

Trial Hearing
WITNESS: DRC-OTP-P-0018

(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, 29 June 2016
- 9 (The hearing starts in open session at 9.34 a.m.)
- 10 THE COURT USHER: All rise.
- 11 The International Criminal Court is now in session.
- 12 Please be seated.
- 13 PRESIDING JUDGE FREMR: Good morning, everybody.
- 14 Court officer, please call the case.
- 15 THE COURT OFFICER: 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: Appearances, please.
- 20 MS LUPING: Good morning, Mr President, your Honours. Appearing on behalf of the
- 21 Prosecution this morning is the same team as yesterday, so that's myself, Dianne Luping,
- 22 Ms Marion Rabanit, Ms Selam Yirgou and Ms Laura Morris.
- 23 PRESIDING JUDGE FREMR: Thank you very much. And if the appearances are the
- 24 same there is no need to repeat, but I appreciate your preciseness.
- 25 Now Defence, please.

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1 MR GOSNELL: Good morning, Mr President. Good morning, your Honours. Same
2 appearances as yesterday for Mr Ntaganda, and he is, himself, present as well.

3 PRESIDING JUDGE FREMR: Thank you, Mr Gosnell.

4 And Legal Representative of Victims.

5 MR ABDOU: Good morning, Mr President. Good morning, your Honours. For the
6 former child soldiers same as yesterday.

7 MS GRABOWSKI: Good morning, Mr President, your Honours. For the victims of the
8 attacks today Ms Alyssa Currier, intern, and myself, Anne Grabowski, associate legal
9 officer with the Office of Public Counsel for Victims. Thank you.

10 PRESIDING JUDGE FREMR: Thank you, Mr Abdou. Thank you, Ms Grabowski.
11 Before we move to the rest of cross-examination of Witness P-18, I would like to inform
12 you that the Chamber just got recent information that the next witness on our list, which
13 is Witness P-850, very likely will not testify today as we planned. To be absolutely open,
14 we don't have any detailed information and we ask to be provided with more detailed
15 information. So we will then inform you as well and to find a solution it will be mainly
16 driven by those information. So please be patient. As soon as we will get more
17 information we will inform you and we will see what we can do in order not to get any
18 further delay.

19 Now, Mr Gosnell, I note that I am repeating myself, but just to remind you, you still have
20 at your disposal 1 hour 37 minutes.

21 And as usually, Ms Luping, again, it's a bit premature, but anyway, do you envisage any
22 need for re-examination?

23 MS LUPING: Mr President, your Honours, at this stage the Prosecution does not intend
24 to conduct any re-examination. Obviously it will depend on the remaining
25 cross-examination this morning.

1 PRESIDING JUDGE FREMR: All right.

2 And, Madam Witness, good morning. Are you feeling well today?

3 WITNESS: DRC-OTP-P-0018 (On former oath)

4 (The witness speaks Lingala)

5 THE WITNESS: (Interpretation) Good morning, your Honour. I feel very well.

6 PRESIDING JUDGE FREMR: I am really glad to hear that.

7 It's again my legal duty to remind you that you are still under oath, which means that you
8 have to speak the truth and nothing but the truth. Do you understand?

9 Very well.

10 THE WITNESS: (Interpretation) I've understood you well, your Honour.

11 PRESIDING JUDGE FREMR: Well, so now, Mr Gosnell, you have the floor, and habitual
12 question: Do you want to or do you need to continue in private or in open session?

13 MR GOSNELL: Initially in private session, Mr President.

14 PRESIDING JUDGE FREMR: All right then.

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

16 (Private session at 9.39 a.m.) *(Reclassified partially in public)

17 THE COURT OFFICER: We're in private session, Mr President.

18 PRESIDING JUDGE FREMR: Thank you, court officer.

19 Mr Gosnell, please proceed.

20 MR GOSNELL: And just for your Honours' indication and my colleagues from the

21 Prosecution, I should be able to wrap up comfortably within this session. I just wanted
22 to let you know.

23 QUESTIONED BY MR GOSNELL: (Continuing)

24 Q. Good morning, Madam Witness.

25 I just have one more question to ask you --

1 A. Good morning.

2 Q. -- about the attack upon you that you've described and you described having been
3 attacked by a soldier with a rifle on his back. And what you said at transcript 111, page
4 10, starting at around line 8, you say, "But I continued to fight and he started to show me
5 his weapon and to terrify me, to scare me with his weapon, but I continued to fight back.
6 He shot his weapon (Redacted)."

7 Do you remember having said that yesterday?

8 A. I said it, and I said that it happened in that way when I met the investigators of the
9 Office of the Prosecutor for the first time, but I didn't say all the details which led up to the
10 rape by my aggressor. I didn't state that the first time that I met the representatives from
11 the Office of the Prosecutor.

12 Q. Yes, I understand. And what I'm focusing on now is the aspect that it was the
13 person who was assaulting you, who was aggressing you, who was raping you who is
14 also the one who (Redacted)?

15 A. Yes, that's the person.

16 Q. And he was the only person attacking you at that time?

17 A. I fought against him. I struggled against him. The others were not in the area.
18 There were just two of us at the place where I was struggling against him.

19 Q. May we have DRC-OTP-0096-0116 please, Prosecution tab 1. If we could please
20 turn to ERN page 0123, which is page 8 on the document, also paragraph 38.

21 And, Madam Witness, I do understand that you don't describe the rape in your first
22 statement to the Office of the Prosecutor in (Redacted), but here is what you do say in respect of
23 how you were (Redacted). You say as follows:

24 (Interpretation) "A short time afterwards these same three militiamen advanced towards
25 me. One of them ordered me to put my child on the ground, but I refused."

1 (Speaks English) And then you go on, and I won't say all the words in between, but then
2 you say:

3 (Interpretation) "Angered by my reaction, he pointed his rifle *at my forehead and said
4 in Swahili even if he killed me, nothing was going to happen to him. I didn't answer.
5 He tried to get past me to make me fall, but I avoided him. The other two militia who
6 were with him watched without doing anything. They were laughing. I started to
7 scream and another of the three tried to fire his weapon, an SMG, against my head, but as
8 I was fighting, (Redacted)."

9 (Speaks English) Can you see here first of all that here you've described that there are
10 three people attacking you when you (Redacted)?

11 A. I said that I fought back against a soldier. The others were standing, they were
12 laughing. The person who was attacking me, that was the person with the weapon and
13 that was the person who (Redacted).

14 Q. But here it says:

15 (Interpretation) "Another of the three tried to fire his weapon."

16 (Speaks English) So was it the person who was attacking you who (Redacted)
17 (Redacted), or was it one of the other individuals?

18 THE INTERPRETER: The English booth is receiving no interpretation from the Lingala booth.

19 PRESIDING JUDGE FREMR: Lingala booth, interpretation of the last witness response.

20 THE WITNESS: (Interpretation) *It was me. I was struggling with him. The two others
21 were standing, watching and laughing. They stood there, laughing. My attacker, that was
22 the person who (Redacted). The two others were there. They were laughing.

23 MR GOSNELL:

24 Q. Well, at page 5, line 23, of today's transcript you said, quote:

25 "The others were not in the area. There were just two of us at the place where I was

1 struggling against him."

2 Are you now saying that there were other people present when you were attacked?

3 A. There were other people. There were lots of them.

4 Q. And the person (Redacted) you say was the person who was attacking you
5 physically and not any other person; do I understand that correctly?

6 A. That's correct.

7 Q. But you appear to have said differently in (Redacted); do you see that?

8 A. It could be an error, an interpreting error because at the time I gave my statement I
9 had an interpreter. Maybe it's an interpreting mistake.

10 Q. Do you know what happened to your child after (Redacted)?

11 (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

22 (Redacted)

23 THE INTERPRETER: Corrects the interpreter.

24 MR GOSNELL:

25 Q. I'm wondering whether after (Redacted)

1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. Now, I'd like to ask you about the house in Sangi, the straw house that you
8 discussed yesterday and the day before. And you remember that you described having
9 passed through Sangi-Sayo and then you came to Sangi and then you came to the straw
10 house. Do you remember having testified about that?

11 A. I remember.

12 PRESIDING JUDGE FREMR: We again face problem with at least English realtime and I
13 was told that it would be helpful if we stop for one minute and hopefully it would allow
14 technicians to fix it. So please I'm asking you to be indulgent and wait for hopefully a
15 very short time.

16 (Pause in proceedings)

17 PRESIDING JUDGE FREMR: It seems that realtime is back, so I thank you for your
18 indulgence.

19 And, Mr Gosnell, you may proceed.

20 MR GOSNELL:

21 Q. How large was this house in Sangi, the straw house?

22 A. The house was not very big. Not very big.

23 Q. Was it, as far as you could see, one room or more than one room?

24 A. I don't know. I don't know how many rooms there were in the house. I have no
25 idea at all.

1 Q. Did it have windows, as far as you could see?

2 A. Yes. I think that the house had windows, but I didn't pay attention.

3 Q. And when you went into the house, how many people were inside, approximately,
4 if you can recall?

5 A. No, I'm afraid I don't know. All I know is that there were a lot of people, but I
6 didn't have the time to count those who were there.

7 Q. And when you entered that building you did not see (Redacted); correct?

8 A. That's right.

9 Q. You saw him later with the light of a flashlight when you were outside the building;
10 is that correct?

11 A. Yes.

12 Q. You've said that you're not sure if there was a window. Do you remember now
13 whether you saw him through a window with the light of a flashlight, or did you see him
14 through a door with the light of a flashlight?

15 A. I saw him through the door. The door was opened, somebody was inside with a
16 flashlight and somebody else who was standing by the door, and it's through the door
17 that I saw him.

18 Q. Can you help us understand, if possible, how it would be that you entered the
19 building, you were inside and you did not see (Redacted) on that occasion, but then
20 you were able to see him from the exterior with a flashlight later on? Can you help us
21 understand how that would have been the way things were?

22 A. We were outside. I wasn't alone. We were the women, there were quite a number
23 of us and we were outside under a tree which was not far from the house.

24 Now, the door of the house was facing the tree where we were. When the door was
25 opened and somebody entered the house with the flashlight, they were beating the people

1 who were in there inside. When they opened the door and went in, I could look into the
2 house and I saw (Redacted). At that
3 point in time it wasn't very dark. I could see. But inside it was very dark. From
4 outside we couldn't see. (Redacted)
5 (Redacted)

6 Q. You say you caught each other's eye. If it was dark outside, how could he have
7 caught your eye? How could he have seen you?

8 A. We caught each other's eye because it was not very dark outside, but inside it was
9 very dark.

10 Q. If it was not very dark outside and if earlier to this moment you had entered the hut
11 and the door had been opened, didn't enough light come into the hut for you to see (Redacted)
12 (Redacted) there?

13 A. When the door was opened -- do you want to know if I could see (Redacted), is
14 that it?

15 Q. I'm not asking that, I'm asking something more specific, which is -- well, let me start
16 with this: You entered the hut before the moment with the flashlight; is that correct?

17 A. I went inside before that when we were told to go inside, but I didn't even imagine
18 that he was there. I didn't see him and it was dark inside the building. It was a closed
19 space. I didn't even imagine he was there.

20 Q. And how long before the moment with the flashlight did you go into the hut, if you
21 can remember?

22 A. I couldn't say how many -- or, how much time had passed by. At the time my
23 mind was on other things. At that time we were being mistreated and I wasn't paying
24 attention to the time passing.

25 Q. And in the light of the doorway which was opened when you went in, wouldn't

1 (Redacted) have seen you and called out to you?

2 A. At that time we couldn't talk. We couldn't talk then.

3 Q. Could you have talked after the door was shut and you were left in the house with
4 him?

5 A. We didn't talk because when I went into the house I didn't see him.

6 Q. How long did you spend in the house before you were taken out of the house?

7 A. Counsel, as I said earlier, I can't estimate the number of hours that passed. We
8 were being treated like cattle. We had to obey whatever they said.

9 Q. "They" being the guards?

10 A. Whatever they said we had to do.

11 Q. And were they shut inside the house with you while you were inside the house?
12 Were they there inside the house with you?

13 A. Are you talking about the soldiers?

14 Q. The people who were guarding you, whoever they were.

15 A. When we arrived they opened the door and -- and each time they entered the house
16 it was to come and beat us, and having beaten us they would leave the building and close
17 the door.

18 Q. And when they left the building and closed the door, did anyone speak to one
19 another?

20 A. No. No. We couldn't talk. We couldn't talk amongst ourselves.

21 Q. Now, yesterday at transcript 111, line 25 of page 5, you were talking about
22 Motorolas. And this is what you said, quote:

23 "I think that they were calling the people who were in Kobu because there were other
24 soldiers in Kobu, whereas they were in Sangi, so I noticed that they were using the
25 Motorolas to communicate, but I wasn't interested in most of their conversations because I

1 wasn't feeling good and that's why I wasn't following much of what they were saying."
2 Would it be right to say that you don't know actually to whom those soldiers were
3 speaking over the Motorolas?

4 A. Your question is confusing me. You're asking me about people who had entered
5 the house because that's what we were talking about. But if you are talking now about
6 people who were talking on the Motorolas, yes, yes, they were talking using the
7 Motorolas, but we were talking about the people in the house. You asked me if the
8 people in the house were talking amongst themselves and I answered that those who were
9 in the house did not talk amongst themselves. But if you want to know about the
10 soldiers who had the Motorolas, yes, they were talking to each other because there were
11 other soldiers in Kobu. That is so. And they were communicating by Motorola. I
12 wasn't paying attention to what they were saying over the Motorolas.

13 Q. Sorry, Madam Witness, that's my mistake. I should have clarified that I was
14 moving to a new question and a new issue. And let me just come back to that.
15 You don't know to whom the soldiers with the Motorolas were speaking, do you?

16 A. I don't know who they were talking to by Motorola, but I had the impression that
17 they were talking with other soldiers, other soldiers in Kobu because there were other
18 soldiers in Kobu and some in Sangi. Perhaps they were calling each other.

19 Q. Right, precisely. So that's a guess on your part when you say perhaps they were
20 calling people in Kobu, correct?

21 Perhaps I could just ask that again: You're guessing when you say that perhaps they
22 were talking to people in Kobu; isn't that right?

23 A. They were talking because they had soldiers in Kobu. I can't imagine, but they
24 were talking, they were talking via Motorola. They had their soldiers in Kobu. That's
25 where they were. They were in Kobu and others were in Sangi and we were with those

1 who were in Sangi.

2 Q. I would now like to move on to a new subject, a new set of questions, and it
3 concerns the circumstances of you giving statements to the Office of the Prosecutor
4 starting in (Redacted).

5 How did you get in touch with the Office of the Prosecutor.

6 A. I can't answer that question. It's beyond me to answer that question.

7 Q. Do you mean you can't remember, Madam Witness?

8 A. I met the representatives of that office. They were looking for evidence regarding
9 everything that had happened in Kobu, and that's why I went, I came forward for that
10 reason because I had also been a victim of what had gone on there.

11 Q. How did you learn or know that such investigations were ongoing?

12 A. They arrived into the various neighbourhoods in our village and I was there and
13 that's how I heard.

14 Q. Did someone alert you to the fact that they were coming?

15 A. No, nobody informed me that they were coming. Nobody told me that anybody
16 was coming.

17 Q. Did anyone encourage you to come forward and speak to them?

18 A. No, nobody sent me. I did it voluntarily because I knew myself what I had been
19 through, what I had experienced.

20 Q. On some occasion prior to the interview, in (Redacted), did you go to a (Redacted)
21 for the purpose of meeting with investigators of the Office of the Prosecutor?

22 A. Sorry? I haven't understood your question.

23 Q. As part of giving a statement to the Office of the Prosecutor, or immediately prior to
24 giving that statement, did you go to a (Redacted) to stay?

25 A. As regards my statement, I was staying in (Redacted) when I gave it.

1 Q. Did anyone take you there?

2 A. Yes, somebody took me there.

3 Q. And who was that?

4 PRESIDING JUDGE FREMR: Ms Luping.

5 MS LUPING: Mr President, I have no objection to my learned colleague and his line of
6 questions, as such, but just a gentle reminder in relation to avoiding any names as such
7 being given. As I said, no objection to the questions being asked at this stage.

8 PRESIDING JUDGE FREMR: I remembered that Mr Gosnell in fact promised to keep or
9 to respect this caveat; am I right?

10 MR GOSNELL: Yes, I did and this is a difficult one, Mr President, and the only reason
11 that I asked this question the way I did -- perhaps the witness should remove her
12 headphones.

13 PRESIDING JUDGE FREMR: Madam assistant could assist Madam Witness to take off
14 her headphones. Thank you.

15 Mr Gosnell.

16 MR GOSNELL: The only reason that I asked that question the way I did was an
17 assumption that the answer was not going to be a person who was an intermediary. I
18 may be mistaken, but given the previous answers, I thought that it would be safe to ask
19 that question that way, but I'm not sure, so I admit it's a bit of a grey area.

20 PRESIDING JUDGE FREMR: Ms Luping.

21 MS LUPING: To be very honest, Mr President, I also don't know the answer to this
22 question. We just don't have that information. It was just out of an abundance of
23 caution. It's quite possible that it may have been the intermediary. We just -- we're not
24 entirely clear. But if that is the case, it's just out of an abundance of caution.

25 PRESIDING JUDGE FREMR: Mr Gosnell.

1 MR GOSNELL: Perhaps I should just approach this a different way, Mr President, so it's
2 not -- we don't have to go through this.

3 Could we have please DRC-OTP-2090 --

4 PRESIDING JUDGE FREMR: And please, Madam Witness may take her headphones
5 back.

6 MR GOSNELL: So it's DRC-OTP-2090-0407. Now, I'm not sure whether we can go into
7 public session, Mr President. I'm somewhat in the Prosecution's hands on this one.

8 MS LUPING: Mr President, if we could remain in private session because regardless of
9 whether there's an intermediary involved or not, there is an issue of whether field staff are
10 involved and the operations and locations that should not be divulged in public.

11 PRESIDING JUDGE FREMR: With some hesitation, all right, let's remain in private
12 session.

13 MR GOSNELL: I'm not sure whether the document is up yet.

14 For the record, this is tab 73 if I didn't already mention that.

15 Q. Madam Witness, when you went to this -- I think you have confirmed, have you not,
16 that you went to stay at a (Redacted) in the context of giving your
17 statement to the OTP; is that right?

18 A. That's right.

19 Q. Did you ever say that you wished to stay anywhere else? Did you ever express
20 that view that you'd like to stay somewhere else other than (Redacted)?

21 A. No, I didn't say that because I was there, I was at the (Redacted).

22 Q. And at the (Redacted) did you meet anyone else who was also giving a statement to
23 the Office of the Prosecutor?

24 A. I wouldn't talk about another person. I'm going to talk about what concerns me
25 personally. I don't want to talk about other people. I have talked about what concerns

1 me.

2 Q. I do understand that and I'm wondering as concerns you whether you knew, you
3 had knowledge yourself personally that there was anyone else there speaking with the
4 Office of the Prosecutor?

5 A. I would answer as I answered previously: I don't want to talk about matters
6 concerning other persons, I want to only speak about things that concern me personally.

7 MR GOSNELL: Mr President, I'm not sure whether -- or, how you believe we should
8 proceed. I would like to have the question answered.

9 PRESIDING JUDGE FREMR: Madam Witness, sometimes we -- it's not up to you to
10 determine the questions that will be put to you. So if there is anything relevant for the
11 Defence case and also for the case as a whole, it's your duty to respond. So if it would be
12 something that, you know, could cause some harm to your psychological well-being, for
13 example, some questions concerning the said event you underwent, then it would be fair
14 to say "I will not respond such questions," but in this case I am asking you to respond.
15 Do you understand?

16 THE WITNESS: (Interpretation) Yes, I understand.

17 PRESIDING JUDGE FREMR: Mr Gosnell, please.

18 MR GOSNELL:

19 Q. So did you know whether there was anyone else there speaking to the Office of the
20 Prosecutor at that (Redacted)?

21 A. You mean the other witnesses?

22 Q. Correct.

23 A. When I went to (Redacted), I found that there was another person there.

24 Q. Just one other person; is that correct?

25 A. There was a person who was there.

1 Q. And did you discuss your testimony with that other person? In other words, what
2 you were going to say to the investigators, did you discuss that with this other person?

3 A. No. No, I didn't talk to him because I didn't know anything about what he had
4 come to say, and he didn't know anything about what I was there to say. We didn't talk
5 on the topic.

6 MR GOSNELL: Mr President, I seek to admit this document, tab 73,
7 DRC-OTP-2090-0407.

8 PRESIDING JUDGE FREMR: Ms Luping, any objection?

9 MS LUPING: No objection, Mr President.

10 PRESIDING JUDGE FREMR: All right. So this document is admitted into evidence as a
11 Defence exhibit.

12 MR GOSNELL: Could we please now have tab 36, DRC-OTP-2093-0052.

13 Q. Now, Madam Witness, I'm just going to read something to you and you can tell us
14 whether you know anything about it or whether you don't know anything about it, you
15 don't remember anything about it, any answer you wish to give of course is perfectly fine,
16 but I'm just going to read it to you and then you can tell us whether you know anything
17 about what's being described. And it's page 2, which is ERN 0053, and it says:

18 "In (Redacted) the victim informed the intermediary of (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)"

23 Do you remember whether there was anyone speaking on your behalf to anyone in the
24 Court about your (Redacted)?

25 A. With regards to (Redacted) it's true that they helped me, they helped me a lot. I

1 can't deny that.

2 Q. And without giving any names, was there a person who was not part of the Court
3 who was assisting you in communicating with the Court about those matters?

4 A. No. I couldn't establish the difference between all these different people. To the
5 best of my knowledge, they came, they were all working for the same service. When
6 people from the Office of the Prosecutor came, there were the people who were based in
7 (Redacted) were the ones who came to collect me, to take me there, where the investigators
8 were.

9 MR GOSNELL: I tender this document, Mr President.

10 PRESIDING JUDGE FREMR: Ms Luping, any objection?

11 MS LUPING: I just want to clarify which portion of the document my learned colleague
12 is seeking to tender. There's been no questioning in relation to any other excerpts from
13 the document.

14 MR GOSNELL: I'll be putting another excerpt from page 4 to the witness later on. In
15 any event, I do think it's important to have the entire document to understand what's on
16 page 2.

17 PRESIDING JUDGE FREMR: Ms Luping.

18 MS LUPING: There is no objection as such to the admission of this document, but I
19 would just bear in mind, your Honours, that as is stated in this document, none of the
20 information was read back to this witness. It's the very first paragraph of this document.
21 So with that caveat the Prosecution would have no objection to the admission.

22 PRESIDING JUDGE FREMR: All right. Well-noted by the Chamber.

23 And as to the request, our ruling is that this document is admitted into evidence as a
24 further Defence exhibit.

25 Mr Gosnell, please proceed.

1 MR GOSNELL: Now, the next document that I'm about to call may not be shown to the
2 witness because there is identifying information in it.

3 PRESIDING JUDGE FREMR: All right. So we will make -- or the court officer will
4 make the necessary arrangements.

5 MS LUPING: May I ask my learned colleague for the tab at which this appears.

6 MR GOSNELL: Yes. Tab 74. And that is DRC-OTP-2090-0408.

7 This is an extract or appears to be an extract of a document that was generated or appears
8 to have been generated on or about (Redacted) which contains information from
9 intermediary DRC-OTP-P-154.

10 Q. And madam, I'm going to read a section so -- I know you don't have it in front of
11 you, so please listen carefully. And again we're going -- I'm asking you -- I will ask you a
12 question or two afterwards about whether you know anything in the passage I'm about to
13 read. And here's what it says, quote:

14 (Interpretation) "According to one of the victims, the signatures that I monthly collected
15 made it possible for me *to receive and embezzle some money. The same person who
16 *spread false rumours in this regard also reported to the husbands of certain victims that
17 subsidies would be sent to them regularly; that is 154 who said -- who diverted it. Each
18 one of them would have per month 300 dollars. The reaction of certain husbands was
19 *immediate. They threatened their spouses and they even banned them from replying to
20 my invitations and to organised meetings."

21 Did you ever hear any discussion about being entitled to 300 dollars per month as a result
22 of your association or having given a statement to the Office of the Prosecutor?

23 A. I know nothing about it. I don't know all this.

24 Q. Did you have to check in with anyone, or did you in fact check in with anyone or
25 speak with anyone on a regular basis about what might be expected of you by the ICC?

1 Without giving any identities or any names, is that something that happened?

2 A. No, I don't know any of this. With regards to me, since I met the people from the
3 Office of the Prosecutor they haven't given me money. But with regards to (Redacted),
4 (Redacted) And when I met them I slept well. Even
5 when I went to hospital I slept well. I had food. But in terms of cash, no, they didn't
6 give me money on a monthly basis, no.

7 Q. Did anyone ask you to sign anything on a regular basis to indicate that you were, for
8 example, still interested in being a witness or being registered as a victim? Did you do
9 that? Did anyone ask you to do that?

10 A. The document that I signed, that was the document where my statement was, and
11 the document that helped me get the (Redacted), I signed that document. Now, apart from
12 those documents, to say that there's somebody who had to come and *ask me to be a
13 witness or do anything like that, no, I didn't see that. I didn't sign such a document.

14 MR GOSNELL: Could we have tab 78, which is DRC-OTP-2092-0319.

15 THE COURT OFFICER: Mr Gosnell, may the witness see the document?

16 MR GOSNELL: This one I believe she can see, unless the Prosecution has an objection.

17 MS LUPING: Mr President, my only concern is that there are other witness codes that
18 are mentioned in this document. The witness may not be aware as to who the
19 individuals are that match up to the codes, but out of an abundance of caution I'd rather
20 this is not shown to the witness.

21 PRESIDING JUDGE FREMR: All right. So we will not show this to the witness.

22 MR GOSNELL: I must say I don't understand why, but that's fine. Just to read the
23 number again DRC-OTP-2092-0319.

24 THE COURT OFFICER: I'm sorry, Mr Gosnell, it seems that we are not able to publish
25 the document for the time being.

1 MR GOSNELL: I assume that's some kind of a technical issue. I understand that if you
2 were to give control, if the Registry were to give control to the computer on my right it
3 could be displayed immediately?

4 THE COURT OFFICER: The document will be displayed on the evidence 2 channel.

5 MR GOSNELL: Not for the witness. Not for the witness.

6 Thank you very much to everyone for getting that up.

7 Q. And this is an extract from a document that may have been created sometime around
8 (Redacted). And I'll just read it to you again, same exercise, Madam Witness, just to see
9 whether you know anything about this. And I'm only going to read portions to respect
10 the Prosecution's wishes on this: It says, "The Prosecution received a document entitled"
11 (Interpretation) "'list of attendance'" (Speaks English) "dated (Redacted), from
12 intermediary DRC-OTP-P-0154. It lists the names, occupation, contact details (location and
13 phone numbers), and state of health of several individuals, including 9 *in particular
14 witnesses P-0300, P-0127 and others. But witness code P-0018 appearing in the document
15 is you, not so Madame witness? Do you know anything at all about having written down
16 or provided information in (Redacted) concerning your occupation, your contact details,
17 your phone number, your state of health, or any other information to anyone on behalf of
18 the Court or purporting to act on behalf of the Court?

19 A. Well, for this I think I've forgotten. I have forgotten.

20 MR GOSNELL: I tender this document, Mr President.

21 PRESIDING JUDGE FREMR: Ms Luping.

22 MS LUPING: Well, in relation to this document, Mr President, your Honours, the
23 Prosecution would just observe that it should only be the specific portion as put to this
24 witness and it should be only for impeachment purposes only. It's the same caveat as we
25 had for the prior document, 2093-0052. It really should be admission for impeachment

1 purposes and only those extracts as specifically put to the witness.

2 PRESIDING JUDGE FREMR: Mr Gosnell, is there any need to tender the rest of the
3 document?

4 MR GOSNELL: It doesn't seem very practical to me, Mr President, to be blacking out the
5 other pseudonyms, and so I don't see any prejudice, and I also am not quite sure what the
6 Prosecution means by trying to limit the use of this document to impeachment. If that
7 means only for the purpose of showing a contradiction with what the witness is saying,
8 then I disagree with that limitation.

9 PRESIDING JUDGE FREMR: Ms Luping, any reaction before we decide?

10 MS LUPING: Yes, Mr President, your Honours. I'm not suggesting that the document
11 should be blacked out as such. There's obviously no problem with the Chamber seeing
12 the remainder of this document or the prior document that was admitted. It's simply a
13 case that when it comes to later reliance upon this document by the Defence it should
14 really, out of fairness to this witness, be only those extracts that have been specifically put
15 to her and that she has been given an opportunity to comment upon. That was what I
16 was referring to.

17 And as for the nature of the reliance on this document, I would seek clarification from my
18 learned colleague as to for what purpose he is seeking to rely on this document, whether
19 it's for the truth of its content or for impeachment purposes. But the witness is not
20 somebody who has created this document, she has not provided the information
21 contained in these documents as such, they come from investigators, and for that reason I
22 would submit it should be only for impeachment purposes, your Honours.

23 PRESIDING JUDGE FREMR: Give me a second, I will consult my colleagues.

24 (Trial Chamber confers)

25 PRESIDING JUDGE FREMR: I would now again ask madam assistant to assist or to help

1 Madam Witness to take out her headphones for a while, please.

2 And the Chamber have additional question to Mr Gosnell.

3 Mr Gosnell, could you just explain to Chamber what is the relevance behind this
4 document you would like to tender for the case?

5 MR GOSNELL: Certainly. There is first of all the impeachment issue, the witness
6 having denied having had contact with any intermediary. We've heard the answer today
7 that may or may not explain that, but nonetheless, that's one purpose and I would say it's
8 relevant for that purpose.

9 Second purpose is there is going to be an issue, I assure your Honours, in respect of the
10 two other witnesses who are coming up about potential contamination between different
11 witnesses, and this intermediary is the intermediary for all three.

12 And if subsequently more information comes to light about this intermediary's conduct,
13 then this information in this document is relevant to this witness's testimony. We don't
14 know for sure yet, we haven't necessarily proven that to your Honours, but it could go in
15 that direction and I certainly think I have a good-faith basis to go in that direction.

16 And the document cannot be disputed for authenticity or reliability, I don't think the
17 Prosecution does, so if it's purely a debate about foundation or the exact contours to
18 which it can be used, I think your Honours are safe hands to use the document to its
19 proper purpose and not beyond.

20 PRESIDING JUDGE FREMR: Ms Luping, any further reaction?

21 MS LUPING: Only to reiterate that out of fairness to this witness, if it's being admitted
22 through the witness, it should be confined to really the information specifically put to her.
23 I would just simply repeat that and it really should be for impeachment purposes only.

24 PRESIDING JUDGE FREMR: Again, give us a second.

25 (Trial Chamber confers)

1 PRESIDING JUDGE FREMR: So after considering all arguments presented by both
2 parties, our ruling is that this document is admitted for the purpose of truth of its content,
3 but only those passages that have been used with the witness because she had no chance
4 to comment any other parts and it would be obviously another chance for Defence, if they
5 would like to make it, to tender the other parts through other witnesses.

6 Now, Mr Gosnell, please proceed.

7 MR GOSNELL: That's understood. Thank you very much, Mr President. I just note
8 for the record that most of the document was actually read.

9 Could we please now have Prosecution tab 79 -- excuse me, it's Defence tab 79,
10 DRC-OTP-2092-0321.

11 THE COURT OFFICER: Mr Gosnell, may the witness see the document?

12 MR GOSNELL: In light of the Prosecution's objection, no.

13 And just let me just read again the number. It's DRC-OTP-2092-0321, which is actually
14 tab 78, not tab 79.

15 Q. Madam Witness, very similar passage to the one that I read to you previously. It
16 says, quote:

17 "The Prosecution received a document entitled" (Interpretation) "'list of attendance for
18 the month of (Redacted)'" (Speaks English) "from intermediary DRC-OTP-P-0154. It lists
19 the names, occupation, contact details ... state of health of several individuals, including
20 witness ... P-0018 ..." Again, that's you. Do you have any recollection of having signed
21 any such document or provided any such information to anyone in or around (Redacted)?

22 A. I don't remember very well. It was a long time ago. I've forgotten.

23 Q. Do you recall whether you came together with anyone else, another group of people,
24 to do any such thing, to sign a listes des presences and to give this information?

25 A. I don't remember.

1 MR GOSNELL: I tender this, Mr President.

2 PRESIDING JUDGE FREMR: Ms Luping.

3 MS LUPING: Mr President, your Honours, I would simply repeat my objection. This
4 document is being created by an investigator, information provided by a third party, not
5 by this witness. We have no objection to this document, the portion that has been
6 specifically put to this witness being admitted, no other portion of the document, and we
7 would just repeat our view that it should only be admitted for impeachment purposes
8 only, not for the truth of its content, bearing in mind the information did not come from
9 this witness and it's not fair for her to comment on it as such in that regard or in that
10 manner.

11 PRESIDING JUDGE FREMR: So we will remain consistent, so our ruling will be the
12 same like in the previous case, which means that this document, but only the part used
13 with this witness is admitted into evidence for the truth of its content as a further Defence
14 exhibit.

15 Mr Gosnell.

16 MR GOSNELL: Thank you, Mr President.

17 Just one more, I'm afraid, DRC-OTP-2092-0323, tab 79.

18 Q. Again, Madam Witness, another passage, a little bit later in time, quote:

19 "The Prosecution received a document entitled" (Interpretation) "'list of attendance for
20 the month of (Redacted)'" (Speaks English) "from by intermediary DRC-OTP-P-0154.

21 It lists the names, occupation, contact details (location and phone numbers) and state of
22 health of several individuals, including witness ... P-0018 ..."

23 So same question as before: Any recollection of having signed such a document or
24 provided such information in or around (Redacted)?

25 A. All this information that you're speaking about I don't remember. What happened

1 in (Redacted) I don't remember.

2 Q. And also no recollection of having come together with other witnesses for any such
3 or similar purpose?

4 A. No, I don't remember what happened in (Redacted) or these events in (Redacted).

5 MR GOSNELL: I tender this, Mr President.

6 PRESIDING JUDGE FREMR: Ms Luping, same objection?

7 MS LUPING: Yes, Mr President. To be clear for the record, Prosecution same objection,
8 same reasons.

9 PRESIDING JUDGE FREMR: It's your right obviously. No problem.

10 And again the same ruling from our part, so the passage or the portion of the document
11 used with the witness is admitted into evidence as a further Defence exhibit.

12 Mr Gosnell.

13 MR GOSNELL: Mr President, I'm in your Honours' hands about timing. I think I can
14 finish in 15 minutes, but I don't know whether it would be your preference, especially in
15 light of the rest of the day, to break now, go for another 15 minutes or what your Honours'
16 preference is.

17 PRESIDING JUDGE FREMR: Give me a second, I will also consult my colleagues
18 because just for your information, we got update about the upcoming witness and he
19 should be ready to testify half past 1. But give us a second.

20 (Trial Chamber confers)

21 PRESIDING JUDGE FREMR: So our opinion is that it would be more efficient to
22 continue because I believe that we can finish, even including some questions from
23 Prosecution, if any, and Chamber in half an hour.

24 MS LUPING: Mr President, at this stage I only have one question for the witness.

25 PRESIDING JUDGE FREMR: Very well.

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 So it means, Mr Gosnell, please proceed.

2 MR GOSNELL: Thank you, Mr President.

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 Q. (Redacted)

17 (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

22 Q. (Redacted)

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Open Session)

ICC-01/04-02/06

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13 Page redacted – Private session

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1 A. (Redacted)

2 (Redacted)

3 Q. Thank you for that information.

4 Now I'm going to ask you about a new subject and it concerns a meeting just prior to your
5 second interview with the Office of the Prosecutor in (Redacted).

6 Do you remember meeting with someone who presented themselves as a therapist or a
7 counsellor immediately prior to your second interview with the Office of the Prosecutor?

8 A. I'm sorry, I haven't understood well.

9 Q. On the first day of your second set of interviews with the Office of the Prosecutor,
10 which it was in (Redacted), prior to starting meeting with the investigators, did you have
11 a meeting with someone else from the Court who presented themselves as a therapist or a
12 psychologist or a counsellor?

13 A. I don't recall how -- I don't recall meeting other people aside from the staff of the
14 Office of the Prosecutor. Amongst them there was a doctor who examined me (Redacted)
15 (Redacted).

16 Q. I'm not talking about the person who examined (Redacted), I'm thinking of
17 somebody who was a -- may have presented themselves as a psychologist. Does that
18 ring any bells at all? Again, just prior to your second set of interviews.

19 A. No, I didn't meet anybody else.

20 Q. Well, let me see if I can remind you.

21 Could we have DRC-OTP-2093-0052, Prosecution tab 36.

22 Now, if we could turn please to page 3, which is ERN 0054, here's what it says, I'll just
23 read it to you:

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Let me just stop there. Do you remember having a pre-interview that lasted about one
5 hour before you met the investigators?

6 A. What I know is that I met staff of the Office of the Prosecutor when they came the
7 second time. They came with a doctor, a doctor who gave me a check-up. Aside from
8 that I didn't meet anybody else in an independent capacity.

9 Q. Well, let's turn very quickly then to Prosecution tab 3, which is DRC-OTP-2052-0176,
10 ERN page 0184, page 9 of the document, paragraph 89.

11 And, Madam Witness, this is what you said during your interview with the OTP, your
12 second statement. Quote:

13 "Before I was interviewed the second time by the ICC investigators I explained during my
14 (Redacted) assessment, when asked how I was feeling, that I had been raped during
15 this attack, and was then able to say this again to the investigators."

16 Does that remind you, Madam Witness, that you had in fact discussed your rape before
17 the beginning of your second interview with this person who is described as a (Redacted),
18 (Redacted)?

19 A. Yes. Yes, I now remember. That person came together with the staff of the Office
20 of the Prosecutor and I met with them.

21 Q. Thank you. And let's now please go back to Prosecution tab 36,
22 DRC-OTP-2093-0052, and we'll go to page 5 please -- excuse me, page 4, which is ERN
23 0055. Yes.

24 And here the person -- well, information appears to come from the person who did this
25 interview with you before the main interview. And it says, quote:

1 "She is a rape victim - she did not share this info with the team that interviewed her

2 (Redacted)"

3 (Redacted)

4 (Redacted)

5 A. (Redacted)

6 Q. (Redacted)

7 (Redacted)

8 (Redacted)

9 A. (Redacted) I was afraid to talk about it. I had given an explanation
10 or an account which was not exhaustive.

11 Q. I know this is going to be very, very hard to remember, but can you remember
12 during your interview or your meeting with the (Redacted), did she raise the possibility or
13 he raise the possibility that you had been raped before you raised it, or did you raise it
14 first?

15 A. When I met the investigators for the second time? When I met the investigators for
16 the second time?

17 Q. I'm talking only about that one-hour interview with (Redacted). Can you
18 remember whether it was she who raised the issue of you having been raped first, or did
19 you raise it first?

20 A. I'm the one who addressed the topic first. He first followed me -- first of all, (Redacted),
21 I didn't understand the meaning of their work and it's only when they returned the
22 second time that I explained everything that had happened, from the beginning to the end.
23 But the first time round I did not talk about the rape the way I was raped. I didn't talk
24 about that.

25 PRESIDING JUDGE FREMR: Mr Gosnell, your four hours are almost over, so you have

1 just a chance to put last question.

2 MR GOSNELL: Thank you, Mr President. I do have then just one last question if that's
3 what I have left. And I am going to need a document in order to ask the question.

4 Could we please have Prosecution tab 60, DRC-OTP-2093-0330.

5 THE COURT OFFICER: Mr Gosnell, are you sure about the ERN number of the first
6 page?

7 MR GOSNELL: Yes.

8 THE COURT OFFICER: The document is not in eCourt.

9 MR GOSNELL: I believe we actually showed this document yesterday.

10 PRESIDING JUDGE FREMR: It should be Prosecution tab 60, so I believe that it should
11 be in the eCourt.

12 MR GOSNELL: If we were to give command over to the computer here, we could show
13 the document.

14 PRESIDING JUDGE FREMR: All right then.

15 MR GOSNELL: And then I understand that it will be on evidence 2 and perhaps the
16 witness's screen could be adjusted so that she can look at it even though she doesn't speak
17 English or read English.

18 And this will be page 0332 ERN.

19 Q. Madam Witness, this is again a summary of what you said to the Prosecution in the
20 days preceding the current moment. And you're recorded here as having asked them
21 what you should do if asked "what has the ICC done for her."

22 May I ask why you were preoccupied about being asked the question: What has the ICC
23 done for you?

24 A. I can say what the ICC has done for me. It helped me when it comes to the
25 condition of (Redacted) when I meet people today.

1 And that is thanks to the ICC.

2 When I met them they helped me, but what I remember most, aside from the other help I
3 received from them, was (Redacted). That's the greatest good that they did
4 for me.

5 Q. Madam Witness, thank you very much for your patience and for answering all of
6 my questions. It is very much appreciated.

7 MR GOSNELL: Thank you, Mr President.

8 PRESIDING JUDGE FREMR: Now, Ms Luping, your re-direct.

9 MS LUPING: Yes, just one question still, Mr President, your Honours.

10 QUESTIONED BY MS LUPING:

11 Q. So, Madam Witness, I'm going to refer to today's transcript, that's 112, the English
12 transcript, realtime, at page 12, lines 13 to 14. And this is when you were being
13 questioned by my learned colleague about events in Sangi and what you could or could
14 not see in the hut and I'm going to refer to your response, and I quote:

15 "At that time we were being mistreated and I was not paying attention to the time
16 passing." End of quote.

17 And later on, at page 13, line 2, when the same question is being put to you, you state, and
18 I quote:

19 "We were being treated like cattle." End of quote.

20 Now, my question is this: When you say that "at that time," this is in reference to
21 questions about whether or not you could see (Redacted) in the light, "at that time we
22 were being mistreated" and when you say you were treated like cattle, what did you mean
23 by that?

24 A. I said that because where I'm from you see a shepherd leading his flock and beating
25 the flock when they're returning to the pastures. It was the same situation that sprung to

1 my mind when I was thinking about the suffering that we were suffering at that time.

2 Q. So just to be clear in terms of what you mean by your response, what were they
3 doing to you when you say you were being mistreated? What was happening to you
4 that made you think this?

5 A. They were hitting us, they were beating us without having eaten. We were
6 suffering terribly. We couldn't even think about eating because we were almost dead.

7 Q. And when you say --

8 A. Our bodies had just become a thing because of the beating.

9 Q. And when you say "they were hitting us, they were beating us," who is "they,"
10 Madam Witness?

11 A. It was the soldiers.

12 Q. And are these the same soldiers that you referred to when you described the events
13 during your testimony, these same soldiers who were at Sangi?

14 A. Yes, absolutely, it was the same soldiers, the UPC soldiers who were in Sangi.

15 MS LUPING: Thank you, Mr President, your Honours. The Prosecution has no further
16 questions for this witness.

17 Thank you, Madam Witness.

18 PRESIDING JUDGE FREMR: Thank you, Ms Luping.

19 Defence, any need for re-cross?

20 MR GOSNELL: No need for re-cross, Mr President; however, I would like to take this
21 opportunity to tender the two statements of the witness.

22 Now, I understand that maybe this Chamber has not in the past tendered full statements
23 and I fully understand and accept the reasons for that; however, given the particular
24 sensitivities of this witness, I believe it was prudent and appropriate not to have gone
25 through each and every potential discrepancy, and I suggest that having that material

1 available for your Honours is useful and so, therefore, I would tender these two
2 statements.

3 PRESIDING JUDGE FREMR: Could you be more specific what concrete statements you
4 have in mind?

5 MR GOSNELL: Yes, Mr President. I'm referring to Prosecution tab 1 and Prosecution
6 tab 3 that were referred to frequently, but not in their totality, not least because of the
7 absence of time, but also because of the sensitivities of the witness.

8 PRESIDING JUDGE FREMR: Ms Luping, your position?

9 MS LUPING: Mr President, your Honours, we would strenuously object to the entirety
10 of these -- both the witness statements being entered into evidence. Out of fairness to
11 this witness, just like any other prior witness, it should only be those -- first of all, those
12 precise portions that have been put to her, that she's had an opportunity to give a
13 response to.

14 And indeed we would ask that the precise passages that the Defence is seeking to have
15 admitted be provided to us because if we are to go back and look at, review the transcript,
16 my assumptions will find that any relevant passages have indeed already been read into
17 the record, so there should in fact be no need to admit any further passages into evidence,
18 your Honours.

19 PRESIDING JUDGE FREMR: Yes. So we defer decision on that and we ask -- obviously
20 we are inclined to follow or to accept Prosecution's position, so for that reason, we would
21 like to ask Defence to specify those portions that should be admitted in writing.

22 MR GOSNELL: That's much appreciated, Mr President. I understand. Thank you.

23 PRESIDING JUDGE FREMR: Ms Luping.

24 MS LUPING: Sorry, just one further submission, your Honours, that when the specific
25 passages are provided and we have a chance to review the transcripts I think we'll also

1 find that in general she would -- she agreed to various passages put to her, so in fact there
2 has been no impeachment and that would be another basis for which no additional
3 passages should be admitted from her statements.

4 PRESIDING JUDGE FREMR: As I said, we will defer our decision, so we will consider
5 all those factors before making our ruling.

6 And just one issue or one question from my part, Madam Witness, please let's return back
7 to the moment just preceding your rape. If I understood well, that at this moment (Redacted)
8 (Redacted); am I right?

9 THE WITNESS: (Interpretation) Yes, that's how it was.

10 PRESIDING JUDGE FREMR: And it's also my understanding then that you and the
11 other women, you were not free, you had been guarded by soldiers; am I correct?

12 THE WITNESS: (Interpretation) Yes, that's right.

13 PRESIDING JUDGE FREMR: And now my question is the following: Have you
14 recognized or have you noted any person who commanded those soldiers who had been
15 guarding you, those soldiers, according to your knowledge, I don't know, whether they
16 were under command of any commander at that time before your rape?

17 THE WITNESS: (Interpretation) Yes, they were. Their commanders were there.

18 PRESIDING JUDGE FREMR: And if you elaborate a bit that conclusion, how did you
19 come to this conclusion that there were some commanders with them?

20 THE WITNESS: (Interpretation) What made me understand that they were their
21 commanders was that they are the ones who were sending the others, who were giving
22 the orders, who was seated with a Motorola in his hand and he had bodyguards around
23 him, behind him. And that's what made me conclude that that was their commander.

24 PRESIDING JUDGE FREMR: Thank you, Madam Witness.

25 Do my colleagues have any question for this witness?

1 Judge Chung, please.

2 JUDGE CHUNG: So, Madam Witness, you just testified that you filled out, you signed
3 the document to get (Redacted), not for money, just to get (Redacted). Do you recall this?

4 THE WITNESS: (Interpretation) Yes, it's true. I did state that.

5 JUDGE CHUNG: Okay then, when you signed this document to get (Redacted), did you
6 understand and fill out the document yourself, or was there anyone else who helped you
7 to understand and fill out the document?

8 THE WITNESS: (Interpretation) There was somebody who helped me write because I
9 have difficulties writing. I didn't have a long schooling, so somebody wrote for me, who
10 read to me and there was an interpreter who was also there to assist me and who
11 interpreted everything that had been written and then after that I signed the document.

12 JUDGE CHUNG: So the person who helped you to read and fill out the form, do you
13 know him, do you know him or her? Is he from the Court or someone totally new, some
14 new person you have never seen before?

15 THE WITNESS: (Interpretation) I couldn't differentiate between the various people.
16 When they came to me I considered them to be employees of the Court. I wasn't able to
17 distinguish between the different sections for which they worked.

18 JUDGE CHUNG: Okay. My next question is about Gombili, (Redacted). You
19 testified that Gombili went to Kobu to bring the message to the UPC. Do you recall this?

20 THE WITNESS: (Interpretation) Yes, I remember. I said that he'd been arrested and a
21 letter was written and given to him to go back to Sangi. And the letter said that it was
22 necessary to go to a pacification meeting.

23 JUDGE CHUNG: Right. Then do you know whether Gombili went to Kobu alone, or
24 did he go to Kobu with someone else?

25 THE WITNESS: (Interpretation) I couldn't know if he left with somebody else, but I

1 know, quite simply, that he left. As regards whether he was accompanied by somebody
2 else, that's something I don't know.

3 JUDGE CHUNG: Thank you, Madam Witness. That's it for me.

4 PRESIDING JUDGE FREMR: Thank you, Judge Chung.

5 Judge Ozaki, any question? No questions.

6 So, Madam Witness, it means it concludes your testimony, so on behalf of this Chamber I
7 would like to thank you. I can imagine that it was really a tough task for you to testify on
8 events which obviously mean unhappy moments in your life, but we appreciate it very
9 much and we strongly believe that your testimony will assist us in our goal to find the
10 truth in this case. So thank you very much, Madam Witness, and we wish you a safe
11 journey home. Thank you.

12 Now please guide Madam Witness out of the courtroom.

13 And for the rest of the session we can move into open session just to touch issue of timing.

14 (The witness is excused)

15 PRESIDING JUDGE FREMR: Ms Luping.

16 MS LUPING: My apologies, Mr President, your Honours. Before we move into private
17 session, I just wanted to seek clarity on one exhibit that was admitted. It was
18 DRC-OTP-2090-0407, it was at tab 73 of the various documents that were submitted by the
19 Defence for their list of documents. It was a question because there hadn't been any
20 discussion in relation to this document and the basis on which this document is being
21 admitted.

22 The Prosecution agreed to its admission on the understanding it would be for
23 impeachment purposes only. This is information that was basically recorded by
24 investigators with their views and their information as a result of their engaging with an
25 intermediary. This is information relating to where witnesses were being

1 accommodated.

2 Now, in our submission this is again a very -- a document which should not be admitted
3 for the truth of its content, it's not been created by this witness, none of the information
4 comes from this witness. It's purely information collected by the investigators with some
5 information they're recording in relation to their interaction with the intermediary. For
6 that reason, we would again submit this should only be admitted for impeachment
7 purposes only.

8 PRESIDING JUDGE FREMR: Mr Gosnell.

9 MR GOSNELL: Mr President, I just rely on my previous submissions, and I don't think
10 that there's anything particularly different about this document than the others, so for that
11 reason I don't believe there should be any further limitation conditioning its admission.

12 PRESIDING JUDGE FREMR: But if I understood, we have already decided on that; am I
13 right? But it was not clear, we were not clear enough?

14 MS LUPING: It was not clear the basis on which the document is being admitted. I
15 would ask that perhaps the Chamber defer its decision on what basis once you've had an
16 opportunity to read the document.

17 PRESIDING JUDGE FREMR: All right. Anyway, I have to double-check the situation
18 concerning this document, so I guess we will return back to you in the afternoon with our
19 clarification.

20 And now we can move into open session.

21 (Open session at 11.44 a.m.)

22 THE COURT OFFICER: We're in open session, Mr President.

23 PRESIDING JUDGE FREMR: So the update of our schedule for this afternoon: So as I
24 said, and I hope that situation hasn't changed in the meantime, our next witness 850
25 should be available to testify half past 1. So our idea, at the moment, is to sit first

1 afternoon session 1.30 till 3 o'clock and the second one 3.30 to 5. This plan has been
2 confirmed by the Registry and hopefully the health condition of the witness will allow us
3 to really realise this plan.
4 So it's for the moment and then we will see accordingly with the progress we will make in
5 the afternoon what will be our plan for Thursday and Friday. So now we adjourn and
6 we will reconvene half past 1.

7 THE COURT USHER: All rise.

8 (Recess taken at 11.45 a.m.)

9 (Upon resuming in open session at 1.36 p.m.)

10 THE COURT USHER: All rise.

11 Please be seated.

12 PRESIDING JUDGE FREMR: Good afternoon, everybody.

13 Court officer, please call the case.

14 Sorry, in fact no need to call the case. But what is necessary, I see many changes in
15 appearances so I ask counsel to put those changes on the record, starting with Prosecution

16 MR IVERSON: Good afternoon, your Honours. Appearing today for the Prosecution
17 are Kristy Sim, assistant trial lawyer; Selam Yirgou, case manager; and myself, Eric
18 Iverson, trial lawyer.

19 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.

20 Now Defence, please.

21 MR ST-MICHEL: (Interpretation) Good afternoon, Mr President. For Bosco Ntaganda,
22 who is present in the courtroom today, Sandrine de Sena, intern; and Maître Chloé
23 Grandon, legal assistant; Stéphane Bourgon, lead counsel; and William St-Michel, legal
24 assistant, myself. Thank you.

25 PRESIDING JUDGE FREMR: Thank you, St-Michel.

1 And as concerns Legal Representative of Victims, I can just note that the composition
2 remain the same.

3 First of all, I would like to provide parties with explanation requested by Ms Luping
4 before the break. And this clarification concerns certain document that was admitted as
5 a Defence exhibit earlier today during testimony of Witness P-18. Having considered the
6 submissions of the parties, the nature of the document and the way in which this
7 document was used with the witness, the Chamber clarifies that, although not specified at
8 the time, DRC-OTP-2090-0407 was, like other similar documents admitted during the last
9 session, admitted for the truth of its content.

10 Having so clarified, we can now move to matters concerning the next witness, and I
11 understood that Prosecution would like to address the Chamber on that.

12 So, Mr Iverson, you have the floor.

13 MR IVERSON: Thank you, Mr President. Shortly before we started today I just briefly
14 asked the Defence if they intended on sending a list of documents for this witness.
15 And to my surprise, Defence had a different interpretation of your conduct of proceedings
16 decision than the Prosecution. My understanding is that the Defence must provide their
17 list of documents to be used for cross-examination 24 hours before the cross-examination
18 in accordance with paragraph 33 of the conduct of proceedings decision. And I believe
19 that the Defence have a different interpretation, I was told that I would not receive the list
20 of documents until the witness took the oath today. And so I just ask the Chamber for
21 clarification.

22 PRESIDING JUDGE FREMR: I would ask Defence for clarification of this interpretation.
23 Who will take the floor?

24 MR BOURGON: Good afternoon, Mr President. Although my colleague
25 Maître St-Michel will be handling the witness today, for this part of this argument I would

1 be making submissions on behalf of the Defence.

2 Mr President, it is indeed our interpretation of the decision in the conduct of proceedings
3 that the 24-hour deadline, or at least time period to submit documents to be used for
4 cross-examination, when we are talking with a witness who will begin within less than
5 24 hours, as in this case, a short witness, that the list is to be communicated to
6 the Prosecution the minute that the witness takes the stand. Now, in order to make this
7 submission clear, Mr President, we have to first address the decision on the conduct of
8 proceedings and that is the Chamber's decision at -- of 2 June 2015 with respect to
9 paragraph 33.

10 So the first thing we need to look at is of course this list, this only applies to documents
11 which are not already admitted in evidence. That is the beginning of paragraph 33
12 which reads: "As regards the use of documents that have not previously been admitted
13 into evidence, the party intending to make use of the documents in cross-examination".
14 So that's the first caveat, is that of course this list does not apply to documents which
15 are -- have already been admitted in evidence.

16 Nonetheless, despite this provision, Mr President, since the beginning of this case we have
17 been submitting our list and we have included all the material, regardless of whether it
18 was admitted or not, in order to make it easier for the Prosecution to be sure that they
19 would have all the material and simply out of fairness.

20 The second part of this paragraph reads that we need to provide a list by email no more
21 than 24 hours before the commencement of the cross-examination.

22 Now, of course, this second provision is subject to footnote 22 and footnote 22 says:

23 "Of course, in order to allow this provision, the calling party is to indicate to the Chamber
24 and the opposing party sufficiently in advance when it expects to conclude its
25 examination-in-chief."

1 Now, of course, the calling party, the Prosecution, has not and of course was not invited to
2 say when it would complete its examination-in-chief. So until we have been informed as
3 to when the examination-in-chief will be completed, then the 24-hour, in our respectful
4 submission, is not triggered. This, Mr President, is an interpretation that is also based on
5 our submissions to the Chamber on at least two occasions.

6 The first occasions was in our written submissions. I refer the Chamber to filing number
7 548 and this filing was submitted on 15 April 2015.

8 I refer to paragraph 33 of our submissions, we said on that occasion the following:

9 "With respect to documents to be used during cross-examination, the Defence submits
10 that the cross-examining party should provide the Chamber, the calling party and the
11 participants 24 hours prior to the start of cross-examination with a list of material it
12 intends to use, with the caveat that happen such notification can only be provided once
13 the examination-in-chief has commenced."

14 This is what we said in our written submission.

15 A week later we were invited by the Chamber to make oral submissions on the conduct of
16 proceedings before the Chamber issued its decision on 2 June.

17 This was made at transcript 19, one nine in English version. This was on the exact
18 page number -- I don't have the exact page number, but it was at the end of -- page 41, I
19 apologise, I have the page number. So on page 41, lines 21 to 25, we said the following.

20 First we said:

21 "More importantly, what really matters of course is that once the cross-examination begins
22 we put in our submission that the 24-hour rule depends, of course, on -- that the
23 testimony must have begun. The examination-in-chief must have begun. If we would
24 go with the three-day rule, in many respect it would not be practical."

25 So we recognised at the time that if we put a three-day rule it was simply not practical.

1 And then we stated the following, lines 21 to 25:

2 "So examination-in-chief must have begun and documents be provided 24 hours in
3 advance. This is, in our view, the best way to facilitate the proceedings. The best way
4 to ensure also the fairness of the proceedings for the calling party as well as for the
5 cross-examining party. Being understood, Mr President, that whatever we say here will
6 apply to us when we will be the calling party."

7 So earlier in the same page we refer to the same issue, which is that the list for
8 cross-examination should not be communicated if we don't know when
9 examination-in-chief is going to be completed, such as in this case; that we should give
10 this list once we know, once -- as soon as the witness takes the oath. The rationale
11 behind this, Mr President, is simply to ensure that the Prosecution has access to the
12 witness right up until the moment that the witness takes the stand. And the issue behind
13 this is simply of course not to reveal our defence strategy until the witness has taken the
14 stand and has begun testimony. Now, in a long witness it's not a problem because the
15 witnesses had begun by the time we give our list. But with a short witness, if we would
16 submit the 24-hour rule. For example in this case, we knew that the witness could begin
17 as early as this morning, 11 o'clock, so we would have given our list yesterday at
18 11 o'clock, 24 hours before the witness actually begins, almost, the examination-in-chief,
19 his testimony. So we would reveal to the Prosecution any arguments or any documents
20 we might have in respect of this witness.

21 Mr President, this has also been the practice. I am not sure, I've attempted to verify in
22 the Lubanga case whether this was the practice or not, I was not able to do so. But it was
23 certainly the practice in past cases I have been involved in.

24 I would like to refer the Chamber to a decision of 31 May 2007 and that was, of course,
25 before the ICTY, and this was a decision on notification of cross-examination material.

1 In that decision of course it was decided by the Chamber in that case that
2 cross-examination documents should be given 24 hours, but of course once the testimony
3 has begun.

4 A second decision I'd like to refer the Trial Chamber to is a decision of the ICTY in a case
5 I was personally involved in, on 26 May 2008, an order concerning the presentation of
6 evidence and the conduct of parties during the Defence case.

7 And again this applied to the Prosecution and with this document, although it comes
8 from another tribunal, it's just to explain our interpretation. It was said in this document
9 that when the examination-in-chief begins, that's the point where documents for
10 cross-examination must be submitted.

11 So we say, Mr President, based on footnote 23 that accompanies Article 23 of the decision
12 on the conduct of proceedings, and in order to make these proceedings fair for both
13 parties, we feel that when it's a short witness then we submit our list the minute that the
14 witness takes the stand. And we say that there is no prejudice to either side if we do take
15 such, such a position. And so far we've been doing this for short witnesses and we never
16 had any feedback or any comeback from the Prosecution.

17 Now, last week of course something happened where we did give one document when
18 the witness began his testimony. And the Chamber will recall that was the document
19 about the witness not having the proper age, because we gave to the Prosecution at the
20 beginning of the testimony, I believe it was Witness P-888, that we provided the document
21 that the witness was baptised on a date which established that he did not have the age put
22 forward by the Prosecution.

23 So, yes, on that occasion the Prosecution was taken by surprise, because they got this
24 document after the witness had begun his testimony, but I think that is in the -- proper
25 and appropriate in the course of, what we say, "procédure contradictoire."

1 So that's our submission, Mr President, and I think that the Chamber -- we ask
2 the Chamber to rule that this is an appropriate interpretation of Rule -- of Article 33 of
3 your decision. Thank you, Mr President.

4 PRESIDING JUDGE FREMR: Mr Bourgon, I guess because you brought many
5 arguments it probably will also need thorough consideration and probably also extensive
6 reaction from the Chamber, but to make it more practical at this moment, when you are
7 ready to provide Prosecution with your list of documents?

8 MR BOURGON: Immediately, Mr President. Immediately. As soon as the
9 witness -- we can do it before, if the Chamber so orders. We can press the button
10 immediately and send it to the Prosecution. I note in this regard that concerning the
11 present list there is absolutely nothing that was not already very well known to
12 the Prosecution on that list.

13 PRESIDING JUDGE FREMR: Mr Iverson.

14 MR IVERSON: I just wanted to briefly point out that what Defence counsel is doing is
15 asking for reconsideration. He is making arguments to ask the Chamber to reconsider
16 the ruling already laid down in paragraph 33. A trial is not an ambush. It's not either
17 in the letter or the spirit of your decision, and this is -- I'm simply asking for this in order
18 to -- in keeping with the fairness and expeditiousness, just to determine whether or not I
19 have an objection to any of these documents in accordance with the conduct of
20 proceedings, which all of that is envisioned in your previous decision.

21 PRESIDING JUDGE FREMR: So for the time being, Mr Bourgon, we are ordering
22 Defence to provide Prosecution with this list now. And as to the -- all complex
23 arguments we will then deliver our ruling in due course, just to give maybe broader
24 interpretation to the principle stipulated in paragraph 33 on our decision on conduct of
25 proceedings.

1 MR BOURGON: Thank you very much, Mr President. We will immediately send the
2 list over to the Prosecution. And I can see my colleague at the break if there is any issue
3 that he has with any item on the list. Thank you, Mr President.

4 PRESIDING JUDGE FREMR: All right. Then what next before we invite witness in
5 here? So give me a second.

6 So just briefly, before this witness is brought into the courtroom, I recall that on
7 27 June 2016 by way of an oral ruling the Chamber indicated that the Prosecution's
8 application under Rule 68(3) is appropriate in principle for Witness P-850, and that the
9 witness statement in its entirety and the accompanying sketch shall be admitted into
10 evidence, provided the requirements of Rule 68(3) are met. The Chamber had indicated
11 that any supplemental examination by the Prosecution is to be completed within
12 a maximum of one hour and invited the Prosecution to use less than one hour to complete
13 its examination, if feasible.

14 And on 23 June 2016 the Prosecution indicated by email that it only intends to use the
15 statement and sketch with the witness. In this regard, the Chamber considers that
16 the Defence views on the use of these items which were received by email on 27 June 2016
17 prior to the Chamber made its provisional Rule 68(3) ruling have already been addressed
18 in the said ruling.

19 So now, court officer, please have the witness brought into the courtroom.

20 PRESIDING JUDGE FREMR: And I am reiterating that for today we are planning to sit
21 now until 3 o'clock and then the second session should be held from 3.30 until 5 o'clock.

22 (The witness enters the courtroom)

23 PRESIDING JUDGE FREMR: Good morning, Mr Witness. Can you hear me?

24 WITNESS: DRC-OTP-P-0850

25 (The witness speaks Swahili)

1 THE WITNESS: (Interpretation) Yes, I hear you.

2 PRESIDING JUDGE FREMR: Mr Witness, on behalf of this Chamber I would like to
3 welcome you to the courtroom. You are called to testify in the case against
4 Mr Bosco Ntaganda.

5 You will be soon asked questions both by the judges and lawyers in the courtroom, and in
6 this connection I would like to guide you as follows: Please listen carefully to those
7 questions. If you don't understand, feel free to ask for the question to be repeated. We
8 want you to tell the truth and tell us what you saw, heard or sensed yourself. If you
9 didn't see or hear it yourself but you found out some other way, then you should explain
10 how.

11 Please testify just on that which you remember, don't guess, don't make things up. There
12 is nothing wrong in saying "I don't know" or "I don't remember". Do you understand all
13 this, Mr Witness?

14 THE WITNESS: (Interpretation) Yes, I've understood, your Honour.

15 PRESIDING JUDGE FREMR: Very well. Mr Witness, protective measures are put in
16 place to ensure that your identity is not revealed to the public. It means that the public
17 cannot see your face and that your voice is being disguised so that the public cannot
18 recognize it. We will refer you as "Mr Witness" and ensure that your name and any other
19 information that risks revealing who you are is not broadcast to the public.

20 Therefore, whenever you need to describe anything that might reveal your identity, or the
21 identity of your family members, we will do so in private session so that no one outside
22 the courtroom can hear your answer.

23 Do you understand, Mr Witness?

24 THE WITNESS: (Interpretation) Yes, I've understood well, your Honour.

25 PRESIDING JUDGE FREMR: Good.

1 Mr Witness, now you will be provided with a piece of paper with the solemn undertaking.

2 Please now make your solemn undertaking to tell the truth by reading out the declaration
3 in your hands.

4 THE WITNESS: (Interpretation) I solemnly declare that I shall tell the truth, the whole
5 truth and nothing but the truth.

6 PRESIDING JUDGE FREMR: Thank you, Mr Witness. It means that you are now
7 under oath, so you need to be aware that it's an offence within the jurisdiction of this court
8 to give false testimony. Do you understand that?

9 THE WITNESS: (Interpretation) Yes, I've understood.

10 PRESIDING JUDGE FREMR: And finally, a few practical matters you should have in
11 mind. It's important to speak into microphone, to speak clearly and to speak at a slow
12 pace. What is very important, you should only start speaking when the person asking
13 you the question has finished and then please don't respond immediately, but please
14 count in your head to three and only then give your answer. This pause is essential for
15 us to properly interpret and record what you are saying.

16 If you have any questions during your testimony or if you feel that you need a break, do
17 not hesitate to let us know by raising your hand like this. We will then give you the
18 opportunity to speak.

19 Have you understood all that, Mr Witness?

20 THE WITNESS: (Interpretation) Yes, very well.

21 PRESIDING JUDGE FREMR: Very good, Mr Witness. So now I can give floor to
22 Prosecution so that it can take the witness through the material it seeks to have admitted
23 pursuant to Rule 68(3) of Rules.

24 Prosecution, Mr Iverson, you have the floor.

25 MR IVERSON: Thank you very much, Mr President.

1 QUESTIONED BY MR IVERSON:

2 Q. Good afternoon, sir. We have met previously. My name is Eric Iverson, and I'm
3 a trial lawyer with the Office of the Prosecutor, and I'll be asking you some questions
4 today.

5 Before I start asking questions I just want to reminded you or let you know, if there's
6 anything that's unclear to you in my question, please just ask me to repeat. We're not in
7 any hurry, so I want you to take your time, listen carefully and then provide the answer.
8 Will you be able to do that?

9 A. Yes, I can make that promise.

10 Q. Now, if I intend on asking you a question that may reveal your identity, I'll first ask
11 the Presiding Judge to move into private session. But if we're in open session and you
12 would like to say something in your testimony that reveals who you are, please just let the
13 Presiding Judge know and then I can ask to move into private session. Is that clear, sir?

14 A. Yes, it is.

15 MR IVERSON: Mr President, I would like to ask some identifying, or questions that
16 reveal identifying information, so I'd like to go into private session, please.

17 COURT: Certainly.

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

19 (Private session at 2.04 p.m.) *(Reclassified partially in public)

20 THE COURT OFFICER: (Interpretation) We're in private session, Mr President.

21 PRESIDING JUDGE FREMR: Thank you, court officer.

22 Mr Iverson, please proceed.

23 MR IVERSON:

24 (Redacted)

25 (Redacted)

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 (Redacted)

16 (Redacted)

17 Q. Do you recall meeting with investigators from the Office of the Prosecutor (Redacted)
18 (Redacted) and providing them with information?

19 A. Yes, I met them.

20 Q. When we met previously I explained to you that we have asked the Judges to admit
21 your witness statement into evidence instead of me asking you many questions in court
22 today. So part of that process requires me to ask you about your witness statement.
23 And for that purpose, and I would like to stay in private session for now, I would ask if
24 the court officer could please display (Redacted) which is a confidential
25 document.

1 Sir, are you able to see a document on your screen in front of you?

2 A. Yes, I can see it.

3 Q. Do you recognize this document, sir?

4 A. Yes, I recognize it.

5 Q. And do you see your name and signature anywhere on this document, sir?

6 A. Yes, I can see my name, but I do not see the signature.

7 MR IVERSON: Could I ask the court officer just to scroll to the bottom of this document,
8 please.

9 THE WITNESS: Now I can see my signature.

10 MR IVERSON: And could I ask the court officer to now show the same document,
11 page 1834, which is the second to last page in the document.

12 Q. Sir, just about in the middle of the page there, could you tell the Chamber whose
13 signature that is?

14 A. That is my signature.

15 Q. I would just like to read the -- out loud, the block of text immediately preceding
16 your signature. I will read it out in English and it will be interpreted into Swahili for
17 you:

18 "This statement has been read over to me in the English and Swahili languages and is true
19 to the best of my knowledge and recollection. I have given this statement voluntarily
20 and I am aware that it may be used in legal proceedings before the International Criminal
21 Court and that I may be called to give evidence in public before the International Criminal
22 Court."

23 Sir, when you met with the investigators, did you tell them the truth?

24 A. Yes, all what I told them was the truth.

25 Q. And did you provide them with accurate information to the best of your

1 knowledge?

2 A. Yes. All the information I provided was based on my personal experience.

3 MR IVERSON: Could I now ask the court officer to again display another document,
4 and that is (Redacted)

5 Q. Sir, do you recognize the document that you see on your screen before you?

6 A. Yes, I recognize it very well.

7 Q. And could you please tell the Chamber what the document represents.

8 A. This is a sketch which I drew myself and I drew it in front of the investigators.

9 Q. And do you see your signature on this document, sir?

10 A. Yes.

11 Q. Now, earlier this week, on Monday, you had an opportunity to review your witness
12 statement and have the assistance of an English-Swahili interpreter. Do you remember
13 doing that, sir?

14 A. Yes.

15 Q. And at that time were you also able to review the sketch that you see in front of
16 you?

17 A. Yes.

18 Q. When you reviewed the statement and the sketch, do you also recall being given an
19 opportunity to make corrections or clarifications to your statement and to the sketch?

20 A. There was nothing to correct.

21 Q. Do you recall making any clarifications to anything in your statement?

22 A. Yes, I provided some clarifications.

23 Q. Now, before I get into the clarifications, because I would like to ask you questions
24 about them, I'd just like to establish what the clarifications were. Are you able to recall
25 specifically what the clarifications were that you provided?

1 A. Yes.

2 Q. And what were the clarifications, sir?

3 A. I can provide you with them. Do you want me to talk about the clarifications I
4 provided on the sketch or in relation to my statement?

5 Q. Perhaps we can start with the statement, sir.

6 And I would just ask that the sketch be removed from the computer screen.

7 We will return back to the sketch in just a moment, but first I wanted to actually just ask
8 you about clarifications that you had made to your statement on Monday.

9 A. Okay. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted) -- do you want me to slow down?

18 Q. I'm sorry, I wasn't asking for a summary of the statement or things that are already
19 in the statement, I was actually just asking about any clarifications. Sir, let me ask
20 a narrower question and then I'll give you an opportunity to provide clarification to
21 the Chamber.

22 So what, if anything, in relation to trenches would you like to clarify?

23 A. Very well. Do you want me to talk to you about trenches?

24 Q. I'm just asking if you have -- in relation to the word "trenches," whether you would
25 like to clarify anything for the Chamber.

1 A. When the UPC came to Kilo, (Redacted)
2 (Redacted) And at that time, when the UPC troops came in, (Redacted)
3 invite the inhabitants of the village to return to the village, given that the majority of
4 the inhabitants of the village had fled to the bush. But we were not far away from our
5 village, we were close by. So the soldiers (Redacted)
6 (Redacted) invited them to return to the
7 village. (Redacted) Some (Redacted)
8 inhabitants had fled to further destinations, but we had remained closer to the village on
9 a hill.
10 And then, when we returned to the village, the very next day there was a call issued
11 whereby we were asked to dig trenches.
12 Those trenches were to be used by the soldiers during the war. We were all brought to
13 do that work. That is, those of us who had come back to the village, we had to do that
14 trench digging. And on the sketch that I provided you can see the location which I drew
15 pointing to the places where the soldiers' trenches were located. Do you want me to
16 continue?
17 Well, while we were digging those trenches, some soldiers came from Batata with two
18 young men and a woman. They executed them on the spot and I saw this with my own
19 eyes. Along with the other people who were there, we saw them execute those two
20 young persons and that woman. (Redacted) And
21 previously I had mentioned the name (Redacted) but when I saw the investigators again, I
22 provided correction to that part of my statement.
23 Q. I'm very sorry to interrupt. I hear actually what you were getting into has to do
24 with my next question, so maybe it's a fortuitous interruption anyway. With respect to
25 this (Redacted) -- or, excuse me, I'm sorry. With respect to (Redacted) what, if any,

1 correction would you like to make?

2 A. What I would like to correct is in relation to the name that I provided. The name I
3 gave was (Redacted) but that's the wrong name, the right name is (Redacted)

4 Q. And could I just ask you briefly to explain to the Chamber what's the reason for the
5 mix-up, why it was initially (Redacted) but now you understand that it was (Redacted) If
6 you could just briefly explain that, please.

7 A. When I met the investigators for the first time the name I provided was (Redacted)
8 But then (Redacted)
9 (Redacted)

10 Q. Other than these clarifications you have just provided, do you wish to make any
11 other changes or clarifications or corrections to your statement?

12 A. No.

13 Q. And is your statement true and accurate to the best of your knowledge and belief?

14 A. The only clarification I wanted to make was in relation to the name (Redacted)

15 Q. Excuse me. And is your statement true and accurate to the best of your knowledge
16 and belief?

17 A. Yes. I can confirm before God and before man that everything that I said is based
18 on the truth and on what I experienced and on what I saw with my own eyes.

19 Q. And do you agree that your statement may be used by the Judges in -- as evidence,
20 admitted into evidence.

21 A. Yes, I agree, because this is tangible evidence.

22 Q. And will you be available to be questioned by the Judges and by the Defence in this
23 case?

24 A. Yes, I'm ready.

25 MR IVERSON: So at this time, Mr President, I would like to submit (Redacted)

1 the statement, into evidence.

2 PRESIDING JUDGE FREMR: And one additional question to you, Mr Witness. One of
3 the condition under which your statement may be admitted, that you also be ready to
4 answer question, when questions put to you on the statement by Defence and Chamber.
5 So could you just agree with that?

6 THE WITNESS: Yes. Yes, I'll be ready to answer any questions.

7 PRESIDING JUDGE FREMR: Before we make a ruling, Defence, any objection to the
8 admission?

9 MR ST-MICHEL: As indicated, Mr President, we have no objection, provided that the
10 statement is admitted in its entirety, which has already been ruled by the Chamber. So
11 we have no objection, thank you.

12 PRESIDING JUDGE FREMR: Very well, then statement specified by Mr Iverson is
13 admitted according 68(3) into evidence as a further Prosecution exhibit.
14 Mr Iverson.

15 MR IVERSON: And could I ask the court officer to please display the sketch again, and
16 that's (Redacted)

17 Q. Sir, do you see your sketch in front of you?

18 A. Yes, I see it.

19 Q. So what I'd like to do now is just if you could verbally walk us through the sketch so
20 that everybody is able to understand what is drawn here.

21 So in the top left-hand corner I see the word "nord" written and in the top right-hand
22 corner I see the word "est" and at the bottom left I see "ouest" and in the bottom right I see
23 "sud". Is this a correct orientation of the sketch that you've drawn for the cardinal
24 directions?

25 A. Yes. I sketched this out myself.

1 Q. All right. So if we could just work from top to bottom and from left to right.

2 (Redacted)

3 (Redacted)

4 A. (Redacted)

5 Q. All right. And then we see a number of lines and circles. And some of the words
6 are a little bit difficult to read. I believe I see a word "Mongbwalu" on the left-hand side
7 of the page, with an arrow. Could you explain to the Chamber what does that mean,
8 with the arrow?

9 A. Yes, the arrow which is pointing north is the road to Mongbwalu.

10 Q. And just moving to the right and up a little bit I see the words "bureau collectivité"
11 I believe. Could you explain to the Chamber what does that represent?

12 A. Yes, that is the office of Kilo collectivity.

13 Q. And then I see the words "Bambu" and "Batata". Am I correct in understanding
14 that those are roads leading to Bambu and Batata?

15 A. Bambu, this is the road that leads to Bunia.

16 Q. And Batata, is that the road that leads to Batata?

17 A. Yes, that's the road to Batata, which is not far from Kilo, in fact.

18 Q. All right. So just below that we see a circle and an arrow pointing to the letters
19 UPC. Could you tell the Chamber what does that represent?

20 A. That is the UPC headquarters, it's where they lived.

21 Q. And then I can see that there's another circle that hasn't been mentioned yet, not the
22 bureau collectivité, but the other circle. And I see that there's a number of lines in
23 between those circles. What do those lines represent?

24 A. Those two arrows, that's where we dug those trenches. Where the UPC were, that's
25 where the trenches were dug.

1 Q. All right. And does the information on this sketch as accurately as possible reflect,
2 reflect the situation as you witnessed it?

3 A. I myself drew this sketch.

4 Q. All right. Do you have any objection if this sketch is admitted into evidence?

5 A. No, I have no objections at all.

6 MR IVERSON: All right. Mr President and your Honours, I'd like to submit this
7 document into evidence as well. (Redacted)

8 PRESIDING JUDGE FREMR: Defence, any objection?

9 MR ST-MICHEL: No objection, Mr President.

10 PRESIDING JUDGE FREMR: So the sketch specified by Mr Iverson is also admitted
11 according to 68(3) as a Prosecution exhibit.

12 Now I would like to ask, court officer, how much time is still remaining till one hour
13 devoted to the Prosecution?

14 THE COURT OFFICER: (Interpretation) Your Honour, the Prosecution has used
15 37 minutes from the time allotted. Thank you.

16 PRESIDING JUDGE FREMR: So it seem if we will continue till the end it will a little bit
17 overcome 3 o'clock, but I think it will be better than to make it in two pieces, so simply
18 continue to the end of your one hour.

19 MR IVERSON: Yes, Mr President. I'll do that. I just have a few supplementary
20 questions that I'd like to ask.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 So what I'd like to ask you is, could you explain to the Chamber what were the

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1 circumstances in which (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. Can you, if you know, what I'd like to ask you to do is just explain the circumstances

11 (Redacted) If you could

12 just explain that.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted) the first shell hit in Sayo. Then everybody got up to flee. I

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1 fled. I chose a direction. My wife also chose a direction. She was there. She had
2 come to see me. The children who had gone to school also headed off in a direction.
3 Everybody in Mongbwalu went off in one direction or another. We all dispersed. And
4 that's how it came to be that the children went missing.

5 Q. And I have a question also, this is a much shorter question, but in paragraph 37 of
6 your statement on page 1830, you state: "I was with nearly the whole population of the
7 village of Kilo." And I was just wondering if you were able to tell the --

8 A. It wasn't Kilo, it was Mongbwalu.

9 Q. Right. And I -- I'm sorry, I should have made it clearer. I'm on to another
10 question, just a supplemental question. It has no relation to my last question. I'm sorry,
11 I should have made that clear. So do you understand that I'm now on to another topic?

12 A. Ndiyo.

13 Q. In paragraph 37 of your statement, and this is after you had testified that you had
14 gone to Kilo, you state: "I was with nearly the whole population of the village of Kilo."
15 And so my question is a simple one, if you know, at that time what was the population of
16 Kilo? Do you know how many people or approximately how many people that was?

17 A. Kilo is highly populated. We didn't go far from Kilo. We just fled and hid on
18 a hill which was not far away.

19 Q. And perhaps you don't know this, but I'm just asking in terms of numbers of people,
20 if you can tell the Chamber approximately the number of people that lived in Kilo at that
21 time back in 2002?

22 A. I don't know the exact number of the population who was there. But the
23 population is very dense there. In fact, it's too dense. We took refuge on (Redacted)
24 (Redacted)

25 Q. All right. And again not to be jarring, but just for the sake of expediency, I'm

1 moving on to another topic, and that has to do with your testimony from paragraph 19 on
2 page 1830. In that paragraph you state the following:

3 "The following day, the UPC ordered the men and young boys in Kilo to come and dig
4 trenches."

5 And so my question is whether the men and young boys in Kilo had a choice in the matter
6 whether or not to dig the trenches?

7 A. It was an order that was given, an order to dig. Nobody could have refused. Men
8 and boys were taken, there were about 20 of us or 30 of us involved.

9 Q. And the members of the UPC who *gave the order to dig the trenches, could you
10 describe those individuals for the Chamber?

11 A. They were soldiers. They were soldiers. They were wearing military uniforms.

12 Q. Are you able to tell the Chamber whether or not those soldiers were armed?

13 A. Those soldiers had everything. They had heavy weapons, they had personal
14 weapons, they had everything.

15 Q. All right. And again I'm moving on to another topic. In paragraph 50 on
16 page 1832, you state the following in your testimony:

17 "About 4-7 days after my return to Kilo, I saw Bosco Ntaganda there. He came from the
18 direction of Mongbwalu and was escorted by soldiers. He went into the office that was
19 being used as the UPC headquarters. He was taller than the other soldiers. I had never
20 seen him before but people were saying 'that is Bosco'."

21 Could you tell the Chamber, if you recall, what was Mr Ntaganda wearing?

22 A. He was wearing a military uniform.

23 Q. And how far away from Mr Ntaganda were you when you saw him?

24 A. (Redacted). He was at 80 or 100 metres

25 distance. (Redacted). And when he came everyone was

1 curious, we wanted to see him. I wasn't the only one. This was my first time to see
2 him.

3 Q. And do you recall who it was who told you that "that is Bosco"?

4 A. There were people who said "Bosco, Bosco" and everybody was curious to see him.
5 I also was curious to see him.

6 Q. Thank you, sir. Those are all the questions I have for you.

7 MR IVERSON: Thank you, Mr President. Thank you, your Honours.

8 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.

9 So we will break now for 30 minutes and then we will continue with cross-examination
10 conducted by Defence. I am also just reiterating that three hours, if I am not wrong, have
11 been allotted to the Defence for that purpose. Now we break and we will continue half
12 past 3.

13 (Recess taken at 2.56 p.m.)

14 (Upon resuming in private session at 3.33 p.m.) * (Reclassified partially in public)

15 THE COURT USHER: All rise.

16 Please be seated.

17 THE COURT OFFICER: (Interpretation) Mr President, for your information, we are
18 still in private session.

19 PRESIDING JUDGE FREMR: So let's move into open session at least for the beginning.

20 (Open session at 3.34 p.m.)

21 THE COURT OFFICER: (Interpretation) Mr President, we are now in open session.

22 PRESIDING JUDGE FREMR: Thank you, court officer.

23 Mr Witness, you have been questioned by representative of Prosecution. Now it's turn
24 for Defence, so you now will be examined by a representative of Defence. And I would
25 like to remind you that this Court is governed by a principle of fair trial, which means that

1 both parties has to be treated equally and it means for you that you should respond to
2 questions put to you by Defence in the same way like you did it in -- as concerns questions
3 put to you by Prosecution. Do you understand that?

4 THE WITNESS: (Interpretation) Yes, I have understood you very clearly.

5 PRESIDING JUDGE FREMR: Very well. I guess it will be you, Mr St-Michel.

6 MR ST-MICHEL: Yes, indeed, Mr President.

7 PRESIDING JUDGE FREMR: So just a reminder, you have three hours allotted and my
8 initial question is whether you would like to proceed in open or private session?

9 MR ST-MICHEL: We can remain in open session for my first questions.

10 PRESIDING JUDGE FREMR: All right then. Please proceed.

11 QUESTIONED BY MR ST-MICHEL: (Interpretation)

12 Q. Good afternoon.

13 A. Yes, I'm fine. Thank you.

14 Q. Let me start by introducing myself. My name is William St-Michel, I'm counsel for
15 the Defence in this case. Today I have a few questions for you which will enable the
16 Judges to understand your narration of the events that you say you experienced. Most of
17 the questions are quite direct and simple and the answers can simply be yes or no. I am
18 limited to the amount of time I can use and I urge you to please listen carefully to my
19 questions and answer as concisely as possible. Like my colleague from the Prosecution
20 pointed out to you, if you do not understand any of my questions, please ask me to
21 rephrase.

22 Have you understood?

23 A. Yes, clearly.

24 Q. Mr Witness, in your statement you refer to what you experienced in 2002 and 2003;
25 is that correct?

1 A. Yes, that is correct.

2 Q. We will not be talking about those events right away, but let us talk about the
3 situation as it was before the year 2002. I would like first of all to draw your attention to
4 paragraph 10 of your statement, and for the record it is document *DRC-OTP-2067-1825 at
5 paragraph 10, which is on page 1826.

6 Now, Witness, I'll read out the first sentence of that paragraph to you in English and what
7 I will read out will be interpreted to you and you will hear it in your ears in Swahili.
8 That first sentence reads as follows, in English:

9 (Speaks English) "In about 1998 or 1999, trouble started between the Hema and Lendu
10 tribes."

11 (Interpretation) Now, Witness, to understand ourselves clearly, my next questions will
12 focus on the situation in the Ituri from 1998 to '99 to 2000. Are you with me?

13 A. Yes, I am.

14 Q. I note that in your statement you refer to trouble between the Hema and the Lendu.
15 Now, Witness, would you agree with me, wouldn't you agree with me that it was more
16 than trouble, that it was a matter of conflict rather than trouble?

17 A. There was a conflict between two tribes.

18 Q. Witness, I put it to you that the conflict between the Hema and the Lendu went
19 beyond the framework of Hemas and Lendus and involved other tribes such as the Alur,
20 the Bira, the Nande and such tribes. Would you agree with me, Mr Witness, if I put that
21 to you?

22 A. The conflict was between the Hema and the Lendu, but later on it involved other
23 tribes, including our tribe the Nyali. Nyali, we were involved it. But at the onset it was
24 a conflict between the Hema and the Lendu.

25 Q. Mr Witness, the conflict you have just described to us as having evolved was a

1 bloody conflict, wasn't it?

2 A. Yes.

3 Q. Houses were burnt, isn't it?

4 A. Yes.

5 Q. People in villages attacked each other with machetes; is that correct?

6 A. Yes, with machetes. That is correct.

7 Q. Mr Witness, you also know that at that time there was not an organised armed
8 forces; is that correct?

9 A. At the beginning the groups were not organised, they used machetes and sticks and
10 things of that nature.

11 Q. In each village there was a village defence committee that was in charge of planning
12 the attacks, wasn't there?

13 A. Things broke out between the Lendu and the Hema and they started killing each
14 other using machetes and other types of weapons.

15 Q. Mr Witness, let me say that what I was referring to here was the peace committees
16 as they were known. Are you aware of them?

17 A. I am not aware of that, I don't remember.

18 Q. Now, still talking about this conflict, you know that it is only subsequently that the
19 organised army intervened in the conflict; isn't it so?

20 A. An organised army according to me would be the UPC, which was a well organised
21 army.

22 Q. Witness, before the existence of the UPC there was the RCD-K/ML in place, wasn't
23 it?

24 A. I really don't know. I heard mention of it, but I did not know those things very
25 well. The K/ML issues, I really do not master them and I am not able to explain those

1 things to you.

2 Q. However, Witness, earlier in answer to a question from my learned colleague you
3 testified that you were familiar with the APC or that you knew the APC. Do you
4 remember that?

5 A. The APC was before all of those things happened. They were the soldiers of the
6 army. I don't know whether it was the K/ML troops or what have you. The APC was
7 there before the war between the Hema and the Lendu.

8 Q. Witness, I put it to you that the APC intervened in the conflict in an attempt to bring
9 back peace to the Ituri. Does that jog your memory?

10 A. So far I really don't know what answer to give to your question. I don't -- I don't
11 know. I don't have an answer for your question. I have no idea.

12 Q. But, Witness, you know that the APC was allied or was in an alliance with the
13 Lendu combatants; is that correct?

14 A. I was not aware of that.

15 Q. Witness, we have just talked about the ethnic conflict that was raging in the Ituri
16 between 1998, 1999 and 2000. Now, let me take you to the year *2002 in Mongbwalu,
17 where you were, and that was prior to the attack by the UPC. Are you with me?

18 A. Yes.

19 Q. Let me read another segment of paragraph 10 of your statement. And it will be
20 interpreted to you and then I will put a few questions to you thereafter:

21 (Speaks English) "When I was working in Mongbwalu in 2000, this conflict between the
22 Hema and the Lendu was still going on."

23 (Interpretation) Do you stand by what is contained in your statement, Mr Witness?

24 A. Please proceed.

25 Q. Mr Witness, this is my question: You know that in 2002 the Hema had been driven

1 out of Mongbwalu by Lendu combatants; is that correct?

2 A. Yes.

3 Q. The Hema who remained in Mongbwalu were actually killed by the Lendus; is that
4 correct?

5 A. Yes.

6 Q. The Lendu combatants and the APC had control over Mongbwalu; is that correct?

7 A. That's so.

8 MR IVERSON: My objection is just to the use of the term APC. I was just looking
9 through the witness's statement, there's no mention of the APC. None of my questions
10 pertained to the APC and I don't find in any answer any reference to the APC. If I'm
11 wrong I'm happy to be corrected, but then I ask if Defence could provide a reference to
12 that.

13 PRESIDING JUDGE FREMR: Mr St-Michel, your explanation, your position to his
14 objection.

15 MR ST-MICHEL: Yes, Mr President, my colleague is indeed right, there is no mention of
16 APC in the witness statement, but in answer to his question, and I will be quoting from
17 the French transcript, page 77, lines 22 to 27, and I'll be quoting in French:

18 (Interpretation) "Edmond that person who just arrived, what did they tell you?"

19 Answer: "Edmond did not hide the truth or the news from me. He told me everything.
20 He told me that the airport had already been captured and that the members of the APC
21 were at the airport."

22 THE WITNESS: (Interpretation) It was not the APC. It was the UPC.

23 PRESIDING JUDGE FREMR: So now we got spontaneous clarification.

24 Mr St-Michel, you may proceed.

25 MR ST-MICHEL: Thank you, Mr President.

1 (Interpretation) Mr President, can I have a few moments?

2 PRESIDING JUDGE FREMR: For sure. Take your time.

3 (Counsel confers)

4 MR ST-MICHEL: (Interpretation)

5 Q. Mr Witness, to clarify the situation, is it your testimony today that there were no
6 APC troops in Mongbwalu in 2002 or members of the APC in Mongbwalu in 2002?

7 A. In 2002, in 2002, well, I have no answer for you because I was a gold digger at the
8 time. All I know is that there were Lendus there and if there were any APC soldiers,
9 well, that, that might be possible, but I don't know what role they might have been
10 playing there at the time. What I know is that the Lendus were in control of Mongbwalu
11 at that time.

12 Q. Thank you, Mr Witness. Now, when you say that it was the Lendu who had
13 control of Mongbwalu, isn't it true that they put in place or they imposed a tribal regime
14 in Mongbwalu. Let me give you a few examples to make the point. You know, for
15 example, that the Lendus forced women to go about topless?

16 A. That is true, that that is what happened.

17 Q. You also know that women could not cross their arms?

18 A. They had many rules, too many rules that they imposed on the people.

19 THE INTERPRETER: Interpreter corrects: They had many rituals.

20 MR ST-MICHEL:

21 Q. Those rituals imposed by the Lendu also included forced labour for community
22 work such as repairing roads which was known as the salongo; is that correct?

23 A. The salongo was an order, it was one of the rules.

24 Q. Absence from salongo was punishable by ears being cut off or flogging; is that
25 correct?

1 A. There was a lot of extortions. Many excesses and abuses. Yes, those things did
2 happen at that time.

3 Q. You also know that people could only produce alcohol Kaikpo, Kilo -- K-A-I --

4 THE INTERPRETER: Overlapping speakers.

5 THE WITNESS: (Interpretation) Yes, that's a local drink which would get you drunk
6 very easily.

7 MR ST-MICHEL: (Interpretation)

8 Q. I take you to paragraph 13 of your statement, Mr Witness, on page 1827 of the
9 document which I already cited. I will read the first sentence of that paragraph, which
10 will then be interpreted to you:

11 (Speaks English) "In November or December 2002, the UPC came to Mongbwalu to
12 chase the Lendu away."

13 (Interpretation) Now, Mr Witness, in November or December 2002, when you talk about
14 the Lendu am I to understand that you are talking about Lendu combatants and the APC
15 combatants, according to what we have just talked about?

16 PRESIDING JUDGE FREMR: Hold on, Mr Witness. Hold on.

17 Mr Iverson.

18 MR IVERSON: I'm just objecting again to the use of the term APC. I think that that
19 term may lend itself to confusion for the witness. Defence counsel hasn't established that
20 the witness is actually familiar with APC. So it's a terminology question and so I think it
21 would be clearer if we refrain from using terms that the witness may not be familiar with.

22 PRESIDING JUDGE FREMR: Mr St-Michel.

23 MR ST-MICHEL: I can move on.

24 PRESIDING JUDGE FREMR: Yes, because otherwise I would sustain the objection.

25 Because from the last answers from Mr Witness it was really as that Mr Iverson described.

1 So please move on.

2 MR ST-MICHEL: (No interpretation)

3 THE INTERPRETER: The question -- the interpreters did not get the first part of
4 counsel's question. Could he be asked to repeat it, Mr President?

5 PRESIDING JUDGE FREMR: Mr St-Michel, the beginning of your question was not
6 captured by the interpreters. Please repeat it.

7 MR ST-MICHEL: (Interpretation) Yes, Mr President. I'm obliged.

8 Q. Mr Witness, you know that during the two attacks of the UPC on Mongbwalu in
9 2002, the UPC first attacked the airport; is that correct?

10 A. Yes, that is correct.

11 Q. Mr Witness, you also know that the Mongbwalu airport is a strategic position from
12 which the region can be controlled; is that correct?

13 A. Please kindly repeat your question.

14 PRESIDING JUDGE FREMR: Mr St-Michel, I will not permit this question. You know,
15 it's for an expert maybe, but not for the witness to make such an evaluation, whether it's
16 somebody from the strategic point of view is important or not, so please move on.
17 You can ask whether it's the only airport, for example, it's for the witness, but to evaluate
18 strategic importance is not for him.

19 MR ST-MICHEL: (Interpretation) Thank you, Mr President.

20 Q. Mr Witness, are there any other airports in the Mongbwalu area?

21 A. There is only one airport in Mongbwalu.

22 MR ST-MICHEL: (Interpretation) Mr President, I would like to go to private session.

23 PRESIDING JUDGE FREMR: All right.

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

25 (Private session at 3.58 p.m.) *(Reclassified partially in public)

1 THE COURT OFFICER: (Interpretation) We are in private session, Mr President.

2 PRESIDING JUDGE FREMR: Thank you, court officer.

3 Mr St-Michel, please proceed.

4 MR ST-MICHEL: (Interpretation)

5 Q. Mr Witness, we are now in private session, and this means that any information you
6 provide remains within the courtroom; do you understand that?

7 A. Yes.

8 Q. I would like now to address with you the circumstances surrounding the two
9 attacks by the UPC on Mongbwalu in 2002. First of all, let me read out an excerpt of your
10 statement to you, and for the record it is paragraph 16 of the statement at page 1827.

11 The last sentence of that paragraph:

12 (Speaks English) "At about 7 a.m., (Redacted) when we heard the first
13 bomb fall on Mongbwalu. People began to flee."

14 (Interpretation) Then I will read the first sentence of paragraph 17:

15 (Speaks English) "When we heard the bombs, we also began to flee."

16 (Interpretation) Witness, do you confirm that you left Mongbwalu during the first attack
17 when you heard the first shots; is that correct?

18 A. I follow you.

19 Q. Just so that your answer is well noted, is that a yes?

20 A. Yes.

21 Q. Witness, do you confirm as well that all the people in the village left as soon as they
22 heard gunfire; is that not correct?

23 A. Everybody, yes. They all left. It was a rout.

24 Q. Witness, in fact, neither you nor the other persons from Mongbwalu heard
25 the -- heard the fighting being at their door in order to leave Mongbwalu; that's correct, is

1 it not?

2 A. Yes. Those who heard these shots, including me, fled.

3 Q. Witness, having left Mongbwalu, you spent the night in (Redacted) and the next day
4 you went back to Mongbwalu, did you not?

5 A. I went to (Redacted) Most people went to Sayo, (Redacted) and
6 the next day I decided to return to Mongbwalu.

7 Q. And afterwards you went to Sayo, did you not?
8 (Redacted)

9 (Redacted) I continued to Sayo because most of the people had fled. They had fled in the
10 direction of Sayo.

11 Q. Witness, do you confirm that the people with whom you slept in Sayo, that there
12 were a lot of them.

13 A. Yes, in Sayo it was the whole population of Mongbwalu who had fled to Sayo. My
14 wife and myself, we went, but everybody from Sayo fled there.

15 Q. Do you also confirm, Witness, that most of these people didn't return to Mongbwalu
16 for several days?

17 A. During the first attack the UPC didn't stay in Mongbwalu. They were driven back
18 on the same day. And the next day the civilian population returned to Mongbwalu.

19 Q. Now, when you returned to Mongbwalu, Witness, in your statement what you say
20 is that there was (Redacted).

21 Here I'm referring to paragraph 29 in your statement; is that correct?

22 A. Yes.

23 Q. Witness, you know there were also other Lendu occupying other properties in
24 Mongbwalu, were there not?

25 A. During the war a lot of Lendu occupied houses in Mongbwalu. When the Hema

1 fled, most of their houses were occupied by Lendu.

2 Q. Now, Witness, there was a certain period of time between the first UPC attack and
3 the second attack; is that correct?

4 A. I'm talking about the first attack, yes.

5 Q. Now, during this period between the two attacks, you left Mongbwalu, did you not?

6 A. I had to leave, but I didn't have the possibility of leaving because the Lendu had set
7 up roadblocks. They didn't want people to leave Mongbwalu. They were expecting a
8 second attack. They prevented people from leaving Mongbwalu and that's the reason
9 why I did not leave that place.

10 Q. So, Witness, I understand from your testimony that due to roadblocks you were in
11 danger in Mongbwalu?

12 A. Yes, we were in danger.

13 Q. So there was a second attack, UPC attack around two weeks later; is that correct?

14 A. Yes.

15 Q. You also confirm once again you left Mongbwalu as soon as you heard the first
16 shots, did you not?

17 A. Please could you ask your question again?

18 Q. Of course, Witness. I was asking you if you would confirm that once again you left
19 Mongbwalu as soon as you heard gunshots.

20 A. You're speaking about the second attack. During the second attack we and the
21 Lendu combatants, we fled to Mongbwalu. We left Mongbwalu. There weren't
22 roadblocks. The war was intense. The fighters, the Lendu fighters and all the civilian
23 population had left Mongbwalu. There was no more roadblocks at that time.
24 Everybody was headed towards Kilo.

25 Q. So, Witness, you didn't hear that the fighting was coming to you before leaving?

1 A. No, we fled when there were gunshots. It was during the war. It was the second
2 UPC attack. It was an intense war. You could hear gunfire. Everybody took the Kilo
3 road in order to flee.

4 Q. This takes me, Witness, to speak about your return to Kilo. Do you remember,
5 Witness, approximately how much time it took you between fleeing Mongbwalu and
6 arriving in Kilo?

7 A. There are 27 kilometres between Mongbwalu and Kilo by foot. (Redacted)
8 (Redacted). And that's the reason why it took us five to
9 six hours in order to get to that place on foot.

10 Q. We're now going to speak about the attack as such. I note that in your statement,
11 paragraph 36, you say the attack on Kilo happened two or three days after your return; is
12 that correct?

13 A. Yes.

14 Q. I would quite simply like to check a detail with you. Now, we talked about people
15 who were also present in the region at the time and they spent -- well, it happened a week
16 to 10 days, does that -- does that refresh your memory, Witness?

17 A. No, that's not the way it was. Two to -- two days or more. And it was at that time
18 that the UPC entered Kilo. I remember that very well.

19 Q. I'm now going to speak about the way in which the UPC entered Kilo. First of all,
20 you confirm that there was a time when the UPC approached and the time when you
21 came out of the forest that there was a few hours between those two moments, were there
22 not?

23 A. Please could you ask your question once again?

24 Q. When you left Kilo at the time the UPC was approaching, you remained just a few
25 hours in the forest before returning, did you not?

1 A. When the UPC entered, I was in Kilo. When I got to Kilo, we fled into the bush and
2 some hours later we heard somebody with a megaphone calling upon the civilian
3 population who were saying to return to the village. And when we heard that the UPC
4 had arrived at the village and the gunfire, people fled. It didn't take a long time.
5 Somebody sent a message via megaphone to ask the population to return to the village.

6 Q. We'll go back there in a few minutes, Witness. For the moment I just want to look
7 at the circumstances surrounding the approach of the UPC, and I'm going to read a
8 sentence from your statement. Paragraph 37, starting on the second line:

9 (Speaks English) "We did not hear any shooting. I do not think there was any fighting
10 because everyone ran from the shooting."

11 (Interpretation) Witness, do you confirm your statement?

12 A. Yes.

13 PRESIDING JUDGE FREMR: Mr Iverson.

14 MR IVERSON: Just to ensure a fair evaluation of the testimony, in paragraph 37 it does
15 say "We did not hear any shooting." But in paragraph 36 it said "I could also hear
16 shooting." So in order to fully clarify I think, in fairness, that should be addressed as
17 well.

18 PRESIDING JUDGE FREMR: I think for the Chamber it's clear that the context, it's a bit,
19 you know, different than the isolated paragraph 37.

20 MR ST-MICHEL: (Interpretation)

21 Q. Witness, you confirm there was no opposition when the UPC attacked Kilo; is that
22 correct?

23 A. Well, to tell the truth the UPC didn't fight when it was entering Kilo, but by
24 Mongbwalu there was gunfire and the population fled. That was at Mongbwalu. But
25 in Kilo the UPC soldiers did not fire.

1 PRESIDING JUDGE FREMR: Sorry, Mr St-Michel, I would like just to correct our
2 transcript. Page 94, line 23 I said "I think for the Chamber it's clear that the context, it's a
3 bit different than the isolated paragraph 37." So the wording "the context is rather
4 different" is missing.

5 Now, please proceed.

6 MR ST-MICHEL: (Interpretation) Thank you very much, your Honour.

7 Q. Witness, we're now going to speak about the cohabitation period between the UPC
8 and the population. Are you following me? This period, you indicated that it lasted for
9 two to three months, December 2002 to March 2003; is that correct?

10 A. End of 2002, December 2002 to March 2003, yes, that is correct.

11 Q. Witness, I would now like to go back to the call that was launched by (Redacted) or made
12 by (Redacted) I don't want to speak about (Redacted) anymore -- I would like to speak
13 more about (Redacted)

14 THE INTERPRETER: Corrects the interpreter.

15 THE WITNESS: (Interpretation) Yes.

16 MR ST-MICHEL:

17 Q. (Redacted) stayed in Kilo during the UPC attack, did he not?

18 A. Yes. There was no attack in Kilo, brave people stayed there. We were expecting
19 the arrival of the UPC and it was a brave person who was there. He wasn't afraid. He
20 was afraid of nothing.

21 Q. In fact, (Redacted) was very close to the UPC?

22 A. Very, very close. He wasn't their friend, but he lived with them. He was the
23 person who met them for the first time. When the population fled, he stayed. He was
24 the one who welcomed them.

25 Q. And in some way he was the liaison between the UPC and the Kilo population, was

1 he not?

2 A. Yes. But the person who asked the -- he asked the civilian population to return to
3 the village.

4 Q. Witness, do you remember having met the representatives of the Office of the
5 Prosecutor on Monday, do you not?

6 A. Yes.

7 Q. Now, on that occasion as my colleague mentioned, you reviewed your statement,
8 did you not?

9 A. Yes.

10 Q. You were able to make clarifications and corrections thereto, were you not?

11 A. I made one correction. If you find another place where I put a correction, please
12 remind me thereof.

13 MR ST-MICHEL: (Interpretation)

14 Q. So, Witness, my question here is to understand the context of this meeting with the
15 people from the Office of the Prosecutor. So during this meeting with the Prosecutor's
16 office notes were taken, were they not?

17 A. What meeting are you talking about? What day?

18 Q. Witness, I'm speaking about the meeting on Monday?

19 A. Yes, they reread the statement and I confirmed it. I confirmed what I had stated
20 before.

21 Q. During this meeting on Monday there was also a camera and everything was
22 recorded, was it not?

23 A. Yes.

24 Q. So, Witness, the Office of the Prosecutor in the framework of the trial provide us
25 with notes taken during this meeting. These notes are meant to represent what you said

1 to the Office of the Prosecutor during the meeting; do you follow me?

2 A. Yes, I follow you very well.

3 Q. So now, Witness, I'm now going to read an excerpt from these notes and I'm going
4 to ask you a few questions about it.

5 For the record, the notes I'm referring to is document DRC-OTP-2094-0159, page 3.

6 Page 0160 of the DRC document. So I'm going to read an excerpt from these notes:

7 (Speaks English) "As (Redacted) stayed behind, everyone thought that he was courageous so
8 he was the first to talk with them. Later on, they recommended him to go out and call
9 for people to come back. They were on the hill and all started coming back down. It
10 was all on the same day. The next day, the UPC said they should help dig military
11 trenches all around the village so they could hide in case there was an attack."

12 (Interpretation) Do you remember having indicated that to my colleague from the
13 Prosecution on Monday?

14 A. Yes, that's correct. When they arrived they gave a megaphone to (Redacted) He made
15 an appeal to the population asking them to return to the village. That was the same day
16 as the day we went back. And it was the next day that they told the population to start
17 digging trenches.

18 Q. When you say that the UPC asked the population to dig trenches, now, earlier you
19 said today that, this is on page 79 of the transcript, the French version thereof, "To dig,
20 nobody could be against that. Men and boys were taken. There were around 20 or 30
21 of them."

22 Witness, there were a lot more than 20 people in Kilo, were there not?

23 A. Yes.

24 Q. So I understand from your testimony that it wasn't the whole population of Kilo that
25 dug the trenches; is that correct?

1 A. It was the strong men and the young people who were requisitioned in order to dig
2 the trenches.

3 Q. Well, you will agree with me that all this was done with a good agreement, was it
4 not?

5 A. No, there was no -- it wasn't in a war. There was no problem. If (Redacted) hadn't
6 made the call for the population to return, then I think nobody could have returned to the
7 village. And it's thanks to (Redacted) that we returned.

8 Q. And nobody refused to dig trenches, did they?

9 A. No, nobody.

10 Q. Witness, I understand from your testimony that when I speak about a good
11 agreement, good understanding, there was a climate which wasn't aggressive; is that
12 correct?

13 A. You know, during war nobody's going to impose themselves against an order that's
14 given. They said "Do this." We did it. You're not going to refuse an order. We were
15 forced. We couldn't oppose it. That's why we dug the trenches.

16 Q. And the aim or purpose of the trenches was to defend Kilo if there was an attack,
17 was it not?

18 A. I could use a term saying that it's a foxhole, a place where -- that soldiers dig in
19 order to protect themselves. We were the ones who dug these trenches. It wasn't all the
20 population.

21 Q. I'd just like to confirm with you that the aim of the trenches was to protect the
22 village against an attack; is that correct?

23 A. No. No. You had to protect the headquarters, the quartier général. If you went
24 there you would see that there was a trench just next to where their HQ was. Not the
25 whole village. We dug a trench to protect their HQ, the quartier général, as you can see

1 in my sketch.

2 MR ST-MICHEL: Mr President, I think we can move back into public session.

3 PRESIDING JUDGE FREMR: Very well.

4 Court officer, let's move into open session now.

5 (Open session at 4.28 p.m.)

6 THE COURT OFFICER: (Interpretation) We're in open session, your Honour.

7 PRESIDING JUDGE FREMR: Thank you, court officer.

8 Mr St-Michel, please proceed.

9 MR ST-MICHEL: (Interpretation) Thank you very much, your Honour.

10 Q. Witness, still talking about the time that the UPC was present in Kilo, I'd like to take
11 you to paragraph 46 in your statement. It's page 1831. In this paragraph, Witness, you
12 speak about people allegedly killed by the UPC at the beginning of the time when the
13 UPC was present; do you remember that?

14 A. Yes, I remember.

15 Q. Witness, I'm going to read an excerpt from this paragraph:

16 (Speaks English) "But in the days and weeks following the taking of Kilo by the UPC, we
17 heard about these killings. People were talking about it, but I did not witness these
18 incidents and I do not know the names of the people killed."

19 THE INTERPRETER: Mr President, we didn't get the first part of counsel's question.

20 PRESIDING JUDGE FREMR: Sorry, Mr Witness. Please hold on.

21 THE WITNESS: (Interpretation) Please kindly repeat your question.

22 PRESIDING JUDGE FREMR: And yes, counsel, please repeat because your question
23 hasn't been fully captured by the interpreters, so please be so kind and repeat the
24 question.

25 MR ST-MICHEL: (Interpretation)

1 Q. Very well. I will read out the excerpt of your statement again and then put my
2 question to you thereafter:

3 (Speaks English) "But in the days and weeks following the taking of Kilo by the UPC, we
4 heard about these killings. People were talking about it, but I did not witness these
5 incidents and I do not know the names of the people killed."

6 (Interpretation) Mr Witness, my question is simple: Do you stand by your version of
7 the facts?

8 A. I still do not understand your question. I am somewhat totally confused. Please
9 repeat your question.

10 Q. Mr Witness, I'm sorry. I'll rephrase the question so that you can properly
11 understand it. I have read an excerpt of your statement out to you and does this
12 correspond to your version of the facts?

13 A. I know the full content of my statement. Now, which part of the statement do you
14 want to ask me a question on? And if you did that, I will be able to answer you.

15 Q. Mr Witness, I simply want to confirm from you the following: You say that people
16 were supposedly killed by the UPC at the very beginning of their presence in Kilo. You
17 heard mention of people who had been killed. It is people around you who were talking
18 about it. But you yourself did not see those things and you do not know the names of
19 the people who were killed; is that correct?

20 A. No, that's not correct. I personally was a witness. For example, those of us who
21 were digging the trenches, we were witnesses of the first execution. (Redacted)
22 (Redacted)

23 Q. We will revisit that incident later on.

24 A. Okay. I'm sorry.

25 Q. Mr Witness, I will now move on to another issue that is dealt with in your statement

1 and about which my learned colleague from the opposition put -- from the Prosecution
2 put some questions to you. And I'm referring here to paragraph 50 of your statement,
3 which is at page 1832. My colleague read out that -- a sentence from that paragraph for
4 you and I want to jog your memory by reading it again out:

5 (Speaks English) "About 4-7 days after my return to Kilo, I saw Bosco Ntaganda there.
6 He came from the direction of Mongbwalu and was escorted by soldiers."

7 (Interpretation) Mr Witness, I understand your testimony and in answer to my learned
8 colleague you said you were some 80 to 100 metres away when you saw Bosco Ntaganda
9 for the first time in Kilo; is that correct?

10 A. No, that is not correct. The distance between (Redacted) and their headquarters
11 was about a 100 metres and I went to see him out of curiosity.

12 Q. Witness, is it people who were nearby who told you that he was Bosco Ntaganda?

13 A. Yes. He stood out from among the others who were with him. He was the tallest
14 and the biggest of them all. That is, of all those who were with him. And that is why it
15 was easy to distinguish him from the others and it was being said that he was the one.

16 Q. When you say that he was coming from Mongbwalu, did you see him coming in
17 himself or is it others who told you that Bosco had come in from Mongbwalu?

18 A. (Redacted). However, it was
19 very close to the headquarters and I saw him. He was surrounded by other soldiers.
20 And it is out of curiosity that I wanted to see him. So those who were there confirmed
21 that he was the one and that was the first time that I saw him ever.

22 Q. Mr Witness, I do understand that you did not see Bosco Ntaganda in Mongbwalu
23 town; is that correct?

24 A. I saw him at the headquarters. When he came from Mongbwalu he travelled on
25 the main road, but I saw him close to the headquarters and he was there with a group of

1 other soldiers. And I was not the only one who saw him at that time. There were many
2 people there to see him.

3 Q. So, Mr Witness, how did you know then that Bosco Ntaganda was coming from
4 Mongbwalu?

5 A. I knew it because the soldiers of the UPC who had come to Kilo were coming from
6 Mongbwalu. There was no other road which they could use to get to Kilo, except the
7 road from Mongbwalu. You see, the road between Bambu and Bunia was not motorable
8 during the war, but there was a road between Mongbwalu and Kilo which was motorable.

9 Q. Mr Witness, according to information that is available to us based on information
10 over military radios I know that a few days after the attack on Sayo, Bosco Ntaganda
11 returned to Bunia by air. And that in 2002, in December 2002 Bosco Ntaganda did not go
12 to Kilo or he did not pass through Kilo. Mr Witness, you would agree with me, wouldn't
13 you, that the person who was pointed out to you as being Bosco Ntaganda may have been
14 simply another officer. Would that be correct?

15 A. No. That's not true.

16 Q. Mr Witness, when you met the Prosecutor on Monday, did you at any point talk
17 about the presence of Bosco Ntaganda in Kilo?

18 A. Please kindly repeat your question.

19 Q. When you met with the representatives of the OTP last Monday, you talked about
20 certain aspects of your statement. Did you in that discussion with the Prosecutor talk
21 about Bosco Ntaganda's presence in Kilo?

22 A. I do not think so. Please put questions to me arising from the statement that I
23 made to -- that I made in Bunia. But I do not think that I had any discussion with
24 the -- any discussion about Bosco Ntaganda at Monday's meeting.

25 Q. Mr Witness, let's move to another paragraph of your statement, paragraph 51:

- 1 (Speaks English) "During the UPC occupation, I noticed that, among the UPC soldiers,
2 there were children of 14-18 years of age."
- 3 (Interpretation) Do you remember that assertion in your statement?
- 4 A. Yes, and I can confirm it.
- 5 Q. Now I read the second sentence:
- 6 (Speaks English) "There were fewer than 10 of these children."
- 7 (Interpretation) Mr Witness, when you say that, you must recall that there were several
8 hundreds of UPC soldiers in Kilo; isn't that the case?
- 9 A. UPC soldiers in Kilo, well, there were not up to a hundred of them. Less than a
10 hundred I think. Maybe 20 or 30. Not a hundred, no.
- 11 Q. Mr Witness, let us attentively look at the figures that you have mentioned.
- 12 A. Well, it's an estimation that I'm putting forth here. I cannot confirm that the figures
13 I am talking about are exact. It is just an approximation that I'm offering.
- 14 Q. Well, let us go step by step, Mr Witness. Let us proceed step by step. Now, when
15 you say 18 years, I understand that you're trying to distinguish between an adult and a
16 minor; is that the case?
- 17 A. A minor can be recognized by their facial traits and an adult can also be identified
18 by their physiognomy.
- 19 Q. I understand from your testimony, Mr Witness, that when you use the figure 14, it is
20 not one that you're putting forth with certainty; is that correct?
- 21 A. I have provided you with an estimation based on stature, size, facial appearance.
22 And if one said that they were 15 or 16 years old, that would only be an approximation
23 because I cannot confirm those figures with specificity.
- 24 Q. Now, Mr Witness, you're excluding the possibility that they were more than
25 15 years old; isn't that what it is?

1 A. Well, if I told you that there were minors in the, in the troops, well, that would be an
2 estimation and you would have to bear with me. Because that was my assessment, that
3 they were minors, they were present but not, not many of them. I have mentioned the
4 figure 10. But it is not an exact figure. It was an approximation of their number. The
5 simple point I was trying to make was that there were some minors among the soldiers.

6 Q. Mr Witness, before we move on to another area, I want you confirm the following,
7 as you testified that there were not more than 30 UPC soldiers in Kilo between
8 December 2002 and March 2003; is that correct?

9 A. I cannot give you a concise exact number, I cannot confirm that. But I can confirm
10 that they were not more than 30. But if you ask me for their effective total number, I am
11 not able to give you a specific answer.

12 Q. Mr Witness, let us now address another issue, and that is the departure of the UPC
13 from Kilo.

14 You do recall that the UPC left Kilo in March 2003; is that correct?

15 A. Yes.

16 Q. The UPC left Kilo to go fight the Ugandans in Bunia; is that correct?

17 A. Yes. But they did not all leave Kilo. A few soldiers remained behind in Kilo, but
18 the majority of them went to Bunia.

19 Q. And the Lendu combatants availed themselves of that opportunity to attack Kilo,
20 isn't it?

21 A. When the UPC was pushed back or warded off in Bunia, the attack on Kilo was
22 launched on that very day. So the Lendu took advantage of it to loot. In fact, they
23 attacked some of the few UPC soldiers who had remained in Kilo and then went on to
24 loot.

25 Q. During that attack by the Lendu combatants on Kilo, you and others were in

1 (Redacted) is that correct?

2 A. Yes.

3 Q. And it is actually from (Redacted) that you were able to observe that the Lendu were
4 looting houses?

5 A. Yes.

6 Q. And that the Lendu were coming out of various -- of houses with various items such
7 as mattresses, chicken and radios; is that correct?

8 A. What saved us, the inhabitants of Kilo, is the fact that there were many items of high
9 value in our area and the Lendus engaged in looting those items and that is how we were
10 able to escape. It happened on 10 March.

11 Q. The Lendus took the stolen property towards Bambu; is that correct?

12 A. It is the Ugandans who chased out the Lendu after having driven out the UPC
13 troops from Bunia. They then followed the Lendu to Mongbwalu and drove them out,
14 and it is from that time that some measure of calm returned.

15 Q. Mr Witness, I don't think you answered my question. My question was the
16 following: Was it -- is it true that the Lendu who stole the items went towards Bambu?

17 A. Yes.

18 Q. Mr Witness, while you were in the forest you also learned that (Redacted) people had
19 been killed, correct?

20 A. Yes.

21 Q. And when you returned to Kilo a few days later you noticed that several items from
22 your house had disappeared, correct?

23 A. There was absolutely nothing there. Everything had been looted except a few
24 furniture items of no value or no significance.

25 Q. You also saw a Lendu combatant fleeing from one of the houses; is that correct?

1 A. When I arrived at my house there was a Lendu combatant there and as soon as he
2 saw me coming, he left.

3 Q. A lot of property also disappeared from your (Redacted) is that correct?

4 PRESIDING JUDGE FREMR: Mr Iverson.

5 MR IVERSON: I would ask that we move into private session.

6 THE WITNESS: (Interpretation) Everything had been taken away.

7 PRESIDING JUDGE FREMR: We are in open session, so first we will have to move
8 probably to make it safer to the private session.

9 (Private session at 4.52 p.m.) *(Reclassified entirely in public)

10 THE COURT OFFICER: (Interpretation) Mr President, we're in private session.

11 PRESIDING JUDGE FREMR: Mr St-Michel.

12 MR ST-MICHEL: (Interpretation) Thank you, Mr President.

13 Q. Now, Witness, when the Ugandans arrived in Kilo, things calmed down; is that
14 correct?

15 A. Yes.

16 Q. Yet the Lendus remained in Kilo till 2004*-2005; is that correct?

17 A. The Lendu reign set in after the Ugandans left, and after that, they were driven out
18 by the national army.

19 Q. During that period when the Lendus occupied Kilo, they imposed the same regime
20 or system that we had described for Mongbwalu; is that correct?

21 A. Yes.

22 MR ST-MICHEL: Mr President, I have two or three topics remaining. I think I can
23 finish within 20 minutes.

24 PRESIDING JUDGE FREMR: It's too much, I think. I would rather interrupt you and
25 you can easily continue tomorrow morning.

1 MR ST-MICHEL: As you prefer, Mr President.

2 PRESIDING JUDGE FREMR: All right. So let's move into open session now.

3 (Open session at 4.54 p.m.)

4 THE COURT OFFICER: (Interpretation) We are in open session, Mr President.

5 PRESIDING JUDGE FREMR: Thank you, court officer.

6 So, Mr Witness, I would like to thank you. We conclude your testimony -- we conclude
7 your testimony for today. We will continue tomorrow. It seems that it will be relatively

8 short, maybe not more than one hour. So in the meantime you can take some rest. And

9 it's also my duty to remind you that you must not in the meantime till tomorrow you

10 must not discuss your testimony with anybody else. Do you understand that?

11 THE WITNESS: (Interpretation) I understand you.

12 PRESIDING JUDGE FREMR: So I thank you and I see you tomorrow morning.

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

14 THE WITNESS: (Interpretation) Thank you very much.

15 (The witness stands down)

16 PRESIDING JUDGE FREMR: And I wanted to address the issue of scheduling, but I see
17 Mr Bourgon.

18 So, Mr Bourgon first, please.

19 MR BOURGON: Thank you, Mr President. Well, it is actually an issue of scheduling.

20 We have information coming from VWS according to which the Witness P-938 could be
21 ready to begin her testimony tomorrow.

22 Mr President, we did communicate with the Prosecution over the weekend and we kind
23 of were informed of a proposed schedule pursuant to which Witness P-938 would begin

24 on Friday. Mr President, we would like P-938 to begin on Friday and not to begin

25 tomorrow as per the schedule that we have been sent. We are splitting the witnesses

1 amongst the people, members of the team. The P-938 is a witness whose material is quite
2 voluminous and we've actually received recently some very quite heavy disclosure of
3 hundreds of pages and we would prefer the witness to begin on Friday.

4 And I believe that pursuant to the schedule that was circulated by the Prosecution, this
5 does not put into peril completing all the witnesses scheduled for this block by the end
6 of -- by 15 July.

7 So for the these reasons, Mr President, we would prefer finishing up this witness
8 tomorrow morning and beginning with P-938 first thing on Friday morning. Thank you,
9 Mr President.

10 PRESIDING JUDGE FREMR: Prosecution, your position?

11 MR IVERSON: I understand the Defence's position. Court time being as valuable as it
12 is, I think as far as the Prosecution is concerned, we should just stick to the schedule and
13 use the time that we have tomorrow to commence with the next witness.

14 PRESIDING JUDGE FREMR: Give us a second, I will consult my colleagues.

15 (Trial Chamber confers)

16 PRESIDING JUDGE FREMR: So generally our ruling is that the request is not granted
17 and for following reasons:

18 First of all, we already promised to cut tomorrow's programme in order to accommodate
19 Defence further commitments. Moreover, according view we have now, it seems that
20 Defence will finish its cross-examination of this witness in 30 minutes and then we are
21 intending just to continue with examination-in-chief, so the Defence still will have a
22 chance to prepare for its cross-examination for the rest of the day and we will anyway
23 finish earlier.

24 And in the current circumstances we don't see the need to start at 9 o'clock since, as
25 Mr St-Michel indicated, the rest of cross-examination will not be time-consuming, so we

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1 will start 9.30. And we will anyway finish anyway first of all allowing the Defence to
2 meet their further commitments and also not to split to cross-examination.
3 So we will clarify the detailed schedule tomorrow, but what is sure for the moment, we
4 are starting 9.30 -- yes, we are in public session. We are starting 9.30 and we for sure will
5 not come to cross-examination. So that is for today.

6 (Trial Chamber confers)

7 PRESIDING JUDGE FREMR: And it's important comment to be made from the point of
8 the Chamber, so as we said, we will sit in two blocks and what is important, in fact, we
9 considered all factors, including the fact, which also has to be emphasised, that the
10 upcoming witness has a status as an expert witness, so the Chamber in light of that also is
11 waiving the requirement that there should be 24-hour period between completion of
12 witness preparation, which was conducted by the Prosecution today, and commencement
13 of testimony.

14 So that's it and see you tomorrow 9.30.

15 THE COURT USHER: All rise.

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

17 RECLASSIFICATION REPORT

18 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
19 the public reclassified and lesser redacted version of this transcript is filed in the case.