do you remember who gave you that information about the
15 circumstances surrounding the murder of your father?

16 A. [12:02:30] It was a boy by the name of Kawa. He had worked with my father
17 beforehand and sold gold. He was a Gegere, and he worked with my dad. And he
18 said that he was going to help us find out what happened, and so he went in that
19 place, and he was told that people had been killed at night. And also he was asked,
20 "What are you doing here? What are you finding out? What are you trying to find
21 out here?"

22 Q. [12:02:57] And that person, Kawa, did he give you any details about the way
23 your father was killed? How was your father killed?

24 A. [12:03:14] He said that when he arrived he was told, "You are asking questions
25 about people who come at night," and then somebody was dressed like this, that, and

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1 the other, and he said, "Yes," and he said, "Yeah, well, those people, those were
2 questioned, and then they were locked into a house, and then they said, 'Well perhaps
3 we can free them and then track what's going on' and then they said, 'No, no, we need
4 to kill them to mop up all trace of their existence.'" And that's what they said.
5 That's what he said when he came to me.

6 Q. [12:03:50] And did you ever recover your father's body?

7 A. [12:03:58] No, no. We organised the funeral and that was that.

8 Q. [12:04:05] Mr Witness, please, can I reiterate my request. Please slow down
9 because you are speaking way too fast, and it is very, very complicated for the
10 interpreters to work accurately. Thank you.

11 Mr Witness, do you know what became of your father's body?

12 A. [12:04:41] My father was abducted from the house that we lived with him, and
13 he was killed in Shari, and we never saw his body, and we haven't even today been
14 able to bury him. Everybody knows. Even the chiefs, they know full well that my
15 father was killed at Shari. There was no burial of his body.

16 Q. [12:05:06] And when you went to see Kisembo the following day to say that
17 your father had been arrested by the UPC soldiers, what was his reaction, what was
18 Kisembo's reaction to that?

19 A. [12:05:22] Kisembo listened silently for 20 seconds and then he provided his
20 answer, which was, "For that matter, I can be -- I am going to call Bosco with my
21 Motorola; come back at midday," he said.

22 Q. [12:05:42] And did you see Kisembo call Bosco?

23 A. [12:05:52] He only gave us the appointment to come back at midday. He said
24 he would talk to him so that these people could be freed. And when we actually did
25 return at twelve we -- well, he wasn't there.

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1 Q. [12:06:07] You said that Kisembo left to Centrale. Do you know whether he
2 ever came back to the village where you lived?

3 A. [12:06:22] Kisembo never came back. He went off to work in the Congolese
4 army, and then we learned that he had died and then of course we never saw him
5 again.

6 Q. [12:06:48] Mr Witness, to the best of your knowledge, the fact that your father
7 disappeared or had been arrested, do you think that the villagers were aware of his
8 disappearance?

9 A. [12:07:14] Well, the soldiers who worked with Bosco and Kisembo that have
10 become civilians, they came to tell us, and they said, "Your father was killed at Shari."
11 So everybody knows full well that he was killed at Shari. Because after the events in
12 question, we started to have information in drips and drabs and so we hadn't -- well,
13 we couldn't do anything but to organise our bereavement and to look after orphans.

14 Q. [12:07:59] You have just said something about the fact that the river Shari was
15 called a slaughterhouse. Can you tell us why?

16 A. [12:08:15] It was called that because of the killings. When they arrested
17 somebody that they suspected or somebody who had money, and all leaders, well,
18 their money was taken from them, and they took them there to be killed because they
19 said to themselves, well, with a cemetery, with a grave, well, things could be tracked
20 back to us. So there were lots of slaughterhouses, in inverted commas, but they said
21 that it was the Shari slaughterhouse in particular that served as a cemetery because, of
22 course, when you bury somebody then you can recover the remains to identify the
23 victim. So it was important to do that at Shari for them. And everybody knew
24 about this in Ituri.

25 Q. [12:09:14] Yes, but you yourself, did you see bodies of people that had been

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1 killed in that particular river, the river Shari?

2 A. [12:09:29] In the Shari river itself, you know, people never went there because
3 the river, the river Shari, was occupied by the UPC soldiers and people couldn't
4 actually get to the river, so it was difficult to go to that location. Because, for me, this
5 was a place where my father was killed, and to date I have never gone there, even
6 today. In Ituri, you know, there are some areas where people couldn't go anymore
7 because these were strategic areas where people were being killed. Other people
8 couldn't get there. Only soldiers could.

9 Q. [12:10:17] For the avoidance of doubt, Mr Witness, a clarification. You said that
10 the UPC soldiers, as well as Bosco, came to your house to arrest your father during
11 the night. So how could you see? How could you make out the features of the
12 soldiers and Bosco himself since it was night-time? How did you manage to see
13 properly?

14 A. [12:10:44] Well, there was a light outside. There were bulbs, actually, from the
15 verandah because things were very unsafe, so we want to avoid things being
16 pitch-dark. And there were dogs outside, and when the dogs started barking, we
17 looked outside the windows to see why the dogs were barking. And so that's what
18 helped me, sometimes in the past, because there was a window with glass that
19 enabled me to see what was going on very clearly. And so dad asked me, "Do you
20 recognise these people?" And I said, well, commander of the operations; it's
21 such-and-such a person. I didn't know why he came at night.

22 Q. [12:11:30] Mr Witness, do you know or did you see during that particular night,
23 did you see other individuals who were arrested by the UPC soldiers, aside from your
24 father?

25 A. [12:11:52] Listen, they were in a vehicle, that particular group of people, and

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1 there were other members of the family who had just died. I can't talk about that
2 because those were other families. But other people, almost three people in similar
3 circumstances, who left in similar circumstances.

4 Q. [12:12:17] And when your father was arrested or abducted, how did you react?
5 How did you feel following that particular event?

6 A. [12:12:36] Well, I am not -- how I am feeling now, I was very thin. I've got
7 better. This is 15 years back. And the soldiers, they beat me. They beat me in my
8 leg, so I was very, very sad after my father's death. There was also my brother who
9 fell ill and then he died. So I lived in a state of sorrow and sadness, and then things
10 started calming, being calmed down, and then people said to me, you are a boy, you
11 know, these are things that happen.

12 Q. [12:13:22] And today when you think back over these events, do you have any
13 psychological problems? How does this make you feel?

14 A. [12:13:39] Well, emotionally, my father wanted me to complete my studies and
15 become a doctor, but I had to stop my studies so that I could look after the children
16 left behind by my deceased father. And then had to look at gold, and he said with
17 the gold he was going to build a hotel. That was his plan. And when I look at his
18 children -- I mean, of course, I have nightmares. And now things have got better
19 because often I have dreams, but now I feel a bit more balanced. But I still think
20 about this because this weighs still down very heavily upon me. My young brother
21 has to finish his studies, my young brothers, and I wanted to do that, but he can do
22 that. It's -- and his wives that he left behind, my dad, cry every day, and it is up to
23 me to console them.

24 Q. [12:14:51] Were you able to resume your studies at the end of the war?

25 A. [12:14:56] No. It wasn't possible. With the gold mine that he left, and then the

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1 militias produced disturbances. But I was able to take up his business, but it was
2 difficult therefore to continue my studies. And so I said to myself, all right, my little
3 brothers can finish their studies, so I have to look after them to that end. So yes, it
4 was difficult for me to continue my studies.

5 Q. [12:15:31] Mr Witness, as a victim of the 2002-2003 Ituri wars, what are your
6 expectations with regard to the ICC following this trial against Bosco Ntaganda with
7 regard to justice?

8 A. [12:15:50] As far as I am concerned, primarily I am happy because when
9 my -- when my father died, nobody ran an investigation. And it's brilliant that
10 people established the ICC so that we can establish the truth. You know, somebody
11 just dies like that, well, justice needs to be done. And so that we can track things
12 following -- closely, so that when somebody dies, we know what to do. So justice
13 needs to follow through.
14 Second, everything that he wanted to do, my dad, was brought to nothing, was all to
15 naught. I have been carrying on my shoulders the needs of my younger brothers to
16 ready their future. Dad was somebody who wanted to build houses. He had his
17 wives, he had responsibilities. To me to -- now of course all this has fallen to me and
18 because justice is here, justice will see what needs to be done. I haven't really got
19 anything further to say.

20 Q. [12:17:03] And if Bosco Ntaganda is found guilty, would you wish to seek
21 compensation for the prejudice that you have suffered?

22 A. [12:17:22] Yes, reparations is something as a right. How are these young
23 children going to survive? Their father wanted to build a house, so, yes, I do seek
24 reparations.

25 Q. [12:17:43] Mr Witness, why did you accept to provide evidence? Why did you

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1 accept to come here all the way to The Hague to provide evidence before
2 the Chamber? What motivated you to do that?

3 A. [12:17:56] Well, first and foremost, the loss of my father. It came out of the blue
4 because I knew that when somebody died, somebody has to be -- I don't know, maybe
5 it was an accident or an illness. But when somebody dies totally unexpectedly and
6 the person dies in such circumstances leaving everything behind him -- because, look,
7 I wanted to study. And he was the person who could help me do that, and we -- we
8 lost that. Second thing, the children. The children cry. They say, "We've lost dad,
9 we've lost dad." And then we got the ICC here, and the ICC has told us what it has
10 told us, so I said to myself, well, the ICC must help us to understand all this. And
11 that's why I said to myself, no, I have to do this, I mustn't keep silent, I mustn't fight
12 myself, because justice needs to be done. And this is what motivated me to come all
13 this way. Nobody twisted my arm to do so. It was me myself who said, no, off my
14 own bat, I need to see the judges, and so I was ready to do that just.

15 Q. [12:19:01] Mr Witness, thank you very much. Thank you very much, hugely,
16 for your answers.

17 Your Honour, nothing further.

18 PRESIDING JUDGE FREMR: [12:19:11] Thank you, Mr Suprun.

19 Now question to Ms Samson, do Prosecution like to put some questions to
20 Mr Witness as well?

21 MS SAMSON: [12:19:22] Yes, Mr President. I ask to put approximately ten
22 questions to the witness over five topics. But they are -- in some cases they are just
23 clarifications, so the questions will be very brief. I don't anticipate being more than
24 five to ten minutes maximum.

25 PRESIDING JUDGE FREMR: [12:19:39] All right then, please proceed.

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1 MS SAMSON: [12:19:41] Thank you.

2 Questioned by Ms Samson:

3 Q. [12:19:45] Good afternoon, sir. We have met briefly before. My name is

4 Nicole Samson, and I am a member of the Prosecution team in this case. I have just
5 a few questions to ask you today further to the testimony you have given us.

6 The first question is one of clarification, because we have a different answer in the

7 French and English transcripts. When you were describing your -- the visits

8 between the UPC and your father, you stated in the English transcript, page 28, lines 6

9 to 7, that your father, he didn't know where the Lendu were. Whereas in the French,

10 page 34, lines 11 to 12, it is captured as, in French, (Interpretation) "dad knew that the

11 Lendu were there." And just so it's clear for our record, did your father know where

12 Lendu were or he did not know where Lendu were?

13 A. [12:20:54] I think there must be an interpretation error there. I am not saying

14 that dad knew where the Lendu were. He didn't know. He just mined gold. The

15 Lendus ran away and they went their own way.

16 Q. [12:21:14] Thank you. And now the second area I would like to ask you about

17 is further to an answer you gave at page 44, lines 15 to 17 in our English transcript,

18 and you stated, I quote: "There were people being abducted here and there, and my

19 father was trying to see how to leave the area but all the roads were blocked." End

20 quote. And I would just like to have further information about who was blocking

21 the roads.

22 A. [12:21:59] Bunia airport and all the Bunia roads were occupied by the UPC, all

23 the way through to Kilo. So it was difficult to move around, because people felt

24 unsafe. It was a rebellion. It wasn't a state army. Everybody was frightened.

25 There were people who wanted to run away so that they could get to their field.

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1 People weren't moving around. There were no roads on -- there were no vehicles,
2 rather, on the road, and all the vehicles that were, belonged to militiamen.

3 Q. [12:22:40] Thank you. I will move on now to the third area I would like to ask
4 you questions about. You were describing today in some detail the visits by the
5 UPC to your father. And at or about that time, do you know whether any Nyali
6 people joined the ranks of the UPC?

7 A. [12:23:09] You know, Nyali were hospitable people. They welcomed
8 everybody. Lendus came, and when the UPC came to dislodge the Lendu, they still
9 remained. Everybody suspected Nyali because they lived with -- in peace with all
10 tribes. The Nyali people weren't going to take up arms, but they lived where there
11 was gold, and of course all parties and all movements came and they saw the Nyali
12 who were still there. The Lendus could come, and the Gegere would say, look you
13 have been living with the Lendus, and when it was another group, they would say, ah,
14 well, you've been living with the Gegere, and that was the problem really that we had
15 to deal with.

16 Q. [12:24:05] Yes, but my question was whether or not you know of cases of Nyali
17 individuals joining the ranks of the UPC at or about the time that the UPC were
18 visiting your father.

19 A. [12:24:29] Well, I don't know. I don't have any information about that.
20 Because, you know, there were two ethnic groups fighting. It wasn't with Nyalis.
21 They weren't belligerent, so I can't tell you who became a member. And in our
22 community, it was forbidden to join either one group or the other, because they said
23 that during the rebellion of 1964 there were many people who had died. You know,
24 Nyalis are people who are very frightened. They are frightened of everything
25 touching upon war.

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1 Q. [12:25:12] Was recruitment of Nyali persons discussed between your father and
2 the UPC officials when they met with him, to your knowledge?

3 PRESIDING JUDGE FREMR: [12:25:24] Mr Bourgon.

4 MR BOURGON: [12:25:25] Leading question, Mr President, should not be permitted
5 at this point in time. The content of those meetings weren't discussed at length.

6 Thank you.

7 PRESIDING JUDGE FREMR: [12:25:35] Objection is overruled. It is just one of the
8 options that could be discussed. So, Ms Samson, please proceed.

9 MS SAMSON: [12:25:47]

10 Q. [12:25:48] Mr Witness, did you remember my question or would you like me to
11 repeat it?

12 A. [12:25:56] Yes, if you wouldn't mind repeating it, please do so.

13 Q. [12:26:00] Certainly. Was recruitment of Nyali persons to join the UPC ever
14 discussed by the UPC officials when they met with your father, to your knowledge?

15 A. [12:26:28] Next to my -- well, with my dad, no, they didn't talk about the
16 recruitment, but they talked about the support programme, that Nyali could provide
17 financial support to the movement. That was talked about a lot, that he should
18 provide money and show where the Lendus were and where they had gone and that
19 was that. It was very -- it really turned upon those two points.

20 Q. [12:26:51] Thank you. My, my fourth topic I would like to discuss with you is
21 whether or not you or anyone you know reported your father's disappearance and
22 death to authorities.

23 A. [12:27:23] When all these things happened, well, there was Artemis, there was
24 the French army. They had come into Ituri. We were waiting for them to arrive
25 because the state had lost control of the area. And there was MONUSCO that we

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1 called MONUS. It was difficult to go and see them, but we knew, and we had high
2 hopes that one day we would have an opportunity to get this known to the state.
3 And then there was the ICC that came with its outreach programmes, and my family
4 and myself, we said to ourself, right, we are going to follow this closely and we are
5 really going to try to go and see these people. Maybe they are going to help us.
6 And that is how I went to see them. But the village authorities know full well that
7 my father died in the circumstances I have detailed. They know that, and even to
8 this day they know it. But in terms of the Congo, no, we didn't make any attempts to
9 draw the authority's attention to this over and beyond what I am doing here and now.

10 MS SAMSON: [12:28:44] Thank you. Mr President, the last clarification question I
11 have I believe will need to be done in private session as it relates to the occupation of
12 the witness.

13 PRESIDING JUDGE FREMR: [12:28:51] All right.

14 Then, court officer, let's move into private session.

15 (Private session at 12.29 p.m.) *(Reclassified partially in public)

16 THE COURT OFFICER: [12:29:03] We are in private session, Mr President.

17 PRESIDING JUDGE FREMR: [12:29:06] Thank you.

18 Ms Samson, please proceed.

19 MS SAMSON: [12:29:10] Thank you.

20 Q. [12:29:11] Sir, today in the English transcript at page 7, line 9, the -- your
21 occupation has been captured as (Redacted), and I would like to know if that is
22 correct.

23 A. [12:29:33] No, I think that is a poor interpretation. No, it is not that at all. My
24 dad was (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [12:30:09] Thank you very much, sir.

5 Thank you, Mr President.

6 PRESIDING JUDGE FREMR: [12:30:11] Thank you, Ms Samson.

7 Now let's return back into open session and we will continue with cross-examination
8 conducted by the Defence.

9 (Open session at 12.30 p.m.)

10 THE COURT OFFICER: [12:30:39] We are in open session, Mr President.

11 PRESIDING JUDGE FREMR: [12:30:43] Thank you.

12 And information for Defence, since LRV has used one hour 49 minutes and

13 Prosecution 11 minutes, it means that you have at your disposal two hours sharp,

14 Mr Bourgon.

15 So you may start.

16 QUESTIONED BY MR BOURGON:

17 Q. [12:32:35] Good afternoon, sir.

18 A. [12:32:41] Good afternoon.

19 Q. [12:32:45] We had the chance to meet, I believe it was earlier this week. Do you
20 recall our meeting where I was in the company of my colleague?

21 A. [12:33:06] Yes, I remember.

22 Q. [12:33:09] So I am -- allow me to introduce myself again for the record. My
23 name is Stéphane Bourgon, I am a Canadian lawyer and together with my colleague I
24 represent Mr Ntaganda in these proceedings. You understand that?

25 I have a --

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1 A. [12:33:29] Yes.

2 Q. [12:33:33] I have a series of questions to ask you, some of which are just
3 clarification questions, and very often you will see that my questions can be answered
4 by "yes" or "no". So I would invite you for the sake of time, if you are able to just say
5 "yes" or "no", then to please do so. Do you understand what I'm saying?

6 A. [12:34:04] Please go ahead.

7 Q. [12:34:07] Let me begin by one issue I would like to clarify with you, and this is
8 something that you mention on page 26 from lines 24 to 28. And if I understand
9 correctly this is during one of the meetings between your father, General Kisembo
10 and the person responsible for operations.

11 Now this is what you say, please listen carefully:

12 "Bosco Ntaganda said that he knew where the Lendu was and their army was located.
13 My father knew where they were, so he had to reveal that information, and this
14 situation had to be put to bed, if you will, and settled before going off to
15 Mongbwalu."

16 Do you recall saying this, sir?

17 A. [12:35:31] No. Maybe you have misunderstood. What I said was that
18 Kisembo and Bosco and Mangaino wanted firstly to speak to my father so that he
19 could help to support the movement. They wanted to know where the Lendu militia
20 were. I didn't say that there was any precision there. Perhaps we didn't -- perhaps
21 we didn't understand each other. Perhaps there was a problem with regards to
22 interpretation.

23 Q. [12:36:21] Sir, I was quoting your words from the transcript, but maybe I went
24 a bit too quick in terms of leading you with that question. The idea or the
25 importance by my -- behind my question is the last word that were mentioned by you,

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1 which is the following, and these are your words on the transcript: "... this situation
2 had to be put to bed, if you will, and settled before going off to Mongbwalu."

3 So my question is the following, sir: This meeting -- I'm not sure if it's the first, the
4 second or the third, we'll get to that, I just want to know if when you mention these
5 words is because the events you describe happen before the UPC took over
6 Mongbwalu; is that correct?

7 A. [12:37:27] The UPC was occupying Barrière, Kilo and heading towards
8 Mongbwalu, following the Lendu militia who had arrived in Kilo. They were in an
9 operation called nettoyage. They were in contact with the leaders to find out where
10 the Lendu had gone because the Lendu had occupied certain regions.

11 If you could excuse me, my Swahili is not very good. It's not easy Swahili for the
12 interpretation.

13 The person responsible for operations had said that if he did not have sufficient
14 information he was going to carry out the operations as demanded of him by the
15 movement.

16 Q. [12:39:00] Thank you for this clarification, sir. I would like to come back to
17 what you said because that's very helpful. And what I have here in your last answer
18 in terms of what they were doing, that they had occupied and they had yet to reach to
19 Mongbwalu. That's what you just confirmed, correct, sir?

20 A. [12:39:48] Yes, because the occupation of the villages depended on the
21 occupation of Bunia, and as they already had Bunia they had the objective of
22 occupying all the region, so they wanted to continue and set themselves up there
23 progressively. So they took over one place and then they would continue
24 progressively. When they arrived there they had to get information, they had an
25 office responsible for intelligence and thanks to that office they knew that was

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1 happening in the villages.

2 Q. [12:40:23] Thank you, sir. Now, my next question on the same topic is you
3 mention that at that point in time they were conducting an operation. Now, the
4 word that appears in the transcript I think is -- it was called cleaning or it was -- but
5 I would like to know if you are aware of the words "effacer le tableau"; you have
6 heard that before, right?

7 A. [12:41:04] Yes, that's a term that was used during war operations. The effacer
8 are another group. They were not in our region.

9 Q. [12:41:40] I'm looking, sir, for the words that you used exactly in terms of the
10 name of this operation, but let me just put my question very openly to you. What
11 was -- that operation that they were leading when they reached Kilo, did you give this
12 operation a name or do you know if this operation had a name?

13 A. [12:42:17] Are you speaking about the operation called "top secret"?

14 Q. [12:42:25] I just want to know if you know, because let me give you one minute,
15 I have to find your exact words in English and then we can go from there.

16 Okay I found the place, sir. I apologise to this. This was your answer you just
17 provided on page 65 and that was at lines 9 to 13.

18 You said the following: "The UPC was occupying Barrière, Kilo and heading
19 towards Mongbwalu, following the Lendu militia who had arrived in Kilo. They
20 were in an operation called nettoyage." That's what I am trying to confirm with you.
21 So nettoyage was the name of the operation?

22 A. [12:44:21] No. The problem is that when they occupied Bunia the airport was
23 occupied by the Ugandans. And the further they went down the more the Lendu
24 were fleeing. And every time they arrived at a given place they occupied the village
25 and that's what they called "Operation nettoyage". And when people denounced it,

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1 they would arrest them and take them to the camp. Every time that they occupied
2 a village they organised their administration and they would persecute the Lendu
3 who were there, and that was what they would call "Operation nettoyage".

4 Q. [12:45:16] But the name "effacer le tableau", have you heard this before?

5 A. [12:45:25] That's not an operation which took place in Ituri. That's an operation
6 that we've heard about on the radio in Mambasa or somewhere else. That's another
7 group. I don't know what rebellion that is. That wasn't in Bunia and it wasn't in
8 Kilo either. That must be another rebellion. I don't know it.

9 Q. [12:45:57] Thank you, sir. I move to my second topic, which is a topic that was
10 raised by my colleague from the Prosecution when she was asking questions about
11 the passing away of your father. Now, my understanding of course is that the
12 passing away of your father, and I have no reason to believe otherwise, is a very
13 tragic incident for your family, is it not?

14 A. [12:46:35] Of course. Even you, if you heard that your father had been killed
15 without any human dignity, I think that's not something that would make you feel at
16 ease. We still cry and mourn my father. He's dead. Nobody saw his body. He
17 was never buried, whereas in our culture you have to bury somebody with all
18 honours. That's something that really hurts.

19 Q. [12:47:11] Well, sir, I'm really sorry for your loss, and I say this very, very
20 openly to you, because it is not an experience that you want anyone to go through
21 and to live, so I fully share your pain and your sorrow for the loss of your father.
22 But my question goes to what you did immediately after the disappearance of your
23 father. Now, what we have on the record today is that you went to the
24 chef de quartier, that's immediately after he disappeared, that's where you went first,
25 right?

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1 A. [12:48:01] Indeed. Because that took place at 1 o'clock in the morning during
2 the night. The next morning we went to the chef de quartier to consult Kisembo
3 because he was the general. He was the person who came just after the president.
4 We went to consult him so that we could have clarifications.

5 Q. [12:48:30] And who is the chef de quartier? If need be, Mr President, we can go
6 into private session if that's necessary, but I think the name will not make a difference.
7 If my colleague insists, we can go into private session.

8 PRESIDING JUDGE FREMR: [12:48:47] Mr Suprun.

9 MR SUPRUN: [12:48:48] (Interpretation) By way of precaution, your Honour, I think
10 that it would be better for this name to be given in private session. We can always
11 go back into open session afterwards if necessary.

12 PRESIDING JUDGE FREMR: [12:48:57] Then, court officer, let's move into private
13 session. And I appreciate that Mr Bourgon is cautious.

14 (Private session at 12.49 p.m.) *(Reclassified partially in public)

15 THE COURT OFFICER: [12:49:11] We are in private session.

16 PRESIDING JUDGE FREMR: [12:49:23] Thank you.

17 Mr Bourgon, please proceed.

18 MR BOURGON: [12:49:25] Thank you, Mr President.

19 Q. [12:49:26] Sir, the question was: Who was the chef de quartier at the time?

20 A. [12:49:37] The chef de quartier was called (Redacted) and he's still alive.

21 Q. [12:49:44] Can you spell this name for us, sir?

22 (Redacted)

23 Q. [12:50:22] Thank you, sir. Now, the chef de quartier, just so that we
24 understand exactly what is the role of that person, the chef de quartier basically,
25 would you agree with me, that he is responsible for a few houses where you live; is

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1 that correct?

2 A. [12:50:50] Yes, because we lived in his neighbourhood, he was the person who
3 would be the first person to receive the message. We tried to make an intervention
4 in his neighbourhood.

5 Q. [12:51:09] Now, when you went to see the chef de quartier, he accompanied you
6 to General Kisembo's office; that's correct?

7 A. [12:51:19] That's correct. He gave us the good idea of going to consult Kisembo
8 because he was the high figure. As Kisembo was a leading figure, he advised us to
9 go very early in the morning to meet him, before he carries out his multiple
10 occupations.

11 MR BOURGON: [12:51:49] We can move back into public session, Mr President,
12 please.

13 PRESIDING JUDGE FREMR: [12:51:53] All right.

14 Court officer, let's return back into open session.

15 (Open session at 12.51 p.m.)

16 THE COURT OFFICER: [12:52:09] We are back in open session, Mr President.

17 PRESIDING JUDGE FREMR: [12:52:13] Thank you.

18 Mr Bourgon, please proceed.

19 MR BOURGON: [12:52:17] Thank you.

20 Q. [12:52:18] Sir, we're not going to say the name of the person that we just referred
21 to. We'll simply refer to his position as chef de quartier. My first question in this
22 regard is: Where was General Kisembo's office?

23 A. [12:52:46] Kisembo's office was next to his camp. At the camp there was the
24 commander's office and that of the person responsible for operations. Now,
25 everywhere they went, they would build their offices, with tents. These aren't offices

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1 like in houses here. These were tents that they had set up and turned into an office.

2 Q. [12:53:18] Did you know that this was General Kisémbó's office before you
3 went?

4 A. [12:53:34] The chef de quartier knew it, because before going there, when they
5 came, first of all, they met all the leaders. The chief of the office, the chef de quartier,
6 the leaders knew exactly where the office of General Kisémbó was. And he was the
7 chef de quartier, he should know the office of General Kisémbó, because Kisémbó was
8 a major officer within the army.

9 Q. [12:54:11] Well, sir, my question was not whether the chef de quartier knew but
10 whether you knew where General Kisémbó's office was. Did you know that?

11 A. [12:54:31] It was the chef de quartier who knew the office of General Kisémbó.
12 We were afraid to walk around because it was during a period of tension. The
13 chef de quartier had his contacts so he knew where the office was. It wasn't just
14 anyone who could get to their office. There were guards, and even at the entry there
15 were guards.

16 Q. [12:54:57] Now, sir, my question is much more simpler than that. I'm not
17 trying to put you into a difficult position. I just want to know, did you know where
18 that office was, yes or no?

19 A. [12:55:18] I didn't know where the office was. It was the chef de quartier who
20 knew where the office was.

21 Q. [12:55:26] And when you arrived to that office, describe the office for us, please.
22 What did you see? You mentioned a tent earlier on. Was there a series of tents, one
23 big tent? Describe where the office was.

24 A. [12:55:51] When they occupied a village or a town, they would set up a tent --

25 Q. [12:56:04] Sir, allow me to interrupt you.

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1 A. [12:56:06] -- and each authority --

2 Q. [12:56:09] I'm not talking of what they would do. All I want to know is what
3 you saw and you to describe the office when you went there with the chef de quartier,
4 what you saw with your eyes at that very moment. That's what I'm interested in
5 getting at.

6 A. [12:56:29] What I saw with my own eyes is that we met the bodyguard at the
7 entry and the chief asked permission to see the general. And he was allowed
8 through. He went to meet him. So we asked him whose troops they were and he
9 told them that they had come to arrest somebody and he hadn't seen them since, and
10 so Kisembo told them to go back at midday and he would give them an answer.

11 Q. [12:57:13] Thank you, sir. That was not my question. My question is what
12 you saw, not what you heard. You said already this morning in your testimony
13 what you heard. I am asking for what you saw. Describe the tents, the buildings.
14 How does it look like, Kisembo's office? Tell me what you saw.

15 A. [12:57:44] Well, I saw Kisembo sat on a wooden seat in his office, and it was the
16 chef who talked with General Kisembo and he told him what had happened. I didn't
17 speak. The chef gave him the report of his neighbourhood, this and that, and he told
18 him he had to collaborate, within the framework of collaboration he had come to say
19 that a person had disappeared. I was there and the general was seated just opposite
20 me. It wasn't that somebody told me that story. I knew General Kisembo well.
21 He was thin, average size. He was seated. He was wearing a tee shirt,
22 a tache-tache tee shirt.

23 Q. [12:58:41] Now, sir, we're moving forward because you describe
24 General Kisembo, but that wooden chair he's sitting on, is it in a building, is it in
25 a tent, and are there other buildings or tents beside? What do you see when you

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1 arrive there?

2 A. [12:59:09] Well, in that case I have to give details. Well, there was a large
3 soldier and there was the troop commander there. The general had his office next to
4 it. That's something that I saw with my own eyes; it wasn't somebody who told me
5 that. And if we go there with you, I can show you the place, even if the tents are no
6 longer there. It was in 2002, it was 15 years ago. These tents are no longer there.
7 Or you can go to see the chef de quartier and he can say what place it was where we
8 met them.

9 If it was somebody else who had told me, I wouldn't have been in agreement to come
10 here to the ICC. It's because I saw that myself. I experienced that myself. That's
11 the reason why I accepted to come before the ICC.

12 Q. [13:00:19] Now, sir, I don't know why you are being so much on the defensive.
13 I'm asking you a very simple question what you saw. Don't try to guess what I'm
14 trying to get at. I'm saying what you saw.

15 Now, you just mentioned a number of tents. I just want to confirm with you, that
16 headquarters, was it a number of tents, as you just said? It's a number of tents, it's
17 a tent city?

18 A. [13:00:53] Well, I would confirm that there were tents, that there were soldiers
19 and Kisembo's office was there and he himself was in his office and I saw him when
20 the chief handed him the report. I was there.

21 Q. [13:01:07] So you entered the tent, and in the tent was there one office or more
22 than one office?

23 A. [13:01:30] Well, an office, well, when I say office it's not like an office that you
24 may be familiar with. It was a tent. And in the tent there was the general and the
25 soldiers were outside, there was no secretary, it's not the type of office that we're all

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1 familiar with. In other words, when an order was begin it was nevertheless executed.
2 It was not any old civilian who would reach that particular tent. And we called that
3 an operational area. They were in -- their operations were in full flow, or the
4 operations hadn't yet concluded.

5 Q. [13:02:14] Now, sir, tell me the size of the tent and whether there were
6 subdivisions in the tent or if it was just one open tent.

7 A. [13:02:36] It was a small tent. It wasn't very spacious. Inside there was only
8 a bed, which had lots of stains. There was also a little table and then there were
9 the -- the bodyguards were outside. So to get to the tent you had to go to the
10 roadblock and to ask permission to cross and then they would give you leave to enter.
11 But it wasn't a big tent. It was a green military tent and it had camouflage markings.
12 And there were ropes all around it.

13 Q. [13:03:28] Thank you, sir, that's all I was trying to get at. Not more than that.
14 Now we know from your testimony this morning that you returned a second time to
15 that place after General Kisembo gave you, he said "Come back later and I will tell
16 you what happened." That's how things took place?

17 A. [13:03:54] Yes, that's right. He gave us the midday appointment and then the
18 chief said, "Well, we have to go." And I didn't really understand what had happened.
19 I was frightened. I didn't know that my father had disappeared per se at that point.
20 And we went back at midday and we learned that the general had gone, he had gone
21 off to Centrale. And I was shattered. I -- my mind started wandering in multiple
22 directions. I was surprised that, you know, that he could set a rendezvous, have
23 a promise and didn't keep his promise. Even the chief was surprised because the
24 general had worked well with the leaders and the chief but he hadn't stuck by his
25 own word, his given work, his promise, and that was terrible, that was shattering for

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1 me.

2 Q. [13:05:01] Thank you, sir, you don't need to give more details. Please focus
3 your answer on my question and that will go much quicker and much better.
4 You just mentioned that you are not happy about the fact that Kisembo is not
5 fulfilling his promise and the chief is surprised. What I want to know is what you
6 and the chief did thereafter to try and locate your father. Did you and the chief take
7 any steps?

8 THE COURT OFFICER: [13:05:42] Mr Bourgon, we would like to remind you to turn
9 off your microphone when the witness is answering the questions, otherwise his real
10 voice will be displayed outside the courtroom. Thank you.

11 PRESIDING JUDGE FREMR: [13:05:57] Now, Mr Witness, you may respond.

12 THE VICTIM: [13:06:03] (Interpretation) Could you put the question again, please,
13 counsel. Could you put the question again.

14 MR BOURGON: [13:06:16]

15 Q. [13:06:16] Yes, I can. You are coming out of Kisembo's office, who happens not
16 to be there. I am asking you what concrete steps you and the chief took to either find
17 where your father is or to report it to anyone else.

18 A. [13:06:41] Well, at that point the state administration wasn't working properly,
19 wasn't functioning properly. There was somebody who had worked with my dad
20 call (Redacted) and he worked in a company and he bought gold from my father, and he
21 was from the Gegere tribe. And that person who took all the steps to try to establish
22 where my dad was, it was (Redacted), and he ran his own investigations (Overlapping
23 speakers)

24 THE COURT OFFICER: [13:07:12] (Overlapping speakers) -- your microphone when
25 the witness is talking. Thank you.

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1 PRESIDING JUDGE FREMR: [13:07:18] Mr Witness, please wait a second.

2 Mr Suprun.

3 MR SUPRUN: [13:07:22](Interpretation) Your Honour, I just wanted to alert people
4 to the fact that a name was given a moment ago and I think it would be advisable that
5 this part of his testimony be given in private session. And I would request the
6 redaction of that section of his testimony.

7 PRESIDING JUDGE FREMR: [13:07:43] Yes, exactly. So this part of the answer will
8 be redacted and now let's move into private session.

9 (Private session at 1.07 p.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: [13:08:04] We are in private session.

11 PRESIDING JUDGE FREMR: [13:08:07] Thank you.

12 And Mr Bourgon, please proceed.

13 MR BOURGON: [13:08:10] Mr President, I note for the record that the name that
14 was just mentioned, there is only person who knows about this event and it is the
15 person who was mentioned. So I don't think there was a need to go into private
16 session but I will continue in this manner.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [13:09:31] Sir, I would like to refer to your statement that you provided to
2 the -- your legal representative.

3 The statement is the number DRC-PCV-0001-0113. I would like to have the page on
4 the screen 0117, please.

5 Sir, this is your statement that you provided to the LRV. It is signed by the two legal
6 representative and it bears a date (Redacted). So I take it that you remember because
7 you saw it recently, this statement; is that correct?

8 A. [13:10:23] Which statement are you referring to?

9 Q. [13:10:29] It's a good thing I have two hours, huh.

10 But I will show you the statement on the screen before you, the statement I will show
11 you the first page.

12 If I can have page 0113, please.

13 PRESIDING JUDGE FREMR: [13:11:04] Mr Witness, can you see it on the screen?

14 THE VICTIM: [13:11:10] (Interpretation) Yes, I have just seen it. But it seems to
15 have disappeared from my screen. In any case, it is written very, very small.

16 PRESIDING JUDGE FREMR: [13:11:25] Yes, I believe we can then enlarge that or
17 focus on the part which is relevant for Mr Bourgon.

18 THE VICTIM: [13:11:36] (Interpretation) Okay. All right.

19 MR BOURGON: [13:11:42]

20 Q. [13:11:42] sir, do you recognise this statement?

21 A. [13:11:54] Yes. It's a statement that I gave in (Redacted). Yes, yes, this is my
22 statement.

23 Q. [13:12:05] And, sir, this is a statement that was read to you or translated to you
24 on (Redacted), and to which you said it was accurate; is that correct, sir?

25 A. [13:12:25] Yes. Yes. Yes. Well, can you show me actually the signature

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1 page where the signature lies, please.

2 Q. [13:12:41] Yes, I will.

3 The signature appears, if I can have on the screen please, page 0119.

4 Do you see the statement on the screen, sir?

5 A. [13:13:31] Yes, I can see my signature there.

6 Q. [13:13:35] Sir, is it the case that this page was not shown to you (Redacted)

7 (Redacted)

8 A. [13:13:56] I don't really understand your question. Would you mind putting it
9 to me again.

10 PRESIDING JUDGE FREMR: [13:14:03] And, Mr Bourgon, maybe put it in positive
11 way because it is a little bit confusing.

12 MR BOURGON: [13:14:08] Thank you, Mr President.

13 Q. [13:14:10] Sir, did you see this statement (Redacted) when you were prepared
14 for your testimony? Did you see this page (Redacted)?

15 A. [13:14:24] No. Since I gave the statement I haven't seen it again, and I -- I don't
16 know this page. Since I gave my statement, even, even today I have never seen this
17 page. But I can see my signature on this particular page.

18 Q. [13:14:47] Thank you.

19 We'll go to the page I was looking first which was 0117, please, if we can have this
20 page on the screen. And I would like to focus on paragraph 28, the second part of
21 paragraph 28.

22 Now, sir, do you -- I know you speak French, but do you read French?

23 A. [13:15:36] Do you want me to read this here? Do you want me to read this
24 section?

25 Q. [13:15:41] I am asking you if you are able to read French?

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1 A. [13:15:52] Yes, yes, I can read French.

2 Q. [13:15:59] So in paragraph 28 of your statement you describe what happened the
3 morning after your father disappeared. And first you say the following, and I will
4 read that to you in French:

5 (Interpretation) "The next day the chef du quartier and myself went off to see
6 General Kisémbé in his office to apprise him of my father's situation. Kisémbé
7 looked surprised and said that he should call Bosco with his Motorola. He asked us
8 to return at midday to see what would arise out of that. When we returned at
9 midday the soldiers who were posted at the entry point said that Kisémbé wasn't
10 there because he had gone off to Centrale Soleniamba."

11 (Speaks English) Do you confirm that these are your words, sir?

12 A. [13:17:18] Why, yes, that's what I said. Even before you read me this page I
13 had already talked about this.

14 Q. [13:17:32] (Interpretation) Let's continue with the reading of this extract.

15 "So we went back home and we were shattered. And from that point we had no
16 news of my father. A little later on we learned of the existence of a person called
17 (Redacted)

18 I think you understand French and I will put my question to you in French, therefore,
19 and I think this may make things go more smoothly.

20 What we see in this excerpt is that following the second time you go to Kisémbé's
21 office you were without any news, you say "We no longer had any news of my
22 father." And a little bit later we have (Redacted) who arrives. So my question is the
23 following: How much time elapsed, how much time later?

24 A. [13:18:52] Not long. The news of my father's abduction was known to all and
25 (Redacted), after a two-day period, returned to say -- or to console us actually and we told

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1 him what had happened upon his request to know and then he said that he would do
2 everything he could and (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [13:19:26] I am going to return a little later on to what (Redacted) told you, but that's
6 for later regarding your father's disappearance. But in the meantime here's my
7 question: When (Redacted) is there, the chef de quartier, was he also there?

8 A. [13:19:50] When my dad was declared disappeared, (Redacted), the chef de quartier
9 was with us all the time because this was a problem that was occurring in the village.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 A. [13:20:42] At that particular point there was no administration to speak of. It
18 was the MONUSCO that was managing the situation. The state didn't exist per se.
19 Most of the authorities weren't there. The offices weren't open, except the
20 chef de quartier who was there from time to time. But the state per se wasn't
21 structured. (Redacted)

22 (Redacted)

23 The chief of course was limited and so -- well, in what he could do, and all -- well, the
24 offices didn't work anymore. And this was -- this was all happening during the
25 rebellion.

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1 Q. [13:21:33] Mr Witness, in any village you have the chef de quartier and then you
2 have the chief de centre, the centre chief just underneath?

3 A. [13:21:47] Well, there wasn't any chief to speak of because when the militias took
4 over the village, it was they who controlled everything, the militiamen controlled
5 everything and we were hoping that Artemis was going to be coming because we
6 heard on the radio that that was going to happen to restore peace and it was the
7 French army that was expected, but they arrived later on in fact, and it was the
8 rebellion that managed the village at that particular time. The Congolese state no
9 longer functioned.

10 Q. [13:22:18] Mr Witness, please, confine yourself only to the question that's put.
11 So after the centre chief, and then we have the collectivity chief, that's how things are
12 structured, isn't it, in terms of the hierarchy?

13 A. [13:22:40] Yes, that's right. But those chiefs weren't there, the administration
14 wasn't there. Everybody was seeking shelter. There was no office that was
15 operating. It was the militia that were reigning and in power and it was their
16 administration that was operating.

17 Q. [13:22:58] Mr Witness, we are currently in private session, can you tell me, do
18 you know somebody of the name of -- I am going to give you the exact name, just
19 bear with me.

20 I just want to know whether you know somebody called (Redacted), do you know
21 that particular person, Mr Witness?

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. [13:24:54] Mr Witness, you have just answered my question by saying

8 "chef de quartier". But I am putting it to you, Mr Witness, I am telling you that he was

9 the collectivity chief, that's really the case, the interim chief for collectivity; is that

10 right?

11 A. [13:25:11] Yes, that's right. He was the interim chief and he was doing that.

12 And then of course he was struck by the militia and he ran away and he was really

13 wounded when he was struck.

14 Q. [13:25:24] Mr Witness, you made no report to (Redacted) or the collectivity chief

15 regarding your father's abduction; that's right, isn't it?

16 A. [13:25:39] Well, he received the information, but who was he going to go to to

17 follow things up? Because at that particular time the army was under the control of

18 the militiamen and the militia received orders from their own commander and so he

19 couldn't do anything, his hands were tied. And also he was a displaced person

20 himself because of the war and he wasn't in his office. Yes, he received the

21 information, though, but because the state was totally absent, who was he going to go

22 to to complain? And I think it is the ICC now that is helping us in this regard.

23 Q. [13:26:14] But, Mr Witness, my question was very straightforward. I am

24 putting it to you, Mr Witness, that you didn't report your father's disappearance to

25 (Redacted). I mean is that right or not?

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1 A. [13:26:29] (Redacted) wasn't there, he had already gone, he was fleeing the war.
2 When he was struck, he ran. It was only the chef de quartier who was there to help
3 us. And (Redacted) wasn't there anymore. You talked about this top secret list,
4 nobody could stay in that top secret list. You had the chiefs names, you who leaders
5 who were to be killed.
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
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7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 MR BOURGON: [13:32:30] Thank you, Mr Witness.

16 PRESIDING JUDGE FREMR: [13:32:31] We have to break because even today the
17 break is shorter.

18 So, all right, let's move into open session now.

19 (Open session at 1.32 p.m.)

20 THE COURT OFFICER: [13:32:59] We are in open session, Mr President.

21 PRESIDING JUDGE FREMR: [13:33:01] Thank you, court officer.

22 So, Mr Witness, we break now. Now we will have a chance for 75 minutes to take
23 some rest and also take the lunch. So I thank you that you so patiently responded to
24 all those questions and that you remained concentrated even in this extended,
25 extended session.

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1 Court usher, please guide Mr Witness out of the courtroom.

2 And before we break, for your information, Mr Bourgon, so far you have used one
3 hour one minute, so you still have 59 minutes at your disposal.

4 And before we leave the courtroom, and before we break for lunch, the Chamber
5 wishes to indicate that it will shortly issue a written decision on the request on behalf
6 of Mr Ntaganda seeking leave to appeal the Chamber's decision on Defence request
7 for extension of time to prepare for its presentation of evidence contained in filing
8 number 1836.

9 However, ahead of the oral submissions this afternoon on the Prosecution request
10 made in filing number 1855, in order to take this into account when preparing for
11 these submissions, the Chamber hereby indicates that the disposition of its decision,
12 namely, that the Defence request is rejected.

13 And now we shall adjourn for a 70-minute lunch break and then return at 2.45.

14 THE COURT USHER: [13:34:44] All rise.

15 (Recess taken at 1.34 p.m.)

16 (Upon resuming in open session at 2.47 p.m.)

17 THE COURT USHER: [14:47:12] All rise.

18 Please be seated.

19 PRESIDING JUDGE FREMR: [14:47:38] Good afternoon, everyone.

20 We will directly proceed with the rest of cross-examination of witness V3 by Defence.
21 Mr Bourgon, you have the floor. And I'm just reminding you that we at the moment
22 are in open session.

23 MR BOURGON: [14:48:01] (Interpretation) Thank you very much. Could we
24 move into private session straightaway, please.

25 PRESIDING JUDGE FREMR: [14:48:09] Certainly.

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1 And before doing that, for the understanding of the public, this witness is a protected
2 one, so he was given guarantee that his identity will not be revealed to the public, so
3 if there is a risk that upcoming questions could reveal his identity we have to move
4 into private session, which is the case just now.

5 Now let's move into private session.

6 (Private session at 2.48 p.m.) *(Reclassified partially in public)

7 THE COURT OFFICER: [14:48:38] We are in private session, Mr President.

8 PRESIDING JUDGE FREMR: [14:48:50] Thank you, court officer.

9 Mr Bourgon, please proceed.

10 MR BOURGON: [14:48:54] (Interpretation) Thank you very much.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 MR BOURGON: [14:49:59] (Speaks English) Mr President, I need to interrupt the
20 witness. That's not my question and he's not going to carry me away all this time.

21 PRESIDING JUDGE FREMR: [14:50:05] Mr Witness, yes, take into account that
22 Mr Bourgon is strictly limited in time he has at his disposal, so please try really to
23 focus on the question put to you, try to respond briefly.

24 And Mr Bourgon sometimes -- said that even sometimes it is possible even to say
25 "yes" or "no." So please do not elaborate your answers if it is not necessary.

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1 Mr Bourgon, please proceed.

2 MR BOURGON: [14:50:33] (Interpretation)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 MR BOURGON: [14:52:07] (Speaks English) Mr President, we can move back into
15 public session.

16 PRESIDING JUDGE FREMR: [14:52:09] All right. All right. Court officer, let's
17 return back into open session.

18 (Open session at 2.52 p.m.)

19 THE COURT OFFICER: [14:52:21] We are back in open session, Mr President.

20 PRESIDING JUDGE FREMR: [14:52:30] Thank you, court officer.

21 Mr Bourgon, please proceed.

22 MR BOURGON: (Interpretation)

23 Q. [14:52:46] Mr Witness, let me move to my second topic. I'd like to read out

24 your statement bearing the number DRC-PCV-0001-0113. I refer you to paragraph

25 20 in your statement. I'm going to read it. We don't need to display it on our

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1 screens. So here's the -- here's paragraph 20:

2 "After having set up at Kilo-État, the UPC soldiers began striking up contacts with the
3 prominent community leaders and local traders and shopkeepers to request of them
4 information and support, both ideological and monetary, including from my father."

5 Do you remember this from your statement, Witness?

6 A. [14:54:09] Yes.

7 Q. [14:54:12] So you would agree with me, therefore, that the first meeting
8 between your father, General Kisémbó, and Bosco Ntaganda, according to your
9 evidence, happened following the arrival of the UPC at Kilo-État; that's right, isn't it?

10 A. [14:54:40] That's right.

11 Q. [14:54:41] I refer you now to paragraph 21 of your statement, I'm going to read
12 it to you, page 0116. I quote:

13 "It was in those circumstances that Bosco, operations chief, as well as General
14 Kisémbó, head of the UPC chief of staff, began frequenting my father asking him to
15 support their movement. My father always retained his neutrality given the fact that
16 he was a Nyali, and that he wanted to -- didn't want to get involved in politics and he
17 didn't have any money to give them because he had to meet the needs of his very
18 large family." End of quote.

19 Would you stand by those words, Mr Witness?

20 A. [14:55:46] Yes, that's what I said.

21 Q. [14:55:50] I'd now like to read the end of paragraph 21 on the same page of
22 your statement. I quote:

23 "All these meetings were held in our compound and sometimes in my presence."

24 Would you confirm that information that features in your statement, Mr Witness?

25 A. [14:56:22] Yes.

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1 Q. [14:56:22] I return to paragraph 21 where the words "all these meetings" is
2 mentioned. So from your oral evidence, I've understood that there were three such
3 meetings; is that right?

4 A. [14:56:39] Yes.

5 Q. [14:56:46] In paragraph 21, since you say that sometimes these meetings were
6 in your presence, which of the three meetings did you not attend?

7 A. [14:57:07] It was when my father went to the camp to follow up on the matter
8 of my uncle. It was at that point that I didn't attend.

9 Q. [14:57:25] Mr Witness, paragraph 21 mention is made of the meetings that took
10 place in your compound where you say that sometimes you were in attendance, so
11 which meetings did you not attend and where General Kisembo, Bosco Ntaganda and
12 your father were present?

13 A. [14:57:58] I don't know of any other meeting, other than those at our house.
14 If he had meetings with other people, well, I'm not privy to that.

15 Q. [14:58:12] Let me pursue this matter of these three meetings, the existence of
16 which you confirmed. The first meeting, if I've followed your oral evidence, took
17 place after the UPC's arrival at Kilo-État and we knew that beforehand.

18 The second meeting, again, according to your evidence, allegedly took place three
19 days after the first meeting. And we know that from your oral evidence of this
20 morning. Would you agree with that, Witness?

21 A. [14:58:54] Yes, yes, yes.

22 Q. [14:59:01] Turning to the third meeting, Mr Witness, I don't think this morning
23 during your oral evidence you told us how much time went by between the second
24 and third meeting. How much time did go by then, how much time elapsed
25 between the second and third meeting, Mr Witness?

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1 A. [14:59:33] The first meeting lasted an hour, the second lasted three quarters of
2 an hour and the third meeting didn't last very long, about half an hour, because they
3 had a lot on their plate.

4 Q. [14:59:52] I shall clarify my question, I'm talking about the amount of time that
5 went by between the meetings. Between the first and the second, there were three
6 days. Between the second and the third meeting, how much time elapsed? Are we
7 talking about days or are we talking about weeks?

8 A. [15:00:20] No, those meetings were close together in time. The third meeting
9 took place after three -- after two days and lasted approximately 30 minutes. It
10 didn't last for long.

11 Q. [15:00:35] So we now know that we have the first meeting, three days later the
12 second meeting, and two days after that the third meeting. And according to your
13 testimony, these three meetings accounted both Bosco and Kisembo in attendance.
14 Now, I would like to clarify that the fourth occasion when allegedly

15 Mr Bosco Ntaganda met with your father was when your father went to release his
16 younger brother. You talk about this page 41, lines 8 to 16. Do you remember that?

17 A. [15:01:20] Yes, yes.

18 Q. [15:01:23] You confirmed this morning that on that occasion, and you just
19 repeated this a little earlier, that on that occasion you were not present during that
20 fourth meeting. What is of interest to me is how many days elapsed between the
21 third meeting and the event involving your father and his younger brother.

22 A. [15:01:57] Do you want me to explain it to you? Do you want me to explain it
23 to you?

24 Q. [15:02:01] Between the two meetings there was a third meeting and then your
25 father went to do something where his younger brother was detained. And how

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1 many days elapsed between those two events?

2 A. [15:02:31] After the third meeting he didn't come and see my father again.

3 We spent approximately four days, and then we received the news to the effect that

4 my paternal uncle had been arrested. The information said that he was an

5 accomplice and was in contact with the Lendu combatants and he was arrested as a

6 result.

7 Q. [15:02:52] That's what I wanted to establish. Thank you. There were four

8 days that elapsed and there was an event that you did not assist or you were not in

9 attendance.

10 The next event, of course, the evening when your father was allegedly taken from his

11 residence, I would like to know how much time elapsed between the time when your

12 father went to see his younger brother and the time or the day at which he

13 disappeared. How many days?

14 A. [15:03:36] Approximately one week, because after that there was no further

15 meeting. He did not come to discuss anything further with him. After the release

16 of my paternal uncle, nothing further happened. We didn't know that anything

17 further was going to happen.

18 Q. [15:03:55] On the basis of your testimony, Mr Witness, I reach the conclusion

19 that Mr Bosco Ntaganda allegedly met your father on at least five occasions, that is to

20 say the three meetings, plus the event involving the younger brother, plus his

21 abduction during that period when the UPC arrived in Kilo up until the moment in

22 time when he disappeared; would you agree with me?

23 A. [15:04:32] Yes, that's right. From what you're reading, it's five occasions; they

24 met together to discuss on three occasions.

25 Q. [15:04:40] Thank you, Mr Witness. My role as representative of

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1 Mr Bosco Ntaganda is to impart my position to you and provide you with the chance
2 of responding. Now, on the basis of the testimony heard during this trial and on the
3 basis of information that we obtained during our investigations, in addition to
4 information coming from the chief of the centre, that location where those meetings
5 took place, I'm looking at all the information I have and I put it to you that you
6 invented these meetings where Bosco Ntaganda allegedly, with Mr Kisembo,
7 attended these meetings. What would you like to answer to that?

8 A. [15:05:35] Well, that's a complete lie because all those individuals whom you
9 are talking about were not in the villages. They had already fled. You are lying. I
10 cannot confirm anything from what you've just said. I know all the chiefs by their
11 name.

12 Q. [15:05:55] I'm moving on to another subject area. This morning you talked to
13 us of a top secret list. I would first of all like to confirm with you because I didn't
14 quite understand from the answers this morning. This list was not discussed
15 between your father, General Kisembo and Bosco Ntaganda; is that correct?

16 A. [15:06:24] No, these were leaks. We heard information coming from soldiers,
17 but they never discussed that list. It was said that there was a list that had been
18 drawn up containing the names of the leaders or the dignitaries who were going to
19 provide their contribution, and were they not to contribute, there would be
20 consequences. However, we did not know how many people were on the list. And
21 there was also information according to which there were certain categories of
22 individuals included on that list.

23 Q. [15:07:12] Mr Witness, now, the list in question, you've just said, and I'm
24 taking the word from English here, there were leaks, a leak of information. Did you
25 hear that information or did somebody relay that information to you?

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1 A. [15:07:33] We were working together with soldiers, especially those who
2 wanted to drink alcoholic drinks, and they were the ones who told us. And I heard
3 speak of it myself.

4 Q. [15:07:50] Now, I understand from your testimony that the soldiers in question
5 who allegedly spoke to you, well, precisely when did that occur? When did you
6 hear speak of that list?

7 A. [15:08:10] Those soldiers said that whenever my father talked to those
8 commanders, the soldiers would be walking around in the neighbourhoods and they
9 heard this list being talked about and that on the list there was the names of a number
10 of dignitaries and leaders within the community. I heard speak of this. Somebody
11 told me about it.

12 Q. [15:08:43] I'm not certain that I have understood you correctly. You said
13 nobody told you about it, but you heard speak of it. What I'm trying to establish is
14 whether you heard speak of the list or somebody told you that it actually existed.
15 What of the two options, which one?

16 A. [15:09:02] It was the soldiers of the UPC who were walking around in the
17 neighbourhood who said so. Two -- one or two people said so, and subsequently
18 there was a leak of information everywhere, and then people started to flee. And it
19 was at that moment in time that my father also sought to flee but he was not able to.

20 Q. [15:09:44] So if I understand you correctly, on each occasion when there were
21 meetings, you were working together with soldiers who would speak to you or who
22 would make mention of this list or the existence of this list; is that what I should glean
23 from your testimony?

24 A. [15:10:04] Yes, those soldiers were walking around in the neighbourhoods and
25 they felt the need to discuss things with members of the population. You know,

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1 when they were having a drink, they would speak. You know, when people drink,
2 there are no secrets, and those soldiers liked to drink and they liked to walk around
3 and discuss things with the youth.

4 Q. [15:10:28] In a response this morning on this subject, and this is page 24, lines
5 27 to 28, this is the English version and I shall read it to you:

6 (Speaks English) "Within the UPC, it was said that it was just the general that had the
7 list, as well as the chargé des opérations, because they had an intelligence service."

8 (Interpretation) Is that correct?

9 A. [15:11:18] Yes, because when those soldiers talked about the list, the civilians
10 would ask the question as to where that list was to be found, and the soldiers would
11 say, "Well, no, it is those people in charge who have that list. It is not in the hands of
12 the rank and file soldiers." They wanted to know who was on the list and they
13 wanted to know who had the list, and they said, the soldiers said that it was their
14 chiefs who were in possession of the list.

15 Q. [15:11:45] If I understand your testimony correctly, it's quite an open secret,
16 everyone was talking about it, and the whole population wanted to know whose
17 name was on the list or which names were on the list?

18 A. [15:11:58] Yes, we're talking about a secret here, but there are no secrets in the
19 village. No secrets. Everyone wanted to know what the situation was in the village.
20 Everyone wanted to have information on the prevailing situation within the village.

21 Q. [15:12:22] Mr Witness, this morning a question was put to you; namely,
22 whether people had told you how many names there were on that list, and you
23 answered saying that you were not told how many people were on the list. So if I
24 understand you correctly, you never saw that list, did you?

25 A. [15:12:51] Yes, we were told that a list existed and we were told that there

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1 were various categories of individuals on the list, tradesmen, leaders within the area,
2 but we were never told how many people were on the list.

3 Q. [15:13:08] Mr Witness, on the basis of the answers you furnished with regard
4 to this list and on the basis of information in our possession, I will put it to you that
5 this list is a pure invention on his part and that no such list has ever been in existence.

6 A. [15:13:35] Well, at that age I was not in a position to invent such a thing. You
7 know, that type of information is politics. Where would I have got all that from? I
8 was never involved in politics, and I was in the fifth year of secondary school. These
9 are things that happened. Nobody told me that.

10 Q. [15:13:55] Mr Witness, during your testimony you talked about individuals
11 present, either during meetings with your father or people who were present with the
12 UPC where you lived. And this morning you mentioned names such as
13 General Kisémbó. You mentioned the chief of operations, who, according to you,
14 was Bosco Ntaganda, and you also mentioned a certain Mangaino. I would like to
15 know whether you know any other names during the representatives -- or amongst
16 the representatives or members of the UPC who were --

17 A. [15:14:43] It was easy to know the names of those three persons because the
18 general himself gave those names. I was 22 at the time and I'd never been involved
19 in politics. They arrived, they gave the names. I was not a magician. I was not
20 able to just invent the names of individuals. They introduced themselves and I
21 heard the names of the individuals present there.

22 Q. [15:15:06] And amongst all your discussions, amongst all your conversations
23 with the soldiers who needed to talk, who wanted alcoholic drinks you took down no
24 other members of the UPC; is that correct?

25 A. [15:15:26] I did not hear any further names. You know, there were people

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1 who were in Barrière and Kobu. I was not in a position to know those people. I did
2 not go there. I heard the people of -- the names of the people who were in charge. I
3 heard those names in the village where we were. They presented to us the people
4 who worked in our village. But the people who worked in other villages I did not
5 know them.

6 Q. [15:15:49] I'm going to move on to another subject area but still with regard to
7 the evening when your father was abducted from his residence, according to your
8 testimony. I would like to refer to your request for participation as victim in the case.
9 Now, this is the first document you filled in when you commenced your collaboration
10 with the International Criminal Court and I'm going to be showing this document to
11 you on the screen. I do not know whether this document -- well, I don't believe this
12 document can be disclosed to the public, but I believe we can continue in open
13 session.

14 Mr Witness, please look at the screen in front of you.

15 THE COURT OFFICER: [15:16:57] Could we please have an ERN number.

16 MR BOURGON: (Interpretation) Indeed that might be useful.

17 DRC-PCV-0001-0020. And I do apologise.

18 Q. [15:17:53] Mr Witness, the document is now on your screen and I would like
19 you to confirm to us that you know the existence of this document or are familiar
20 with it?

21 A. [15:18:06] Yes, yes, I do recognise this document.

22 Q. [15:18:11] Now, the document that is here, of course your name does appear
23 upon it, but it is not visible to the individuals present in the public gallery. I'm going
24 to be reading this document to you, I'm going to be omitting the name of the locality
25 where you lived. And with regard to that locality or location, I'm just going to use

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1 the word "village".

2 So I'm going to be reading to you paragraph 1 in front of you.

3 "My father was a businessman and we lived as a family in the village. When war
4 broke out, my father gathered us together in a house and tried to evacuate us to
5 Bunia. Bosco Ntaganda knew my father very well, so he came with his men to our
6 hiding place in order to recuperate my father." End of quote. I am stopping the
7 reading of the paragraph here.

8 Mr Witness, I would like to know -- and it might be wise for us to move into private
9 session, Mr President?

10 PRESIDING JUDGE FREMR: [15:19:35] All right.

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

12 (Private session at 3.19 p.m.) *(Reclassified partially in public)

13 THE COURT OFFICER: [15:19:44] We are in private session, Mr President.

14 PRESIDING JUDGE FREMR: [15:19:55] Thank you, court officer.

15 Mr Bourgon, please proceed.

16 MR BOURGON: [15:20:05] (Interpretation)

17 Q. [15:20:06] So, Mr Witness, I'm referring to what is written there before you that
18 I've just read out to you. When we look at this and we read this paragraph, we can
19 see the following facts: Firstly, it is said herein, that "Bosco Ntaganda knew my
20 father well." I suppose hereby you are referring to the three meetings and nothing
21 further; is that right? Is that the case?

22 A. [15:20:50] Yes. Please go on.

23 Q. [15:20:53] And you say that your father gathered you together in a house and
24 that he was trying to evacuate you to Bunia. But you say that Bosco came to your
25 hiding place with his men. Now, what is this hiding place, Mr Witness?

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1 A. [15:21:25] Okay, would you like me to explain this to you? Would you like
2 me to explain it to you?

3 Q. [15:21:30] I would like to know what this hiding place that you mention in this
4 document is.

5 A. [15:21:42] The outreach unit from the ICC came to our village. I was not
6 alone, there were many of us. All the tribes were together, there were Lendus and
7 Gegeres wherever the war had reached. And this report is not detailed with regard
8 to the information that I provided the lawyers when we discussed this in private. I
9 didn't give many details during that first statement, but in the second statement I
10 gave far more details because there were far more of us. In that first statement it was
11 the outreach unit that gathered a number of people together. I couldn't give many
12 details on that occasion because there were fanatics from those leaders and I couldn't
13 speak openly.

14 Q. [15:22:40] Should I understand that the word "hiding place" was never uttered
15 by you or you said it by mistake?

16 A. [15:22:58] I believe that I have just explained this to you. When the outreach
17 unit arrived and gathered us together there were many of us. I could not give many
18 details with regard to my situation because there were a number of us in a given
19 location. And when I was given the opportunity to explain myself in private with
20 my counsel, then I gave a lot of details which you saw in my statement itself. But in
21 this document here, I was just talking in general terms, I didn't give much in way of
22 detail.

23 Q. [15:23:31] Now, Mr Witness, generally speaking, why did you use the word
24 "hiding place"? Just to draw attention to yourself?

25 A. [15:23:46] We were numerous. I can't say that they came to our place and

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1 found us at home. We didn't have that kind of time. When I had the opportunity
2 to talk to counsel in private, I gave a lot of details with regard to what happened,
3 which is what I stated in my statement. Because you know in that first statement I
4 didn't say that they arrived in -- at 1 a.m. in the morning because there were a lot of
5 us and we didn't have the time. Just a small moment of time was given to each
6 person to speak, but when I was on my own and able to talk to the lawyers, I gave all
7 the details with regard to what happened during that situation.

8 Q. [15:24:33] So let me come back to the moment in time when you provided that
9 information and you filled in this form. Were you alone in the company of
10 somebody putting questions to you, or was everyone filling in their form at the same
11 time? How did things unfold when you filled in that form?

12 A. [15:25:00] No, we were in a room. There was a lot of noise. There was a
13 group here and a group there and everyone was talking at the same time. It was a
14 public place. So I thought to myself that I couldn't give much detail in public. So I
15 just talked in a summarised version, but when I was able to talk to the lawyers in
16 private, then I explained how the situation unfolded.

17 THE INTERPRETER: [15:25:27] Mr President, message from the Swahili booth:
18 Could the witness please be requested to slow down.

19 PRESIDING JUDGE FREMR: [15:25:34] Mr Witness, I know it's a very emotional
20 part of your testimony, but still I got message from the interpreters that sometimes
21 you are too fast, so the interpreters then have a problem to catch everything what you
22 are saying. And since we need everything precisely correct, please slow down a bit,
23 all right? Thank you.

24 THE VICTIM: [15:26:05] (Interpretation) Very well. Would you like me to
25 repeat myself?

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1 MR BOURGON: [15:26:11] (Interpretation)

2 Q. [15:26:11] It's not necessary, Mr Witness. I'm going to move on to my next
3 question.

4 How many people were in that room when you filled in that form?

5 A. [15:26:25] On that day that was in the missionary room in (Redacted), the
6 outreach unit was there. (Redacted) was there and a number of teams who
7 came from everywhere. There were a number of people in the room. It was a
8 confused situation and we could not speak openly. There were several individuals
9 present and we just had to provide a summarised version. But when I was able to
10 meet with the lawyers in private myself, then I gave all the details. That's how
11 things happened.

12 Q. [15:27:05] Now, Mr Witness, let me come back to the individuals present, 50,
13 100, 150, how many people were present in that room?

14 A. [15:27:19] More than 100 people. There were many people. And I was
15 talking to an African person -- person from the centre and there were
16 other -- somebody else talking at another table. There were more than 100 people
17 present.

18 Q. [15:27:39] And during that meeting, Mr Witness, that was when it was
19 explained to you what you had to do with a view to participating in the trial,
20 Bosco Ntaganda's trial. Is that when things were explained to you; is that right?

21 A. [15:27:59] We were there, but I wasn't even sure that things were actually
22 going to happen because people were saying "Why are you just abandoning what
23 happened to your father?" But I wasn't interested in what they were saying, but I
24 thought to myself, well, let me go and take part in those meetings because we were
25 requested to go and take part. A number of people arrived from (Redacted) and

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1 other localities. I wasn't even sure that I was due to arrive. I thought that since my
2 father was already dead, then things would be done and dusted and maybe we
3 should just let it go by. But then I had the opportunity to speak to those authorities
4 and I gave my -- filled in my form. And on further occasions I gave further details to
5 counsel. And as I was on my own and in private, I gave information. The outreach
6 unit even came to visit us in our house, in our house in (Redacted). And one day they
7 arrived in order to broadcast some films and I went there and I understood that this
8 was a lengthy story in the making. On that day they took my telephone number and
9 they called me. This was the team from (Redacted). They said "You are a victim.
10 Come, come and give your statement. Do not be afraid."

11 Q. [15:29:34] Mr Witness, when you took part on that day and you filled in that
12 document, you were given some form of payment for having taken part in that
13 meeting; is that correct?

14 A. [15:29:53] No. I went merely because the inhabitants of the village were
15 saying, "Why are you keeping quiet when your father was killed here?" You know, I
16 went and that was virtually (Redacted) away from our house. I didn't have
17 any means of transport. I went there. It was not for the money; it was of my own
18 volition, because I was sad about my father's disappearance, and that's what gave me
19 the courage to go.

20 Q. [15:30:24] My question was unambiguous. Were you given money to defray
21 your travel costs or anything else for that matter? Did you receive money to attend
22 that conference?

23 A. [15:30:44] No.

24 PRESIDING JUDGE FREMR: Hold on, Mr Witness, hold on.

25 Mr Suprun.

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- 1 MR SUPRUN: [15:30:46] The question isn't very accurate. The first time
2 Mr Bourgon said, did you receive monies, and second he put his question differently
3 by saying, did you receive reimbursement for your travel costs, et cetera, et cetera.
4 So I think there's a significant difference there between payment and reimbursal for
5 costs incurred.
- 6 PRESIDING JUDGE FREMR: [15:31:09] Yes, I also think that there's difference,
7 otherwise, I would have said question is answered. So I guess now Mr Bourgon is
8 going further, and it is fine with me.
9 Please proceed.
- 10 MR BOURGON: [15:31:22] (Interpretation)
- 11 Q. [15:31:24] Mr Witness, I'd just like to know, irrespective of the underlying
12 reason, did you receive a sum of money in order to attend or -- the event at which you
13 signed this particular document?
- 14 A. [15:31:58] No. The problem wasn't about money. We were -- everybody
15 came based on his own concerns, based on the losses incurred within the family.
16 And so people came to make their statement. It wasn't because of any money. If it
17 had been money, I wouldn't even have gone because I'd lost my father. It was my
18 father who died. And I came of my own free will. And I said to myself, perhaps
19 one day my father's death should be investigated in by the judicial system. It wasn't
20 for money that I did this.
- 21 Q. [15:32:44] Mr Witness, I didn't ask you about the underlying reason. I just
22 want to know whether, yes or no, you received dollars, American dollars, as is the
23 practice in your area, when you attended that event with a hundred other people.
24 That's all I want to know, yes or no.
- 25 A. [15:33:08] No, no, no, we didn't receive money. We received no money.

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1 Q. [15:33:20] And on that same day, Mr Witness, the form that you have before
2 you, that particular form, when you signed that form, how many people were around
3 you at the time when you actually signed that form?

4 A. [15:33:42] There was the people of the unit who were there. They wrote
5 things down, and then afterwards we signed, but they told me that some lawyers
6 would come and that I would be able to make my own statement. They would come
7 after, they said. And I thought that it was simply just to record what I said, and so
8 that's what I did. There were many, many people. As I said, at the table -- around
9 the table there were about three or four teams.

10 Q. [15:34:10] I move on to another area, Mr Witness.
11 During your oral evidence and also in your written statement, you said that this
12 conflict reached your home from 2002, end of 2002 and in 2003. It was at that point
13 that the ethnic conflict arrived into your area; is that right?

14 A. [15:34:43] That's right, because this war started with machete fighting and then
15 turned into armed conflict with heavy weapons and military uniforms. And it was
16 at that juncture that the war arrived at us at the end of 2002, but beforehand mention
17 was made of some villages that were attacked, but it hadn't yet at that point reached
18 our door.

19 Q. [15:35:12] Well, I put it to you, Mr Witness, that before the 2002 events you
20 said that the UPC arrived. Well, before 2002 there were indeed -- there was indeed
21 fighting and pillaging and looting in your locality; that's the case, isn't it?

22 A. [15:35:33] No. No, I couldn't confirm that. I don't have any information
23 about that. I don't have any information about that.

24 Q. [15:35:45] And if I were to put it to you, just to jog your memory, Mr Witness,
25 on this point that toward the end of 2001 there was fighting between the APC and the

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1 Lendu combatants in your area; do you recall that?

2 A. [15:36:07] No. What I do know is that the Ugandans were in Bunia and the
3 APC in Mongbwalu, but over and beyond that I don't have anything else to say about
4 that. We heard from afar all those -- all that conflict, so this is something we heard
5 about but -- but the date -- well, that -- it happened then, but not -- didn't come all the
6 way through to us, but when it did, then we said, all right then, all this is true.

7 Q. [15:36:40] Should I then take from that that the Lendu militia never came into
8 your area before the arrival of the UPC?

9 A. [15:36:54] It was in that period of time. They came when the UPC took a city,
10 well, then they would flee to go to Mongbwalu, and in that process they spent a few
11 days with us at (Redacted). And then when the UPC soldiers arrived, well, then they
12 carried on running away, and that's how things went.

13 Q. [15:37:19] And you would be in a position to confirm that when the UPC did
14 arrive at (Redacted) there was no fighting. The UPC arrived -- we're in private session. So
15 the UPC arrived at (Redacted) and there was no fighting, was there?

16 A. [15:37:44] No, there was no fighting at (Redacted). Well, they arrived at
17 (Redacted). Well, then they started running, the people at (Redacted), but there
18 was no clash there.

19 Q. [15:38:00] So the people that fled, these are the Lendu militia you're referring
20 to; is that right?

21 A. [15:38:08] Yes, yes.

22 Q. [15:38:14] So -- I mean, this is your area after all. You lived there, you live in
23 (Redacted). You know, don't you, that at a certain point in time that the UPC
24 withdrew from that area; you know that, don't you?

25 A. [15:38:33] The UPC left the area when the Artemis military force arrived.

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1 They said that weapons shouldn't be circulating among the local populations. The
2 UPC disappeared, and then the demobilisation process began, even the demobbing of
3 child soldiers. There was -- it was the Pakistani army and the Artemis military force
4 that were disarming people.

5 Q. [15:39:11] I would put it to you that after the departure of UPC, Mr Witness,
6 and the arrival of Artemis at (Redacted), the Lendu militia arrived and pillaged and
7 ruined (Redacted). Are you in a position to confirm that? And ransacked the area.

8 A. [15:39:34] Well, I didn't see the pillaging and looting. There was breakage
9 and destruction because this wasn't an organised army. The commanders and their
10 soldiers were there, people were frightened, and their people were shooting every
11 which way, so people just left their belongings where they were and ran. That's how
12 things went. And these events took place, and I was there, because whenever there
13 was gunfire, nobody stopped them firing. If you think that you would cooperate
14 with the Gegere, if they found that out, they would kill you. If they thought that you
15 had cooperated with another group, well, you know, people were just settling scores.

16 MR BOURGON: [15:40:20] (Speaks English) If I could just have one quick moment.
17 I believe I'm done, Mr President.

18 PRESIDING JUDGE FREMR: [15:40:26] No problem.

19 (Counsel confer)

20 MR BOURGON: [15:40:43] (Interpretation)

21 Q. [15:40:44] Mr Witness, for the avoidance of doubt -- (Overlapping speakers)
22 (Speaks English) Mr President, we can return into public session please.

23 PRESIDING JUDGE FREMR: [15:40:53] Court officer, let's move into open session
24 now.

25 MR BOURGON: (Interpretation) Mr Witness, I'd just like to have confirmation of

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1 something.

2 PRESIDING JUDGE FREMR: [15:41:12] Hold on, hold on, Mr Bourgon. We are
3 still not –

4 (Open session at 3.41 p.m.)

5 THE COURT OFFICER: [15:41:14] We are in open session now.

6 PRESIDING JUDGE FREMR: [15:41:15] Now you may proceed, Mr Bourgon.

7 MR BOURGON: [15:41:25] I apologise.

8 Q. [15:41:30] (Interpretation) So, Mr Witness, I've only got one or two questions
9 left. First of all, I'd like to confirm the fact that, when, according to you at least, your
10 father disappeared and during that particular process, you never actually saw
11 Floribert Kisembo or Bosco Ntaganda at Kilo around that time; is that the case?

12 A. [15:41:54] Yes.

13 Q. [15:42:06] This morning you said -- you talked about the Shari river, and you
14 told us that everybody knew that river because of what was going on. You would
15 agree with me to say that the Shari river doesn't actually go into Kilo-État; that's right,
16 isn't it? It doesn't flow into that area.

17 A. [15:42:37] Yes, that's right. It's the road towards Bunia. If you come to Nizi,
18 you'll see the Shari river.

19 Q. [15:42:49] So the Nizi river goes through Nizi, Bambu and in that particular
20 vicinity, and then it flows about ten kilometres away from Bunia.

21 THE INTERPRETER: [15:42:59] Overlapping speaking.

22 THE VICTIM: (Interpretation) After Bambu you'll come along the shores of the
23 Shari river.

24 MR BOURGON: (Interpretation)

25 Q. [15:43:06] And it flows a few kilometres away from Bunia, but it actually

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1 doesn't go through Kilo-État; is that right?

2 A. [15:43:15] That's right. It doesn't go through Kilo-État. It goes towards
3 Bunia, and then it enters the Shari, and then if you go through Kilo and you go
4 through Bambu, Nizi, then you'll come across the shores of the Shari river once again.

5 Q. [15:43:33] And you personally, Mr Witness, you never went to actually see
6 with your own eyes the river Shari; is that right?

7 A. [15:43:48] Listen, there's a bridge, when you go towards Bunia and you go that
8 way, so when you're in a car, you'll see the Shari river that's flowing nearby. But
9 you're in a vehicle then.

10 Q. [15:44:05] Thank you, Mr Witness, nothing further.

11 PRESIDING JUDGE FREMR: [15:44:09] Thank you, Mr Bourgon. At the moment
12 we don't have complete question you put. It's page 111, line 12, but I think it doesn't
13 matter because it's agreed that it was an inquiry concerning the Shari river and it is
14 completely clear from the answer.

15 Yes, so update on timing. Mr Bourgon, you still had four minutes, so I appreciate
16 that you have saved our time, at least.

17 Now, Mr Suprun, do you want to put some questions as a re-direct? If yes, at what
18 extent?

19 MR SUPRUN: [15:44:55] (Interpretation) Yes, I do. I'll need to put one or two
20 further questions, but I'll need no more than five minutes to do so.

21 PRESIDING JUDGE FREMR: [15:45:06] Five minutes is fine. Please proceed.

22 QUESTIONED BY MR SUPRUN: (Interpretation)

23 Q. [15:45:17] Mr Witness, hello once again.

24 A. [15:45:22] Hello again.

25 Q. [15:45:25] Defence counsel has put questions to you; namely, when the UPC

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1 soldiers arrived in Kilo there was no clashes. And the second part of the question
2 was the following: When the UPC soldiers arrived in the village did the Lendu
3 fighters, did they leave the village? And you answered "Yes". Here's my question,
4 therefore: When the UPC soldiers enter the village, the Lendu civilians did they also
5 leave the village?

6 A. [15:46:08] Yes, all the Lendus fled because they were the target, those were the
7 people that they were looking for.

8 MR SUPRUN: [15:46:24] Perhaps for my next question we could move into private
9 session, your Honour.

10 PRESIDING JUDGE FREMR: [15:46:29] Certainly.

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

12 (Private session at 3.46 p.m.) *(Reclassified partially in public)

13 THE COURT OFFICER: [15:46:42] We are in private session, Mr President.

14 PRESIDING JUDGE FREMR: [15:46:44] Thank you.

15 Mr Suprun, please proceed.

16 MR SUPRUN: [15:46:49] (Interpretation) Thank you very much.

17 Q. [15:46:51] Mr Witness, the Defence counsel put another question to you,
18 namely: When you went to see the ICC outreach unit, were you paid? And you
19 answered "No." Here is my question, therefore: When the outreach unit came to
20 take victims' statements, did you go off to see them or did they come to you in your
21 village?

22 A. [15:47:22] They came to my village and I saw the film that they showed in their
23 office because that particular office, the collectivity office wasn't too far away from
24 where I lived. So people told me, they said, "Hey, why do you stay here
25 because -- in light of the problem that you encountered?" And so that prompted me

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1 to go as well.

2 Q. Mr Witness, to go and see the outreach unit staff did you incur any transport
3 costs?

4 A. [15:48:01] No, no. It's because we were told this on the radio and people were
5 talking about problems encountered by victims and villages. And I wasn't alone.
6 Villagers also came to me and said, "Look, go and explain what happened, what you
7 experienced." And that's how I went.

8 Q. [15:48:30] Defence counsel also asked you by referring you to your written
9 statement whether you were able to re-see that statement recently and you said no,
10 that you hadn't but you saw it only at the time when you filled out the statement in
11 (Redacted). Here's my question in light of that: Mr Witness, can you confirm or
12 otherwise that (Redacted) last myself, Ms Luzaisu and an interpreter came to see you in
13 the place where you currently reside?

14 A. [15:49:13] You came to see me? Would you mind putting your question
15 again.

16 Q. [15:49:18] My question is the following: Can you confirm or otherwise that
17 (Redacted), myself, Counsel Luzaisu and a Swahili-French interpreter
18 came to meet you?

19 A. [15:49:41] That's true, you came, you came to greet me, but it was a fleeting
20 visit. You had something to do, but you came to see me nevertheless.

21 Q. [15:49:54] Could you confirm or otherwise that during the meeting that we
22 had with you, therefore, that we asked the interpreter to read back your statement to
23 you in Swahili? Could you confirm or otherwise that?

24 A. [15:50:15] Listen, this statement -- but what statement are you referring to?
25 You know since I left (Redacted), even up until the time I came here I hadn't read the

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1 statements. Perhaps I -- I didn't really understand your question as I should have.

2 Q. [15:50:35] I'll put my question again: Do you remember that in (Redacted) we
3 filled out with you a written statement; do you remember that?

4 A. [15:50:50] Okay.

5 Q. [15:50:50] Now, talking about that document, was that statement read to you
6 in French and translated back to you in Swahili (Redacted) at the time we met?

7 A. [15:51:06] Yes. It was read back to me to check whether that corresponded to
8 what I had said and I said "Yes" and then the signature is mine.

9 Q. [15:51:17] Thank you very much, Mr Witness.

10 MR SUPRUN: [15:51:20] (Interpretation) Nothing further, your Honour.

11 PRESIDING JUDGE FREMR: [15:51:21] All right. Thank you.

12 Does Prosecution have any additional questions? Ms Samson?

13 MS SAMSON: [15:51:28] No. Thank you.

14 PRESIDING JUDGE FREMR: [15:51:29] All right.

15 Now, Mr Bourgon, any need for re-cross?

16 MR BOURGON: [15:51:38] No, Mr President.

17 PRESIDING JUDGE FREMR: [15:51:39] All right then.

18 Let's move back into open session.

19 (Open session at 3.51 p.m.)

20 THE COURT OFFICER: [15:51:49] We are in open session, Mr President.

21 PRESIDING JUDGE FREMR: [15:51:57] Thank you, court officer.

22 Mr Witness, it concludes your testimony. On behalf of the Chamber, I would like to
23 thank you very much. I can imagine that today it was a very hard day for you
24 because you had to answer hundreds of questions, but we appreciated that you
25 remained focused, concentrated and that you tried to clearly answer all those

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1 questions. And we believe that your testimony will assist us in our effort to find the
2 truth in this case. So thank you very much once more and we wish you a safe trip
3 back home.

4 And now, court usher, please assist --

5 THE VICTIM: [15:52:44] (Interpretation) Thank you very much.

6 PRESIDING JUDGE FREMR: [15:52:49] -- Mr Witness to leave the courtroom.

7 (The victim is excused)

8 PRESIDING JUDGE FREMR: [15:53:24] Now I can state that this testimony or
9 concluded testimony also concluded presentation of evidence by the Legal
10 Representative of Victims of the attacks, so I highlight that any related deadlines
11 therefore start running as of today.

12 And now I would like to turn to the last issue on the agenda that we indicated before.

13 On Monday the Prosecution requested certain orders to be made relating to the
14 Defence provisional list of witnesses and summaries filed on 31 March 2017, the same
15 day the Chamber invited the Defence to respond orally at the end of the hearing on
16 Wednesday.

17 So, Mr Bourgon, can you please do so now. And please bear in mind that we are in
18 the regime of open session.

19 MR BOURGON: [15:54:38] Thank you, Mr President.

20 Yes, indeed, I am in a position to respond to the request or urgent request presented
21 by the Prosecution.

22 As a preliminary observation, I would say, Mr President, that this request is
23 premature. The order that was issued, or the instructions issued by the Chamber at
24 the end of January of this year included two deadlines and, of course, the first
25 deadline we were not expected to provide all of our list. We are expected to provide

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1 all of our list or our final list on 26 April.

2 With respect to the fact to the main argument of the Prosecution, which I believe is
3 that the summaries failed to comply with the Chamber's order because they are
4 insufficiently detailed and comprehensive, we respectfully disagree with the position
5 put forward by the Prosecution.

6 But before going into the details of our submission, it must be -- as it is laid out in the
7 Prosecution request, we submitted our list on 31 March and before the ink was dry
8 we had a response back asking for further information. And then we responded as
9 quickly as we could on Monday morning, which happens to be 3 April, and we
10 responded candidly to the request for information. Asked if the summaries were
11 provisional, we said yes, yes, they are provisional, you have two that do not have the
12 word "provisional", they're final, and those that have the word "provisional", they are
13 complete based on what we have now, but if we do find more information before the
14 deadline, then of course we will complete the information and we will remove the
15 word "provisional".

16 Asked about dates and places of residence, again, we responded as quickly as we can
17 and we provided information to the Prosecution in the form of a chart. We did
18 not -- when I sent that chart to the Prosecution, I did not send it initially to the LRV
19 so, of course, teamwork being I immediately received an email saying don't forget my
20 buddy LRV, so we immediately sent it to LRVs, and then LRVs responded back
21 saying no, no, no, don't forget us, we won't --

22 PRESIDING JUDGE FREMR: [15:57:49] Mr Bourgon, sorry to interrupt you. You
23 know, I fully respect that you are a person of vivid temperament - by the way, so am
24 I - but, you know, my concept of dignity in the courtroom require to be a bit moderate,
25 so please try to refrain from those expressive gestures, with due respect. Please

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1 proceed.

2 MR BOURGON: [15:58:15] Thank you, Mr President. All this to say that we will
3 not forget our friends Legal Representatives of the Victims and we will provide them
4 at all times all the information that we provide to the Prosecution. But that request
5 had come directly from Prosecution and there was not much more that we did send.
6 However, we did respond again candidly. And now we received this request.
7 So I think this -- our efforts to comply and our efforts to satisfy the Prosecution I think
8 must be taken into consideration.

9 Now, looking at the -- on the substance of the Prosecution's argument, they say that of
10 course the summaries are to be appropriate replacements for a statement, that they
11 must contain a comparable level of detail regarding what the witness is expected to
12 say in his testimony.

13 Well, we disagree with this position, Mr President. This position does not meet the
14 case law, the jurisprudence developed either before the ICC or before the other ad hoc
15 tribunals which have operated before the ICC. A summary is a summary. And we
16 believe that we have respected what we are asked to provide in summaries based on
17 these instructions from the Chamber, as well as based on the guidance provided by
18 other Chambers before this institution.

19 The -- we could look, for example, in Katanga and Ngudjolo. The Chamber ordered
20 that the summaries contained should have the key elements of each witness
21 testimony, should have a description on facts on which each witness will testify and
22 the personal history and background of the witness.

23 Never has it been said in Katanga and in Ngudjolo or in other places that the
24 summaries should have a comparable level of detail as witness' statement. Now, the
25 reason for this is obvious. We are not in a position with Prosecution with unlimited

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1 staff and unlimited budget to work with unlimited time in the field, so we get the
2 information that we can, and we provide sufficient for the Prosecution to do its work.
3 Taking Witness D-0004, as an example, I believe at this point in time I need to go into
4 private session.

5 PRESIDING JUDGE FREMR: [16:01:14] All right.

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

7 (Private session at 4.01 p.m.) *(Reclassified partially in public)

8 THE COURT OFFICER: [16:01:23] We are in private session, Mr President.

9 PRESIDING JUDGE FREMR: [16:01:31] Thank you, court officer.

10 Mr Bourgon, please.

11 MR BOURGON: [16:01:34] Thank you, Mr President.

12 So I use Witness D-0004 as an example. Now, in that summary, we mention that he
13 was in the APC prior to being with the UPC. And we believe that this meets the
14 request for personal history and background. We mention that he is expected to
15 testify about his training in Tchankwanzi, his arrival in Bunia in 2002, the training
16 camps in Mandro, (Redacted) the

17 exchange of personnel between Bunia and Aru in October 2002, the fighting between
18 the UPDF and FPLC in Bunia in March 2003. We believe that these issues meet the
19 requirements of key elements of the witness' testimony.

20 We also mention in that summary that he arrived in Bunia along with APC members.

21 We also talk about APC attacks in 2002 on the training camps in Mandro. And we
22 mention his role as (Redacted)

23 (Redacted) his knowledge of UPC/FPLC documents and his knowledge of

24 documents and meetings in which demobilisation of children under the age of 18 was
25 discussed.

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1 Now, just with this latter part, concerning these documents, the Prosecution knows
2 very well that this witness (Redacted)
3 (Redacted)
4 (Redacted). So they know that this witness will come and will testify.
5 What more do they need? I don't know, Mr President. But what they're asking
6 beyond this information is they're basically asking for a statement without a
7 signature. But there is a difference between a statement and a summary. And we
8 will endeavour to provide as much information as we can.
9 The Prosecution also, going into some of their critique, they say that our summaries
10 fail to identify what concretely the witnesses are expected to say.
11 Well, if I look at D-0033 what -- because they base their argument on three witnesses,
12 D-0033, D-0004, and D-0017. What we believe is the observations of the Prosecution
13 go beyond what we are expected to say in relation to areas, topics and subjects. And
14 they go beyond what is a disclosure obligation as described by this Chamber and as
15 described by other Chambers.
16 Looking at D-0020, we mention that he's expected to testify about (Redacted)
17 (Redacted).
18 Mr President, when P-0010 testified before this Chamber, it was a main issue of
19 cross-examination that what information she provided was false because we had
20 obtained information from a witness, and we mentioned the name of the witness
21 during that testimony. The Prosecution knows that D-0020 (Speaks French)
22 (Redacted)
23 (Redacted)
24 If I look at again D-0020, this man, (Redacted). So what was mentioned
25 in cross-examination, which is what we want to lead in this case, the Prosecution

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1 knows. (Redacted), they were there and they know. So we believe
2 that we have given sufficient information with respect to his expected testimony.
3 A second issue, the Prosecution say that our summaries lack references to key dates
4 and ages. They mention, for example, D-0004, and they say that no date is provided
5 for his membership in the APC or for (Redacted)
6 (Redacted).
7 Well, I don't think we have an obligation to provide such level of detail for these
8 witnesses.
9 The Prosecution also says that no dates are provided about alleged attacks for four
10 witnesses: D-0052; D-0053; 0054; and 0055.
11 This issue about these four witnesses, and it will come later in the third Prosecution
12 critique or challenge to our summaries, was raised in cross-examination. We are not
13 talking about attacks that were conducted either by the attacks that are relevant to the
14 charges in the sense that they were by UPC or that UPC was a victim; we're talking
15 about a different event. And the information was provided when we did raise this
16 issue in cross-examination. The issue is simple. (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted). This is mentioned in the summaries, and I don't think that the
20 Prosecution needs further evidence, including the fact that I -- I think we did mention
21 that these events took place in 2002.
22 If I look at the -- Prosecution says that 0172, he's expected to testify about his age at all
23 times, but the summary does not state what that age is.
24 I don't think, Mr President, it will be much of a surprise to say that he was over the
25 age limit fixed by the charges when -- in -- during the events that he will testify about.

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1 This is an important issue in this case, the age of persons, and if we ask a witness to
2 come and testify about his age and about where he was at the relevant time, it is very
3 easy to know that this individual came back to Bunia from the training and when he
4 came back he was not recruited contrary to Prosecution allegations. And his age fits
5 what we need to put in terms of information. We did not breach any disclosure
6 obligation by not providing more specific information.

7 Again, the third Prosecution challenge goes to these summaries which would not be
8 specific enough for the four persons testifying about attacks in the area of Mandro.

9 The Prosecution raises the word *tu quoque*. It is not *tu quoque*, has nothing to do
10 with *tu quoque*. It has to do with the *mens rea* of Mr Ntaganda in terms of -- and the
11 *mens rea* of where we can express to see if there was a common project or not.

12 The fourth Prosecution critique is that the summaries are silent on crucial topics.

13 They say that the Prosecution use, as example, 0017 and 0020, who are -- (Redacted)
14 (Redacted). And they say their summaries are
15 silent about (Redacted) or on the issue of sexual violence.

16 Do they really need to know? They will have an opportunity to cross-examine (Redacted)
17 (Redacted); that they will have an opportunity to
18 cross-examine those who were with the accused at the relevant time. And these
19 people, of course, they're not going to come and say, well, I -- I can't -- based on their
20 summary, they will not talk about issues that will undermine the Defence case. The
21 Prosecution knows this. The Prosecution is well aware that our position concerning
22 the age of the recruits and (Redacted), it is clear in our view that (Redacted)
23 (Redacted). If the Prosecution thinks that any of the witnesses
24 we will call will say "(Redacted)." Well, I don't think,
25 Mr President, I need to go further with this argument.

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1 I go to -- in terms of the biographical information requested, we will, if the
2 Prosecution has any question that they think we can help them in order for them to
3 fulfil their duty, we will gladly respond. We will gladly also, where we obtained
4 further information, we will gladly provide further information between now and 26
5 April in these summaries.

6 The second main challenge of the Prosecution -- I move away now from the fact that
7 the summaries would not be sufficiently detailed. I address now the justification for
8 the redactions of the identity of four of the 16 witnesses, or the lack of corresponding
9 time in summaries.

10 Mr President, we've mentioned in our 31 March submission who these witnesses are
11 and the reason why we did not want to provide their names to the Prosecution at this
12 point in time. So the argument is found in our 31 March submission. We've
13 expressed that to the Prosecution. But also we made it clear to the Prosecution that,
14 in our view, and the Chamber can correct us if we are wrong, we understood from the
15 wording of the Chamber's instruction that the 31 March submission could include ex
16 parte witnesses at that point in time.

17 If we come to 26 April, and on 26 April we still believe that these witnesses must
18 remain ex parte in the sense that their identity or more should not be revealed, then,
19 of course, we will make the necessary application before the Chamber to say that
20 these names should not be given and we will explain why. And then we will
21 provide either a summary or the corresponding information to the Prosecution.

22 Then, of course, if the Chamber says that we are wrong and that we have to give or
23 give more, then, of course, we will oblige with the Chamber's directive.

24 The third main challenge of the Prosecution refers to witnesses D-0178 and D-0179
25 who the Prosecution argues should not be heard. The Defence was authorised by the

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1 Chamber to present this evidence with Prosecution witnesses.

2 So during our cross-examination we have shown pictures and we have asked
3 witnesses to comment on those pictures, and then we mentioned to the -- to the
4 witness, well, for your information, the witness is X age, which might have been
5 different or not from the question that we put.

6 So this evidence was heard and was authorised by the Chamber. We are fully -- we
7 fully acknowledge that the Chamber said that they didn't believe that this had much
8 probative value. We know about this.

9 PRESIDING JUDGE FREMR: [16:15:45] Mr Bourgon, sorry to interrupt you, just
10 one question: What, according your concept, this evidence should prove, the ability
11 of those Prosecution witnesses to estimate age of the concrete persons on those
12 pictures, or the fact that there are existing people who look much -- either younger
13 than they really are or much older than they really are?

14 MR BOURGON: [16:16:14] Mr President, these -- this will only establish what we
15 put to witnesses in cross-examination, nothing more. And we hope to proceed by
16 way of 68(2)(b) and we assume that unless the Prosecution has doubts and they want
17 to -- they want to oppose our motion for 68(2)(b) then of course they can do that, but
18 all we want to do is, we want to establish that what we have been using is what we
19 have been using.

20 So if I put a proposition to a witness in cross-examination, I did today and I did
21 throughout the Prosecution's case, I put to the witness, "I tell you that I know this
22 gentleman and that this gentleman told me that your car was red." Okay. The
23 witness says, "I don't believe you" or "I disagree." Fine. If I don't then put in
24 evidence that the car was red by bringing a witness or a document, then the question
25 that I put to that witness is useless.

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1 PRESIDING JUDGE FREMR: [16:17:18] Thank you.

2 MR BOURGON: [16:17:20] So that's what we want to do with these witnesses and
3 hopefully we can proceed only on paper and file the statements and the documents
4 that will attest to the veracity of the -- what the propositions we put to certain
5 witnesses.

6 Prosecution talks about the failure to disclose all material in its possession. Well, the
7 deadline for disclosure is 26 April 2017. That's the first comment. So, again, we
8 believe that the objection or the Prosecution's request is premature.

9 If -- we've disclosed so far one document. Our obligation and the instructions of the
10 Chamber are clear: You have to disclose what you have in your possession -- and
11 that meets -- and to do disclosure on a rolling basis. We are doing our best to do so.
12 At this point in time, we do not have more information, but by the 26th we will
13 have -- we will have more, not much more, but we will have more, and we are really
14 working very hard to obtain these documents so that we can put them on to our list.
15 Now, regarding the list, of course it has to be borne in mind that this Chamber took a
16 position that is different from other Chambers in the sense that the list of evidence has
17 no beginning and no end. The Prosecution was authorised to add any document to
18 its list at any time. We figured that the same applies to us. The Defence was told
19 that you may, of course, object to the use of any document at any time. We figured
20 that the Prosecution will do the same and object to any document at any time added
21 to the list. But we will endeavour to complete our list by 26 April.

22 The last Prosecution challenge is where we said that we might not be able to have a
23 completed list by 26 April.

24 Mr President, the Chamber denied our request seeking leave to appeal its decision. I
25 haven't read the decision yet. I will do so once I leave this courtroom. We've

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1 expressed on many occasions that we do not have enough time, that we are
2 experiencing problems, that the issue of the conversation and the restrictions
3 litigation and the Prosecution's Article 70 investigation and all related issue creates
4 for us major difficulties. They are not insurmountable, but with the time that we
5 have, they are, indeed, very difficult.
6 We could not say a word. We could have not mentioned this in our 31 March
7 submission. You mentioned a little earlier that I was a passionate lawyer. I'm
8 passionate, yes, but I also respond candidly to information and I offer information.
9 When I'm not ready, I can look at the Chamber upfront and say, "I'm not ready."
10 You might decide otherwise and you might give orders otherwise. I'm assuring you,
11 Mr President, that we are doing our best to try and meet.
12 And should we meet our obligations of 26 April then of course we understand, we
13 know the rules and we play by the rules. If we meet the 26 April deadline, we will
14 have to make an application for any additional witness that we put on that list. So
15 we will file the application, we will say why it is out of time and then the Chamber
16 will decide, to say we are not going to hear this witness or we will hear this witness.
17 The Prosecution will object, of course, the Legal Representative will object, we know
18 that, then the Chamber will decide and we will act accordingly.
19 We will do our best to have everything done by 26 April. I can say today that the
20 position of 31 March has not changed. I doubt it that we will be able to put all
21 witnesses.
22 I will not include a witness on a list, Mr President, unless I am at least comfortable
23 with what the witness can offer in terms of evidence and also what the witnesses
24 might have in -- we say "squelettes dans le placard" that we don't know about that
25 might give information to the Prosecution or might allow the Prosecution to destroy

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1 his credibility.

2 I feel that as the counsel representing Mr Ntaganda, I must verify these things before I

3 put the name of a witness on a list. Two things must be said in this regard: First of

4 all, of course the Prosecution objects in us getting more time, but then they say that

5 we have to fulfil our obligation despite the fact that we do not have enough time.

6 Well, we can't have it both ways; you can't have your cake and eat it too. You object,

7 then of course you can't be surprised that if I say, "I don't have enough time",

8 Prosecution says, "You do have enough time", and then something happens. They

9 might disagree, but they can't be surprised by taking a position and by objecting to

10 every single request that the Prosecution -- that the Defence is putting forward.

11 The last comment I will have, Mr President, with respect to the Prosecution request, it

12 has to do -- there is a link, Mr President, between our motion seeking a stay of

13 proceedings and the Prosecution request for further information or for orders related

14 to the Defence confidential -- further provisional list of Defence witnesses.

15 We believe, Mr President, that you have the motion before you. I'm not going to say

16 anything about the motion, but I will say that it is, in our view, very awkward for the

17 Prosecution to make these kinds of request knowing that they have in their

18 possession since September 2015 conversations of Mr Ntaganda that we were not

19 aware of and that contain every possible argument that we will make during our

20 Defence case. They know that. How can they complain about lack of details, I

21 would say artificially based on this document, when they already have all of this

22 information and they had this information during the presentation of their case? We

23 believe, Mr President, that this must be borne in mind because in our view this trial

24 should stop right now.

25 Thank you, Mr President.

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1 PRESIDING JUDGE FREMR: [16:25:16] Thank you, Mr Bourgon.

2 Before I will give the floor to Ms Samson, do Legal Representative -- before that, Legal

3 Representative, do you want also to present your position on just briefly? Ms Pellet.

4 MS PELLET: [16:25:32] (Interpretation) Thank you, Mr President. In view of the

5 fact that the representative of the Defence has talked about the email that was sent, it

6 was just an email, not at all to reprimand him, to remind him that in order to

7 effectively participate in the trial, in the presentation of the Defence case, we were

8 also in the need with regard to information, because the list was, in effect, a minimum.

9 And if he thought that we were reprimanding him and rapping him on the knuckles

10 and that we should be banded together with the Prosecution, well, that is regrettable.

11 PRESIDING JUDGE FREMR: [16:26:16] Thank you, Ms Pellet.

12 Mr Suprun.

13 MR SUPRUN: [16:26:21] (Interpretation) Mr President, very briefly, because now

14 the question at hand is whether the Defence is able to fulfil its obligations in terms of

15 disclosure. Today we have heard some passionate submissions on the part of the

16 Defence saying that there was a lack of information being disclosed. It is very

17 important to underscore that not only does the Defence have rights but also

18 obligations and that a fair trial should not also only apply to the Prosecution but also

19 to the Defence and also to the LRVs, which means to say that we always need to fulfil

20 our obligations. And I would like to underscore the fact that contrary to the

21 Prosecution and the Defence, the LRVs still have even fewer resources than the

22 parties.

23 PRESIDING JUDGE FREMR: [16:27:27] Thank you, Mr Suprun.

24 Now floor goes to Prosecution. Ms Samson, please.

25 MS SAMSON: [16:27:32] Thank you, Mr President. I will endeavour to be quite

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1 brief. I don't intend to repeat these submissions that we've set out in our filing.

2 I'll respond solely to the submissions made by Defence counsel.

3 So the Defence's initial position is that the request is premature. The Prosecution

4 does not agree with that qualification. Mister -- pardon me, the Defence counsel

5 indicated to us that where the word "provisional" appears in a summary, that means

6 that they may supplement the information; where it does not appear, then it's a final

7 summary.

8 So for eight, in fact eight of the 12 summaries that we have, the word "provisional"

9 does not appear, which means that concretely as of this day, those eight witnesses, we

10 have their summaries in the final form and, therefore, the issue arises now and we

11 don't have any further time to waste in order to get more information from the

12 Defence, meaningful information that we can use to pursue legitimate investigative

13 inquiries in advance of the examination of these witnesses.

14 So that's a first point.

15 A second point is that we have not based our arguments on the summaries of three of

16 the Defence witnesses, as the Defence contended. We were very clear in paragraph

17 22 of our filing that all 12 summaries in our submission are deficient. And we have

18 attempted to illustrate that for the Chamber by way of examples, concretely, from, I

19 believe, pretty much all of those summaries, but we've grouped them together

20 throughout the filing. So I'd like to clarify that point.

21 Thirdly, your Honours, the Defence has gone through the ways in which it assesses

22 the summaries as being sufficiently detailed, but as we've set out an elaboration of

23 neutral topics on which a witness is likely to give evidence without descending into

24 any detail about what that witness will actually say on a topic does not provide the

25 Prosecution or the legal representatives, and I would also submit, nor the Chamber,

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1 with an opportunity to prepare meaningfully as to what that witness will say. And
2 we've been comprehensive in examples in our filing.
3 In my submission, unless ordered to do so concretely by the Chamber in the
4 short-term, the Defence will maintain its position that the current summaries are
5 sufficient and will not provide any further meaningful assistance to us.
6 And I think that this observation I've just made is clear through, in particular, two
7 comments that Defence counsel made today. First he, in talking about dates, he said
8 that the Defence in his view has no obligation to provide dates. Well, we need to
9 have some meaningful limits and focus on the time periods specifically that these
10 witnesses are coming to talk about. But we don't have those right now. And
11 although we recognise that there are differences overall in the disclosure obligations
12 of the Prosecution versus Defence, procedure fairness dictates that we get access to
13 sufficient information to allow us to prepare before the Defence witnesses come.
14 It's not a trial by ambush, it's not a trial by surprise, nor is it a trial by
15 you-should-know-what-the-witness-is-going-to-say. And that's the second of the
16 two comments I wanted to highlight from the Defence's submission today.
17 In relation to one of the expected Defence witnesses, who is one of Mr Ntaganda's
18 bodyguards allegedly, Defence counsel said, does the Prosecution really need to
19 know whether or not this witness will say that the children in the escort were over the
20 age of 15 or whether or not this witness will talk about sexual violence having been
21 committed or not by the troops.
22 Well, the answer to that is yes; we really do need to know what the witness is going to
23 say. And it is not about the Prosecution making a guess, even if we can say it is an
24 informed guess, about what that witness is about to say. And so these two
25 comments, in my submission, highlight the interpretation and slant being put by

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1 Defence counsel on its obligations. And I think that this ought to be corrected.
2 For instance, again, the Defence counsel notes in passing that (Redacted)
3 (Redacted). But this is not information that the Prosecution had before
4 today.
5 In relation to how much information the Defence likely has at its disposal now,
6 Defence counsel made a point at the very end of his submissions that he will not put a
7 witness forward unless he's sufficiently comfortable in what that witness is going to
8 say and what could be potentially exculpatory against that witness. So to my ears,
9 that spells that Defence counsel has more information in his possession about what
10 these witnesses are going to say, and he ought to be instructed to provide it in a more
11 meaningful form. The jurisprudence that the Prosecution has set out in its filing is
12 clear enough on its own that a sufficient level of detail is necessary. It does not in all
13 cases need to be a statement, but it does need to provide information as to what issues
14 the witness is likely to speak of, and not just neutral topics but details about them.
15 And many other details that we don't have, occupation, where they were at a given
16 time, relationship to the accused, and relevance to the charges, which are not clear at
17 the moment. So that is all I wish to say in relation to the first issue.
18 On the issue of redactions to the witnesses in the Defence's list, we've made the
19 argument that there ought not to be redactions at this time unless they've been
20 approved by the Chamber. So short of the Chamber authorising an application
21 being made and an authorisation by the Chamber, identity redactions are
22 non-standard redactions under the protocol, and it is insufficient for the Defence
23 to -- to impose a redaction to identity that has not been Court sanctioned.
24 We take strong opposition to the Defence's proposition that by 26 April it may still
25 seek to redact identities of its witnesses from the Prosecution. The Prosecution

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1 certainly was not able to do so, and absent extraordinary circumstances, the Defence
2 ought to be preparing for full disclosure to the Prosecution and the LRVs, certainly as
3 of April 26th but I would also say as of today.

4 On the fourth issue, in relation to Defence witnesses 178 and 179, I do not have much
5 to add but for the fact that the Prosecution opposes, as we've indicated, any
6 admission of the evidence from these two witnesses, either oral or via Rule 68(2)(b),
7 not only because of the Court time being wasted if they were to be called, but also by
8 the flooding of the record, if the information were to be put on the record, in breach of
9 Rules that we say are important to ensure the focus of the Court record and not to
10 elicit evidence on issues that are collateral to main issues.

11 And then the very last point that I would like to address has to do with disclosure.

12 It's true we've received to date two documents, but several of the witnesses on the
13 Defence's witness list could be document-heavy witnesses, and I refer in particular to
14 Defence witnesses 33 and 17.

15 What the Prosecution wishes to avoid is a situation where on 26 April we receive
16 extensive amounts of documentary evidence disclosed to us at that point that could
17 have been disclosed to us earlier. And if that is the case, we will be making requests
18 to find out when precisely those documents were in the possession of the Defence
19 team because we, to prepare meaningfully, we really do need to get as much
20 information as possible now, both in relation to anticipated oral evidence but also in
21 relation to documentary evidence or video evidence or photographic evidence or
22 tangible evidence that the Defence wishes to admit or will try to admit during the
23 course of the proceedings.

24 So subject to any further questions you may have of me, those are the submissions I
25 wish to make.

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1 PRESIDING JUDGE FREMR: [16:37:27] Thank you, Ms Samson.

2 Before we conclude, Mr Bourgon, do you want, because in fact Ms Samson mainly
3 insisted on what is already contained in the Prosecution written submission, do you
4 want to react? If yes, please briefly.

5 MR BOURGON: [16:37:44] Well, just one brief comment because I don't want to
6 reply to something to which I've already responded, but it is the issue that clearly the
7 Defence has more in its possession.

8 I think that this isn't an appropriate comment. The comment I made about not
9 calling a witness without being comfortable with the information I have on the
10 witness, that's before I put the number of the witness on the list. Once I put a
11 witness on a list, it means that I have reached that threshold of having sufficient
12 information to be comfortable, but if the witness is not there, that's what I'm talking
13 about when I say we might not be finished. So where the Prosecution has summaries
14 that do not have the word "provisional" -- I was checking the word eight on the list,
15 and I think my colleague is right with eight. These eight summaries are complete
16 based on what we have. The other summaries where it says "provisional", they are
17 complete with what we have but we are -- it is likely or could be possible that we
18 could obtain more and complete these summaries. But as I said in the email they're
19 for all intents and purposes, complete but we might have more, so then we put the
20 word "provisional". So that's all I wanted to add. We do not have something in our
21 possession that we have not given in respect of the witnesses on that list. Thank you,
22 Mr President.

23 PRESIDING JUDGE FREMR: [16:39:21] Thank you.

24 So I thank all of you for your submissions. The Chamber in fact will deliberate just
25 after this session or start its deliberation on this issue.

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1 We would like to and we are aiming to provide you with our decision on that issue as
2 soon as possible. We are very well aware of the importance even of the issue of time
3 concerning that issue. And we still will attempt at least to provide you with this
4 position of our decision before the Easter recess, but I can't commit to that. It
5 depends how this position will look like. The Chamber is also mindful that the
6 Defence request for a stay of proceedings is pending. Naturally, the Chamber strives
7 to issue a decision on this request for which the Defence reply we receive as soon as
8 possible as well.

9 For the moment, however, without prejudice to the Chamber's decision on the request
10 for stay and noting that the Defence request for leave to appeal the Chamber's
11 decision regarding the commencement of the Defence case was rejected earlier today,
12 the parties should continue, and please have it in mind, the parties should continue to
13 prepare for the Defence case, taking into account the dates and deadlines as
14 previously communicated by the Chamber.

15 Prior to start of the Defence case, if any, the Chamber will likely hold a status
16 conference. Until such time we adjourn. And since today we met for the last time
17 before the Easter holidays, allow me to wish you and your families a happy Easter.
18 And now Court is adjourned.

19 THE COURT USHER: [16:41:25] All rise.

20 (The hearing ends in private session at 4.41 p.m.)

21 RECLASSIFICATION REPORT

22 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
23 the public reclassified and lesser redacted version of this transcript is filed in the case.